Phoenix-Mesa Gateway Airport

Notice of Meeting Cancellation

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the public that the Regular Meeting of the Phoenix-Mesa Gateway Airport Authority Board of Directors scheduled for Tuesday, January 17, 2023, has been cancelled.

The next Regular Meeting of the Phoenix-Mesa Gateway Airport Authority Board of Directors is scheduled for Tuesday, February 21, 2023 at 9:00 a.m. in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

DATED this 4th day of January, 2023.

I Misty Johnson, do hereby certify that I caused to be posted this 4th day of January, 2023, the Notice of Cancellation of the Tuesday, January 17, 2023 Phoenix-Mesa Gateway Airport Authority Board of Directors Meeting in the following places: 1) www.gatewayairport.com ; 2) Gateway Administration Building.

Misty Johnson

Misty Johnson, Clerk of the Board

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, February 21, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Brigette Peterson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Brigette Peterson, Chair)

3. **Pledge of Allegiance**

4. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

5. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

6. **Fiscal Year 2024 Budget Presentation** – Chuck Odom, Chief Financial Officer

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **December 20, 2022**.

   b) **Resolution No. 23-01 –** Authorizing annual changes to the **Airport Rules and Regulations**.

   c) **Resolution No. 23-02 –** Authorizing the purchase and installation of four (4) 1500GPM and one (1) 2500GPM Fire Pump Skids and four (4) three-hundred-gallon Fuel Tanks from **Cross Fire Protection LLC (Cross Fire)** in an amount not to exceed $499,921.59 under CIP1238.

   d) **Resolution No. 23-03 –** Authorizing a contract with **Crosspoint Testing and Inspection Services, LLC (Crosspoint)** to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project and future projects, on a per task basis, utilizing an Authorization of Services, under CIP1201.

   e) **Resolution No. 23-04 –** Approving an Authorization of Services (AOS) with **Crosspoint Testing and Inspection Services, LLC (Crosspoint)** to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project in an amount not to exceed $114,150 under CIP1201.

Consideration and Approval of:

8. **Resolution No. 23-05** Authorizing a facility lease agreement with **Allegiant Air, LLC** for the property located at 6250 S. Taxiway Circle, Mesa AZ 85212. The lease term is five years commencing on March 1, 2023**.**

9. **Resolution No. 23-06** Authorizing a Facility Lease and Airport Operating Agreement with **DSV Air & Sea Inc.** for the properties located at 6203 and 6211 S. Sossaman Road, Mesa, AZ 85212 with an Effective Date of March 1, 2023. The Term for both agreements is thirty-nine months, terminating on May 31, 2026, with two (2), three (3) year options to renew.

10. **Resolution No. 23-07** Authorizing a lease agreement with **USDA-FS CSA Southwest 4** for the exclusive use of 286,500 SF of Airport-owned apron. The lease term commences on February 21, 2023 and terminates on September 30, 2023.

11. **Board Member Comments/Announcements**

12. **Next Meeting: Tuesday, March 21, 2023 at 9:00 a.m.**

13. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- Airport Hosts Annual Aviation Career Education (ACE) Day
- Gulfstream's Two Taxiway Connectors Take Shape
- SkyBridge Arizona Master Development Update
- 100+ Executive Jets Expected at Gateway Airport for Super Bowl LVII
- PMGAA Meeting with Five Prospective Airlines in February
- Center Runway Reconstruction Enters Phase II

Executive Director's Report

February 2023

Financial Snapshot

OPERATING INCOME	December		Month Variance	FYTD Comparison		FYTD Variance
	2021	2022		FY22	FY23	
Revenues	$2,057,948	$2,397,101	**$339,153**	$11,830,913	$14,081,961	**$2,251,048**
Less Expenses	$1,891,212	$2,077,424	**$186,212**	$10,712,499	$12,579,263	**$1,866,764**
Operating Income *(Before Depreciation)*	**$166,736**	**$319,677**	**$152,941**	**$1,118,414**	**$1,502,698**	**$384,284**

Investment Fund Balances: As of December, the Local Governmental Investment Pool (LGIP) 700 = $18,673,729; Wells Fargo; Collateralized Money Market = $14,382,363 and Brokered CD's = $35,711,974; Total $68,768,066. The market value accounting adjustment was $208,397 for the month. The entry is for accounting purposes only. PMGAA invests in fixed rate instruments. On January 1st and February 1st approximately $6MM, each month, will be transferred from the LGIP account to the Wells Fargo checking account to fund large expenditures related to capital projects.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) reported a net operating income of $319,677 in December 2022, which was the best December financial performance in PMGAA history! This year's December results exceeded December 2021 by $152,941.

The major drivers behind December's strong financial results were aeronautical fuel sales, vehicle parking revenue, rental car fees, and increased concession sales

Operating expenditures for December 2022 increased by 10% ($186,212) due to increased labor costs, contractual services, and costs of goods sold. Fuel costs increased $143,446 and contractual services increased $88,449 compared to last year. These expected increases reflect the continued inflationary pressures the Phoenix-Mesa Gateway Airport Authority (PMGAA) is experiencing.

Fiscal year-to-date total operating revenues have improved by 19% and operating expenditures have increased by 17%. Total operating expenditures are 2% under budget.

Non-airline revenue – parking, rental car, food/beverage/retail concessions – per enplaned passenger have risen steadily over the past few years as passengers have increased and several new concessions in the passenger terminal have opened.

Comparison of Non-Airline Revenues FY23 YTD & FY22 YTD

Non-Airline Revenues	FY23 YTD 7/1/22 - 12/31/22	Per EPAX (All)	FY22YTD 7/1/21 - 12/31/21	Per EPAX (All)	% Change (Dollars)
Parking	$2,323,336	$5.30	$2,095,412	$5.22	10.9%
Rental Car	$1,075,497	$2.45	$876,093	$2.18	22.8%
Food & Beverage	$268,127	$0.61	$177,393	$0.44	51.1%
Retail	$234,648	$0.53	$185,336	$0.46	26.6%
Related revenues	$3,901,608	$8.89	$3,334,234	$8.31	17.0%

PMGAA Solicitations

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Request for Proposals	2023-013-RFP	Fire Pumps	February 2023
Request for Qualifications	2023-016-RFQ	Structural and Fire Proofing Special Inspection Services	February 2023
Request for Proposals	2023-017-RFP	Preconditioned Air Units and Ground Power Units	March 2023
Request for Proposals	2023-019-RFP	Remote Transmitter and Receiver (RTR) Relocation	April 2023
Request for Proposals	2023-023-RFP	Auditor Services	April 2023
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Proposals	2023-006-RFP	Car Rental Concessions	March 2023
Request for Proposals	2023-020-RFP	ATM Services	April 2023
Request for Proposals	2023-021-RFP	Vending Services	April 2023
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	April 2023

Airport Operations

Phoenix-Mesa Gateway Airport (Gateway Airport, Airport) set a new annual passenger activity record in 2022, with almost 1.9MM total passengers (1,890,684) using the Airport during the year. The growing Airport set new monthly passenger activity records in eight of the twelve months last year.

PASSENGER COUNTS		December		% Change	FYTD		% Change
		2021	2022		FY22	FY23	
Passengers	TOTAL	175,432	199,287	14%	817,119	892,436	9%
	Deplaned	87,989	101,308	15%	415,899	453,757	9%
	Enplaned	87,443	97,979	12%	401,220	438,679	9%
Allegiant	Scheduled	166,136	180,451	9%	795,978	856,703	8%
Swoop	Scheduled	2,810	4,508	60%	6,649	11,092	67%
Sun Country	Scheduled	4,314	5,645	31%	5,361	13,261	147%
WestJet	Scheduled	911	1,907	109%	1,1575	3,628	130%
Flair	Scheduled	1,261	6,776	437%	1,261	7,358	484%
Elite/Swift	Charter	0	0	0%	1,422	394	-72%

OPERATIONS	December		% Change	FYTD		% Change
	2021	2022		FY22	FY23	
Air Carrier	1,292	1,173	-9%	6,500	5,804	-11%
Military	226	407	80%	1,588	1,953	23%
General Aviation	15,661	13,662	-13%	107,515	116,131	8%
TOTAL	**17,179**	**15,242**	**-11%**	**115,603**	**123,888**	**7%**

PMGAA Meeting with Five Prospective Airlines in February

Several times each year, representatives from PMGAA meet with current and prospective domestic and international airlines at conferences or their corporate headquarters to update them on all the exciting changes underway at Gateway Airport and highlight the significant growth occurring in the Phoenix East Valley. These meetings are part of PMGAA's ongoing Airline Recruitment Program designed to attract additional air service and new airlines to the Airport.

Airport Officials Meeting with Airline Representatives

During February, PMGAA will be meeting with network planners from Sun Country Airlines, Avelo Airlines, Alaska Airlines, United Airlines, and Breeze Airways at the annual Mead & Hunt Air Service Conference being held in Phoenix. The goal will be to strengthen relationships and educate the airline representatives about opportunities for success at Gateway Airport. Wish us luck!

100+ Executive Jets Expected at Gateway Airport for Super Bowl LVII

Question: What do you get when you host both the Waste Management Phoenix Open and Super Bowl LVII on the same weekend in February?

Answer: Over 100 executive jets full of golf and football fanatics looking to have an awesome weekend of fun in the Valley of the Sun! **Not to worry, our Gateway Aviation Service team is THE BEST!**

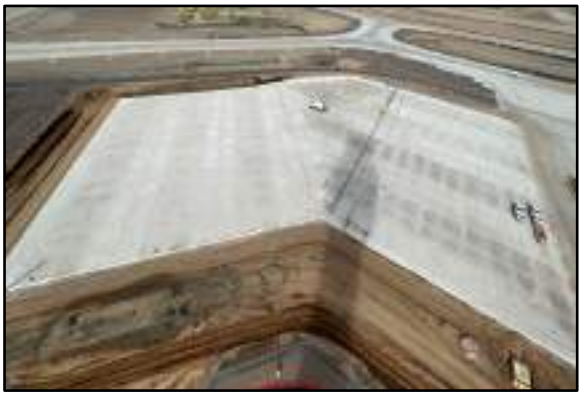
Engineering and Planning

Concrete Being Placed on Runway 12C-30C

Thanks to two federal grants totaling more than $17.5 million, portions of Gateway Airport's center runway, Runway 12C-30C, are being removed and reconstructed. A total of 2,600 feet of 16-inch concrete on the south end and 1,000 feet on the north end is being replaced as part of this important infrastructure project. Work will shift from south to north on 2/17 and a completion date of mid-May is expected.

Alpha Apron Expansion Phase IV Nears Completion

Over the past three years, Gateway Airport has completed airfield construction projects that have added more than 500,000 sq. ft. of new aircraft parking apron designed for the heavier, larger aircraft that frequent the Airport for cargo and commercial passenger operations. The final project, Alpha Apron Phase IV, to be completed as part of the Alpha Apron Expansion Program is strategically located adjacent to the Airport's new air traffic control tower, Taxiway Alpha, and the U.S. Forest Service's Mesa Base. The project is scheduled to be completed by the beginning of April.



Alpha Apron Expansion Phase IV – 250,000 Square Feet

Gulfstream's Two Taxiway Connectors Taking Shape

As work continues on Gulfstream's new 225,000 sq. ft. West Coast Service Center, PMGAA is completing construction of two connections from Gulfstream's ramp to Taxiway Charlie. The project, scheduled to be finished by the end of February, provides two separate taxiway connections that allows for the efficient flow of aircraft to and from Gateway Airport's airfield. PMGAA and Gulfstream are splitting the approximately $8 million project cost.

PMGAA Team Member Spotlight

Employee Name: **Tiffany Johnson**
Employee Title: **Marketing Analyst**
PMGAA Department: **Communications and Government Relations**
Years with PMGAA: **16+**

What are your job responsibilities for PMGAA? Some of my responsibilities include managing our terminal marketing concessionaires and sponsors, media buys and designing ads and other graphics, maintaining website content, developing marketing emails, planning events, ordering promotional items, and being the gatekeeper for our logo, fonts, and brand colors.

What is your most memorable Gateway Airport moment? Air Force One in 2012 and the Blue Angels (twice) in 2019 were pretty memorable! I've also enjoyed all the unique events I've been a part of planning in my 16 years at Gateway Airport, including open houses and a birthday party to celebrate our 25th anniversary!

What is something people may not know about you? I come from a large family! My husband and I have 10 siblings between the two of us (not including spouses) which has given us 25 nieces and nephews (and two on the way). But I still have more cousins than my kids with 30!

Business Development

SkyBridge Arizona Master Development Update

Rendering for New SkyBridge Arizona Hotel

If you happen to drive down S. Sossaman Road past Velocity Way on the west side of the Airport, you can't help but notice lots of construction equipment and activity on the left side of the road. SkyBridge Arizona (SkyBridge), the Airport's 360-acre master development project, is busy readying the site for a 129-room dual brand hotel being constructed for Wyndham Hotels and Resorts.

SkyBridge is also starting construction on two 250,000 sq. ft. industrial buildings along Velocity Way. These two large building are being built to accommodate both single and multiple tenants.

Starting in Q3 2023, SkyBridge will begin construction of taxi lane Sierra, critical airfield infrastructure that will bisect the 360-acre parcel and unlock additional aeronautical land for future development.

Community Noise Report

CALLERS	December		FYTD	
	2021	2022	FY22	FY23
Total	13	13	72	74

AIRCRAFT TYPE	December		FYTD	
	2021	2022	FY22	FY23
	Callers	Callers	Callers	Callers
Commercial	8	9	50	45
GA Total	3	1	8	13
Helicopter	0	0	5	0
Military	2	3	9	16
Total	13	13	72	74

LOCATION	December		FYTD	
	2021	2022	FY22	FY23
Mesa	6	6	21	35
Gilbert	6	4	42	28
Gold Canyon	1	0	1	1
Queen Creek	0	2	4	6
Queen Valley	0	0	2	1
San Tan Valley	0	0	0	0
Apache Junction	0	1	1	3
Fountain Hills	0	0	1	0
TOTAL	13	13	72	74

PMGAA received communication from 13 individuals regarding aircraft noise issues during the month of December 2022, the same number PMGAA received last December. The relatively low number of noise calls during the winter months is due to cooler weather keeping windows closed at night and in the morning when Airport activity is fairly robust.

The Airport is expecting to be very busy during the winter/spring travel seasons, as more and more air travelers from across the country discover the ease, convenience, and value of using Gateway Airport to access the greater Phoenix region for vacations and/or to visit family and friends.

Gateway Aviation Services

PMGAA pumped more than 1.85MM gallons of aviation fuel during the month of December 2022, a 5% increase from the amount of fuel dispensed during December 2021. Commercial fuel sales rose 8%, retail sales were up 94%, contract fuel was down 21%, and Avgas was up 8% compared to last December.

FUEL (Gallons)	December			FYTD		
	2021	2022	% Change	FY22	FY23	% Change
AvGas	30,102	32,438	8%	224,173	248,240	11%
Retail Jet A	34,277	66,355	94%	238,755	398,152	67%
Contract	324,894	257,144	-21%	1,614,797	1,835,005	14%
Commercial	1,387,094	1,503,477	8%	6,942,521	6,226,806	-10%
TOTAL	**1,776,367**	**1,859,414**	**5%**	**9,020,246**	**8,708,203**	**-3%**

Community and Government Relations

Airport Hosts Annual Aviation Career Education (ACE) Day

Higley Unified School District Students, Teachers, and Chaperones Participating in Aviation Career Education (ACE) Day

Ask a kid what they want to be when they grow up and they'll probably tell you a lawyer, veterinarian, police officer, plumber, or a professional athlete. All are honorable professions and lofty goals to work towards.

Well, PMGAA believes that some kids' answers may have changed after participating in Gateway Airport's very successful Aviation Career Education (ACE) Day on January 24, 2023. This popular annual event brings area fifth graders out to the Airport and exposes them to possible career opportunities within the aviation industry. Through static displays, presentations, and one-on-one interaction with industry leaders, students learn about the many careers available at an airport.

This year, 550 fifth grade students, teachers, and chaperones from the Higley Unified School District had the opportunity to visit Gateway Airport and learn about the many successful careers available in aviation. It was a great day!

PMGAA would like to recognize the Gateway Aviation Services, Community and Government Relations, and Operations staff members that worked so hard to make the day a huge success. Thank you all!

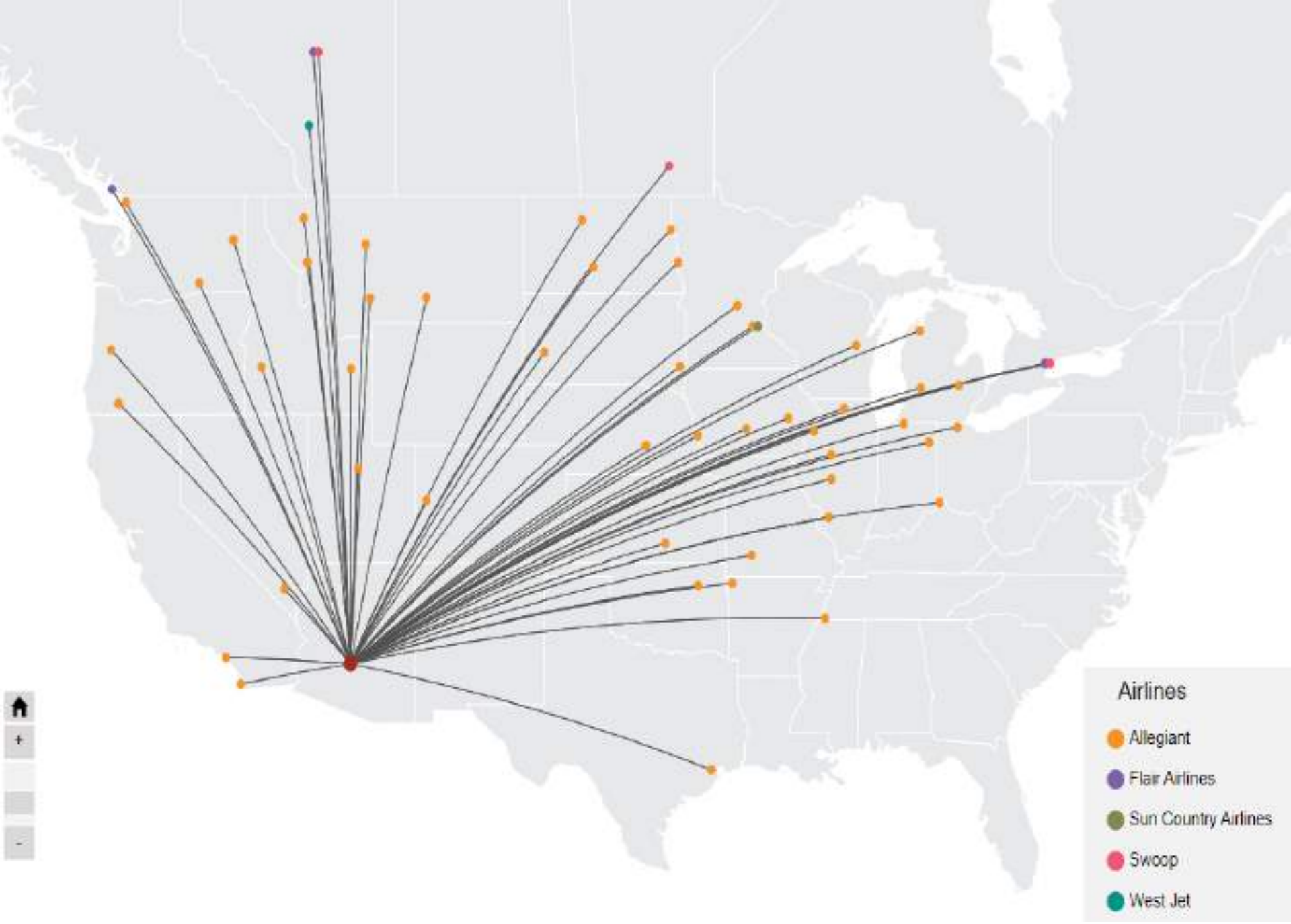
Phoenix-Mesa Gateway Airport

FISCAL YEAR 2024 BUDGET

Phoenix-Mesa Gateway Airport

Our Mission:

We strive to be the airport that air travelers choose, airlines prefer, and a growing number of businesses call home. We will provide exceptional customer service while operating Phoenix-Mesa Gateway Airport in a safe, secure, efficient, and fiscally responsible manner.


Airlines
Allegiant
Flair Airlines
Sun Country Airlines
Swoop
West Jet

Phoenix-Mesa Gateway Airport

Budget Key Assumptions

1. Member contributions for FY24 will continue to partially fund capital improvements.
2. Enplaning passenger activity is expected to increase in FY24's budget by 9.5% over FY23's budget.
3. Aero revenue will be up 5%; Non-Aero revenue will be up 13%.
4. Air-Service Incentive Program carries over from previous fiscal year.
5. Operating Contingency is 10% of total expenses from unrestricted cash reserve.

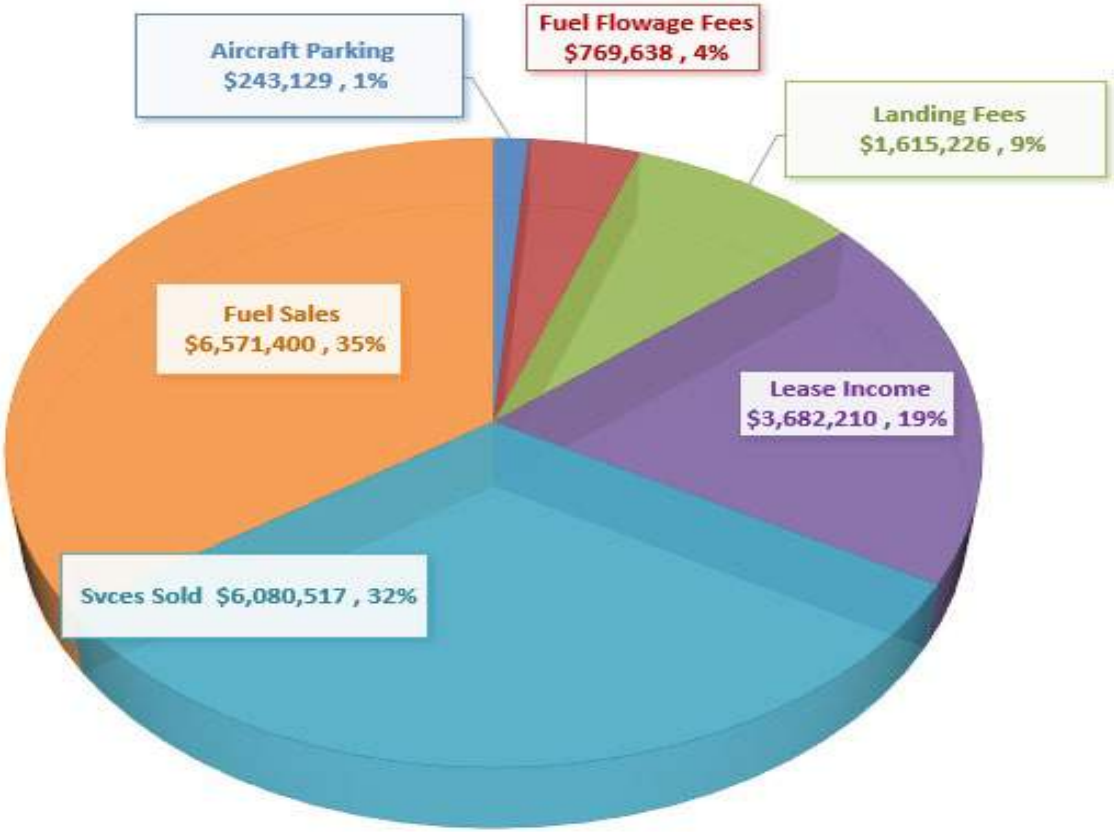
FY24 Operating Budget Revenue

Operating Revenue	FY23 Budget	FY24 Budget	Difference	%
Aeronautical	$ 18,082,612	$ 18,962,120	$879,508	5%
Non-Aeronautical	8,302,910	9,358,067	1,055,157	13%
Total Operating Revenue	$ 26,385,522	$ 28,320,187	$1,934,665	7%

FY24 AERO Operating Revenue Graph

Phoenix-Mesa Gateway Airport

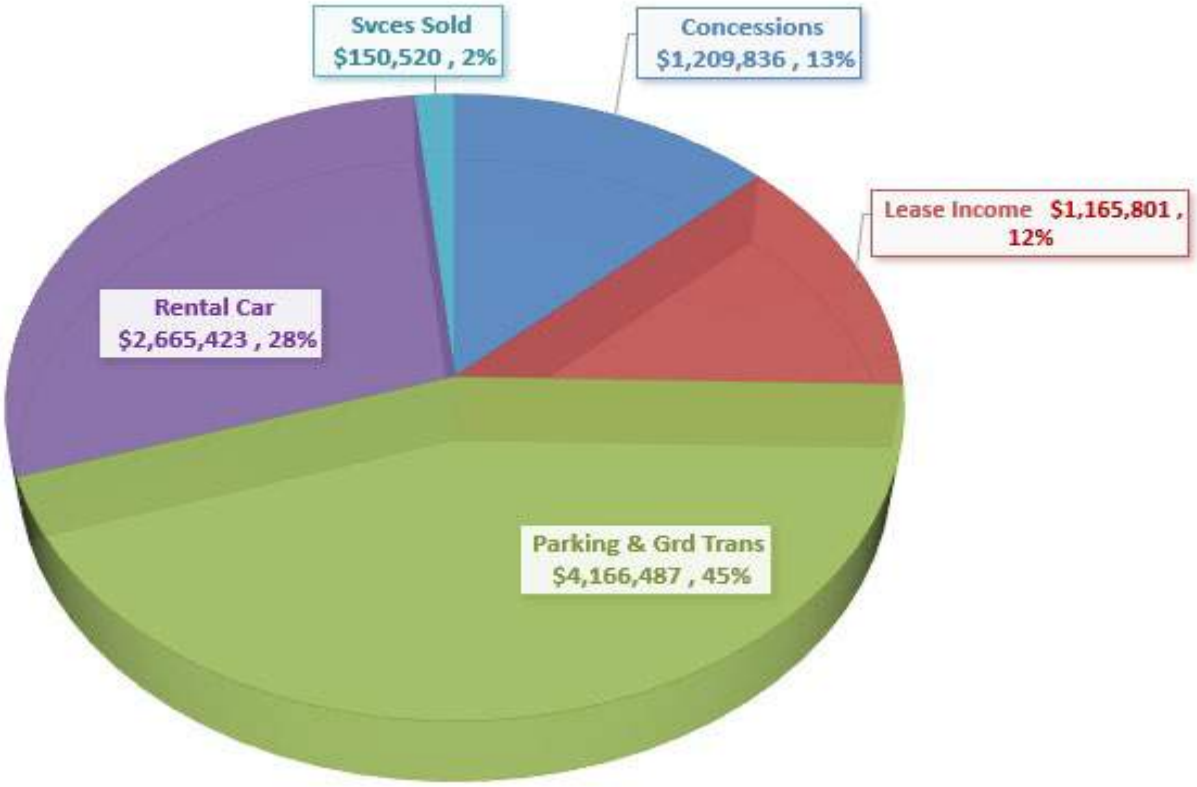
FY24 AERO-Operating Revenue Budget $18.9M



FY24 NON-AERO Operating Revenue Graph

Phoenix-Mesa Gateway Airport

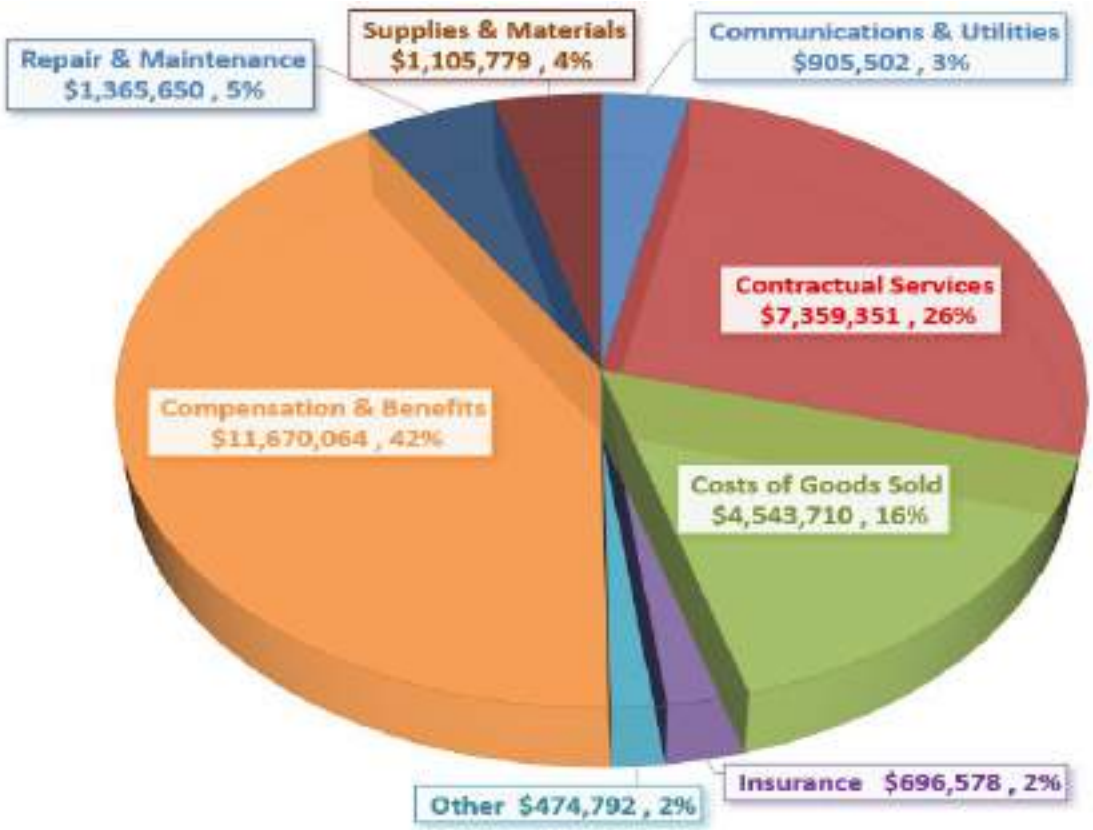
FY24 Non-Aero Revenue Budget $9.4M



FY24 Operating Expense Graph

Phoenix-Mesa Gateway Airport

FY24 Expense Budget $28.1M



FY24 Budget Full Time Equivalents by Department

Phoenix-Mesa Gateway Airport

PMGAA Full Time Equivalents

Department	FY23	FY24	Difference	
Accounting	8	8	0	
Business Development	5	5	0	
Comm Gov Relations	3.5	4	.5	Replc Social Media position with FT
Exec Office	2	2	0	
Engineering	16	16	0	
Fixed Based Operator	33	33	0	
Human Resources	3	3	0	
Information Technology	3	4	1	Network Engineer
Operations	36.5	36.5	0	
	110.0	111.5	1.5	

Phoenix-Mesa Gateway Airport

FY24 Operating Budget

Total Operating Revenue	$28,320,187
Total Operating Expenses	(28,121,425)
Operating Income	$198,762
Cash from Unrestricted Reserve	$4,812,142
Potential Air Incentive	(2,000,000)
10% Contingency	(2,812,142)
	0
Total Budgeted Operating Expense Capacity	$(32,933,567)

Phoenix-Mesa Gateway Airport

FY24 Capital Budget

FY24 Capital Budget	$23,986,400
Carry Over from FY23	69,176,128
FY24 Capital Maintenance Reserve	1,000,000
	$94,162,528

Phoenix-Mesa Gateway Airport

FY24 Debt Service Budget

FY24 Lease Aero Revenue	$ 1,292,000
(City of Mesa/Able)	
Principle Payment	(575,000)
Interest Payment	(717,000)
FY24 Debt Service Payment	($1,292,000)
Remaining Balance of Series 2012 Special Facility Revenue Bond	$14,340,000

Phoenix-Mesa Gateway Airport

FY24 Operating, Capital, and Debt Service Budget

Combined Summary

Total Operating Expense	$ 28,121,425
Potential Air Incentive	2,000,000
10% Contingency	2,812,142
FY24 Capital Budget	23,986,400
FY23 Carry Over Capital Projects	69,176,128
Capital Maintenance Reserve	1,000,000
Debt Service Payment	1,292,000
Total Budget Operating and Capital	$128,388,095

Phoenix-Mesa Gateway Airport

FY24 Capital Improvement Program
Funding Sources

FAA	$ 16,846,100
Member Contributions	4,060,000
PMGAA Cash Reserves	2,253,350
ADOT	826,950
Total Capital Funding Sources	$ 23,986,400

FY23 Capital Carry Over into FY24 Funding Summary

Phoenix-Mesa Gateway Airport

FY23 Capital Carry Over Funding Sources

FAA	$31,984,874
PMGAA Cash Reserves	24,491,392
Customer Facility Charges (CFC)	5,500,000
ADOT	4,485,790
Passenger Facility Charges (PFC)	2,714,072
Total FY23 Carry Over	$69,176,128

FY24 5-Year Capital Project Plan

Phoenix-Mesa Gateway Airport

	FY24	FY25	FY26	FY27	FY28
Airfield	$27,411,517	$23,231,057	$17,417,960	$11,500,000	$24,496,700
Terminal	16,043,619	1,660,000	160,000		
Roadways & Parking	5,950,000	500,000	7,500,000		
Equipment	2,189,400	748,000	312,000	330,000	302,000
Vehicles	74,335	289,000	135,000		180,000
Infor & Tech	335,000	189,000	298,000	254,000	145,000
Fuel Farm	9,000,000	1,250,000			
Bldg Improv	75,000	500,000	160,000		
Other	3,340,000	1,000,000			
	$ 64,418,871	$29,367,057	$25,982,960	$12,084,000	$25,123,700

Phoenix-Mesa Gateway Airport

5-Year Capital Plan Funding Sources

FAA Grants	$105,864,224
PMGAA Cash Reserves	20,875,349
Member Contributions	15,100,000
ADOT	6,922,944
CFC	5,500,000
PFC	2,714,071
	$156,976,588

FY24 Budget Questions?

Comments or Questions

MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | December 20, 2022

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA) was convened on Tuesday, December 20, 2022, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix *(via audioconference)*
Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community *(via audioconference)*
Vice Mayor Jeff Brown, Queen Creek
Mayor John Giles, Mesa
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney

1. **Call to Order** at 9:00 a.m. (Mayor Peterson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - Fiscal Year-to-Date (FYTD) Net Operating Income is $827,634.
   - Record setting passenger activity in October! (150,846 total passengers)
   - 2022 Authority accomplishments includes:
     - Record-Setting Commercial Passenger Activity
     - Record-Setting Financial Performance and Clean Financial Audit
     - Exceptional 14 CFR Part 139 Certification Inspection and TSA Security Inspection
     - Successful Triennial Live Emergency Preparedness Exercise
     - Increased Commercial Air Service
     - Supported SkyBridge Arizona and Gateway***East*** Master Developments
     - Dedicated New Air Traffic Control Tower
     - Constructed North Aircraft Overnight Parking Pad
     - Expanded TSA Security Screening Checkpoint
     - Replaced Parking Revenue Control System
     - Constructed Alpha Apron Phase III
     - Expanded Ray Road Economy Parking Lot

DRAFT

- Constructed New Terminal Tenant Parking Lot
- Completed Rental Car Return Lot Reconstruction
- Implemented Classification and Compensation Study Recommendations
- Retained Executive Team and All Department Directors
- Maintained Comprehensive Community Relations Program
- Increased Number of Terminal Volunteers in the A.V.I.A.T.O.R. Program

- 2023 Program of Work includes the following:
  - Record-Setting Commercial Passenger Activity
  - Record-Setting Financial Performance, Clean Financial Audit, and BIL Funding
  - Exceptional 14 CFR Part 139 Certification Inspection and TSA Security Inspection
  - Complete Gateway Tomorrow East Side Terminal Planning Study
  - Increase Commercial Air Service – New Destinations and a New Airline
  - Support SkyBridge Arizona and Gateway***East*** Master Developments
  - Successfully Open Gulfstream's New Facility and Virgin Galactic's First Hangar
  - Complete Enclosed Pedestrian Walkway
  - Complete Gulfstream Taxiway Connectors
  - Complete Center Runway Reconstruction
  - Complete Alpha Apron Phase IV
  - Complete Rental Car Care Facility
  - Continue Fuel Farm Storage Expansion (substantial completion 1/15/2024)
  - Continue Work on Terminal Addition (substantial completion 1/4/2024)
  - Support City of Mesa's East Side Infrastructure Projects
  - Retain Executive Team and All Department Directors
  - Maintain Comprehensive Community Relations Program
  - Increase Number of Terminal Volunteers in the A.V.I.A.T.O.R. Program

6. Consent Agenda

a) **Minutes** of the Board Meeting held on **November 15, 2022**.

b) **Resolution No. 22-74 –** Adopting the revised **Airport Rates and Charges** schedule with an effective date of January 1, 2023.

c) **Resolution No. 22-75 –** Approving a one-year Air Carrier Operating Agreement with **Allegiant Air, LLC**.

d) **Resolution No. 22-76 –** Authorizing services with **Universal Protection Service, LP dba Allied Universal Security Services (Allied)** to provide unarmed security guard services annually. Labor is a variable amount based on demand. Hourly labor rates, which include fringe benefits, for year one of the contract are below and may be adjusted on an annual basis:

Description	Est. Weekly Hours	Billable Rate
Standard security guard - regular time	60	$27.44
Standard security guard - overtime	10	$41.16
Description	Est. Annual Hours	Billable Rate
Standard security guard - holiday time	120	$41.16

e) **Resolution No. 22-77 –** Authorizing a contract with **Flagship Airport Services, Inc. (Flagship)** for janitorial services at a fixed management fee, in an amount of $617,336.60 beginning January 1, 2023, for three years with two (2) one-year renewal options in amounts of $218,247.23 and

$224,794.65 respectively each year. This amount does not include labor, which is a variable amount based on demand. Hourly labor rates, which include fringe benefits, for year one of the contract are below and will be adjusted on an annual basis:

Supervisors:	$25.41
Janitors:	$21.40
Porters:	$20.86
Floor Technicians:	$22.98

f) **Resolution No. 22-78 –** Authorizing a purchase with **CDW Government, Inc. (CDW-G)** for a technology refresh of a Storage Area Network (SAN) system in an amount not to exceed $131,565.34.

g) **Resolution No. 22-79 –** Approving the renewal of the Ground Transportation License Agreement between **Turo, Inc**. and Phoenix-Mesa Gateway Airport Authority.

h) **Resolution No. 22-80 –** Authorizing a facility lease agreement with **Essential Turbines, Inc**. for the property located at 7808 East Velocity Way, Mesa, AZ 85212 with an Effective Date of January 1st, 2023. The initial Term is for three (3) years, with no options to extend.

i) **Resolution No. 22-81 –** Authorizing a three-year contract with two additional one-year extension periods at the sole option of Phoenix-Mesa Gateway Airport Authority, with **Alliant Insurance Services, Inc. (Alliant)** for Insurance Broker Services in an amount not to exceed $265,000 over the five (5) year period.

Vice Mayor Jeff Brown moved to approve the Consent Agenda.
Mayor Chip Wilson seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 22-82** Approving a Construction Manager at Risk (CMAR) Construction Services Contract and GMP 1 Early Works Procurement for the Fuel Farm Expansion Project with **KEAR Civil Corp. (KEAR)**, in an amount not to exceed $1,678,587.20 under CIP 1224.

Mayor Chip Wilson moved to approve Resolution No. 22-82.
Mayor John Giles seconded the motion.
The motion was carried unanimously.

9. **Board Member Comments/Announcements.**
Mayor Peterson extended holiday wishes to all.

10. **Next Meeting: Tuesday, January 17, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone/videoconference.

11. **Adjournment.**
The meeting adjourned at 9:14 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-01

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Annual Review: Rules & Regulations**
Date:	**February 21, 2023**

Proposed Motion
To authorize annual changes to the Airport Rules and Regulations.

Narrative
The "Airport Rules and Regulations" is reviewed annually to ensure consistency and effectiveness and to keep our organization up to date with industry best practices.

Pending approval, the "Airport Rules and Regulations" revisions are summarized as follows:

Chapter 2 - General Rules and Regulations, section: 2.14 Overnight Camping, clarified restrictions on overnight camping to include occupancy of vehicles and trailers.

Chapter 4 - Vehicle Operations, section: 4.11 Restricted Area Operations, added safety limitation on the maximum number of towed baggage carts to three.

Chapter 7 - Security Requirements, section: 7.7 Employee Access Investigations, clarification on Employee Access Investigation and badge issuance. No badge shall be issued until active warrants are closed and court cases involving disqualifying crimes are adjudicated. PMGAA may deny badge issuance for certain non-disqualifying crimes which are committed on airport property.

Chapter 9 - Ground Transportation, section: 9.6 Access and Parking, clarified time limitations for pre-arranged ground transportation staging on designated curb waiting area

The public notice with summary of changes to the "Airport Rules and Regulations" was posted and available to view on our www.gatewayairport.com website and a letter was sent to our tenants on January 12, 2023, notifying them of our proposed revisions and to allow our tenants and other users of Phoenix-Mesa Gateway Airport a 30-day review and comment period. That period concluded on February 13, 2023.

Attachment
Revised Airport Rules and Regulations

RESOLUTION NO. 23-01

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to amend the Airport Rules and Regulations;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby amends the Airport Rules and Regulations. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of February, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

Airport Rules and Regulations

~~2021~~2023

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CHAPTER 1: PURPOSE, SCOPE & AUTHORITY

1.1 Purpose and Scope

These Rules and Regulations have been adopted and approved by resolution of the Phoenix-Mesa Gateway Airport Authority (PMGAA) and apply to the geographical property known as Phoenix-Mesa Gateway Airport. The provisions of this document are intended for the safe, orderly and efficient operation of Phoenix-Mesa Gateway Airport, hereafter referred to as "Airport".

1.2 Authority

On May 19, 1994, the City of Mesa, Towns of Queen Creek and Gilbert created the Williams Gateway Airport Authority, later renamed the Phoenix-Mesa Gateway Airport Authority ("PMGAA"), a Joint Powers Airport Authority, pursuant to Arizona Revised Statutes (A.R.S) Title 11, Chapter 7, Article 3 and Title 28, Chapter 25, Article 8. The Gila River Indian Community, City of Phoenix, and City of Apache Junction joined the Airport Authority in 1995, 2006 and 2013 respectively. PMGAA was formed to develop, reuse, operate, and maintain the Airport property and facilities at the former Williams Air Force Base.

With the August 1995 Record of Decision, the U.S. Air Force confirmed that PMGAA would receive, at no cost, nearly 3,000 acres of land, with three runways (10,400-foot, 10,200-foot, and 9,300-foot), 120 buildings or facilities (such as navigation aids), and the improvements thereon. A long-term lease with the U.S. Air Force was executed on January 16, 1996. Fee conveyance for the majority of the property occurred on April 29, 1998. Through the Joint Powers Airport Authority legislation and subsequent property conveyance, PMGAA is entitled to adopt and enforce these Rules and Regulations governing the safe operation of activities on the Airport.

The Rules and Regulations, Airport Minimum Standards and Airport Rates and Charges are all part of the Airport's governing documents. The administration of the terms of each of the documents independently and as a whole, shall be under the authority, responsibility, administration and control of the Executive Director/CEO or designee.

1.3 Compliance

All persons on any part of the property comprising the Airport shall be governed by these Rules and Regulations and by other directives of the Executive Director/CEO or designee relative to the use or occupation of any part of the property comprising the Airport. Permission granted to any person by the Executive Director/CEO directly or indirectly,

expressed or implied, to enter upon or use the Airport or any part thereof is conditioned upon compliance with these Rules and Regulations. Entry upon or onto the Airport by any person shall be deemed to constitute an agreement by such person to comply with such Rules and Regulations.

1.4 Enforcement

a. The Executive Director/CEO is empowered to enforce these Rules and Regulations through Airport staff and the City of Mesa Police Department. All persons in the Airport shall respond to directives issued by Airport Operations personnel, under the direction of the Executive Director/CEO, relative to the enforcement of these Rules and Regulations. Violations of Rules and Regulations may result in different forms of action including but not limited to verbal or in writing such as a Notice of Violation (NOV) issued by Airport Operations personnel.

b. The Executive Director/CEO or designee may remove or evict from the Airport premises any person who knowingly, willfully or recklessly violates any rule or regulation prescribed herein, or any rule or regulation in effect by the federal government or the State of Arizona and may deny use of the Airport and its facilities to any such person if it is determined that such denial is in the public interest, notwithstanding any contractual arrangements.

c. If any provision of these Rules and Regulations is held to be invalid, the remainder of these Rules and Regulations shall remain in full force and effect. Future amendments, additions, deletions or corrections to these Rules and Regulations will be incorporated into the document as required and as directed by PMGAA.

d. Any person who feels these Rules and Regulations have been unjustly applied or enforced shall comply with the directives of PMGAA until such matter is resolved. Concerns regarding any enforcement practice shall be submitted in writing to the Executive Director/CEO within seven (7) days of the date of occurrence along with a description of the situation, the actions taken by Airport staff, and the desired resolution.

1.5 Variance

a. Any variance of the literal requirements of these Rules and Regulations may be granted by the Executive Director/CEO when strict enforcement is impractical, results in unnecessary hardship, or is contrary to the safety of flight operations. The granted variance shall result in substantial justice and is in accordance with the spirit of the Rules and Regulations.

b. When an emergency exists at the Airport, the Executive Director/CEO or designee is empowered to issue directives and take such action as necessary to protect people, property and assets and promote the safe operation of the Airport. Such directives and actions of the Executive Director/CEO or designee have the power of regulation as long as the emergency exists.

c. PMGAA reserves the right to revoke, cancel or change any and all of these Rules and Regulations at any regular or special Board of Directors (Board) meeting with notification as required under A.R.S. All changes issued from time to time shall be considered as addenda to these Rules and Regulations. Future amendments, additions, deletions or corrections to these Rules and Regulations will be incorporated into the document as required and as directed by PMGAA.

1.6 Adoption of Federal and Local Regulations

a. Title 14, Code of Federal Regulations (CFR) Federal Aviation Regulations(FAA), Title 49, CFR (Transportation Security Administration Regulations), Title 40, CFR (Federal Environmental Regulations), Title 21, CFR (Food and Drug Administration), A.R.S Title 28 (Transportation), A.R.S Title 49 (Environment), Maricopa County Air Pollution Control Regulations, City of Mesa Fire Code, and other compliance documents required by Federal, State, or local government, whether presently or hereafter effective, are hereby referred to, adopted, and made part of these Rules and Regulations as though fully set forth and incorporated herein, as each may be amended from time to time.

b. Federal, State, or local laws or ordinances, in the event of any conflict, supersede PMGAA Rules and Regulations.

c. The Rules and Regulations shall in no way supersede or abrogate regulations set forth in FAA Federal Aviation Regulation (FAR) Part 139, Certification and Operation of Airports, nor Transportation Security Administration (TSA) Part 1542, Airport Security, as established and approved for PMGAA.

1.7 Waiver of Liability

Any permission granted by the Executive Director/CEO to use the Airport and its facilities, or to fly to, from, or over the same shall be at all times conditioned upon the assumption of full responsibility and risk associated therewith. It shall be a further condition thereof that each person, as consideration of the use of the Airport and its facilities, shall at all times indemnify PMGAA, the Board, the Executive Director/CEO, and employees from and against any and all liability, responsibility, loss, or damage, resulting to any such person or

caused by or on his behalf, and incident to the manner in which the Airport is operated, constructed, or maintained, or served from within or without, or used from without. The use of the Airport by any person for any purpose, or the paying of fees thereof for the taking off or landing aircraft therein shall be itself an acknowledgment that such person accepts such privileges on the conditions herein set forth.

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CHAPTER 2: GENERAL RULES AND REGULATIONS

2.1 Abandonment of Property

No person shall abandon any personal property at the Airport. If not claimed by the owner within seven (7) days, such articles will be handled in accordance with A.R.S. Title 44, Chapter 3.

2.2 Accident Reporting

Accidents resulting in damage to property, injury requiring professional medical treatment, or interference with normal operations must be reported to Airport Operations as soon as possible after the occurrence.

2.3 Advertisements & Printed Materials

Advertisements and other printed materials shall not be posted, distributed, displayed, or circulated at the Airport without the express written consent of the Executive Director/CEO, unless posted in areas specifically authorized for advertisements. The authorization may include time constraints as well as limiting the number of persons distributing the printed materials.

2.4 Alcohol

No person shall drink any intoxicating liquor upon any portion of the Airport open to the public, except in such restaurant or other place as shall be properly designated and licensed for on-sale liquor dispensing.

2.5 Animals

a. Animals other than those required for American with Disabilities Act (ADA) assistance or law enforcement dogs, are not allowed within the Airport Restricted Area unless being transferred or shipped, and/or under the control of their owner or handler by leash, harness, restraining strap, or cage. Leashes, harnesses, and straps shall not exceed six (6) feet.

b. No person shall enter any public building with any animal, except animals required for assistance or when such animals are leashed or containerized for air shipment.

c. Owners or handlers are responsible for the immediate removal and disposal of animal waste.

d. No person shall feed or engage in any other act to encourage the congregation of any animals on the Airport.

2.6 Bicycles, Rollerblading and Skateboarding

a. Bicycles within the Airport Restricted Area shall only be operated by Airport or tenant employees in the performance of their duties and shall not be operated within 50 feet of an aircraft under power.

b. Bicycle operators within the Airport Restricted Area must conform to all posted and non-posted rules and regulations regarding the use of vehicles.

c. Skateboarding and rollerblading are not permitted within the Airport Restricted Area.

2.7 Commercial Activity

Commercial activity of any kind requires the express written permission of the Executive Director/CEO through a specifically authorized lease, sublease, operating agreement, license, permit or written temporary permission and the payment of fees, as required.

2.8 Commercial Photography

a. No person shall take a still, motion, or sound picture on the Airport for commercial purposes without the permission of the Executive Director/CEO and the payment of fees, as required. The Executive Director/CEO may allow any of the following to take pictures on the Airport for commercial purposes:

   1. Professional photographers and motion picture cameramen photographing events on the Airport as representatives of bona fide news organizations.

   2. Professional photographers and motion picture cameramen photographing events at the Airport for non-profit exhibition, to stimulate interest in air commerce or travel, or for non-profit educational purposes.

   3. Professional photographers photographing scenes on the Airport for general artistic purposes.

   4. Aviation photographers photographing aircraft in public or designated areas.

b. No person shall take a still, motion, or sound picture in any area exclusively leased to an Airport tenant without the permission of the tenant and coordination with the Executive Director/CEO's Office.

c. Any approved activity within the Airport Restricted Area shall have proper escort.

2.9 Fees

Fees, rates and charges shall be established, scheduled and published from time to time, by PMGAA and where applicable, paid to PMGAA by users of the Airport.

2.10 Hunting

Hunting on the Airport is prohibited, with the exception of wildlife control measures undertaken to further aviation safety in accordance with the Airport's approved wildlife management plan.

2.11 Loitering

No person shall loiter in Airport buildings or on Airport property. This includes occupying passenger terminal buildings or property in excess of 24 hours prior to a ticketed flight unless authorized by the Executive Director/ CEO.

2.12 Lost and Found Articles

Lost and found articles shall be deposited with Airport Operations. Such articles will be handled in accordance with A.R.S. Title 44, Chapter 3, Section 1.

2.13 Obstruction

No person, except law enforcement officers, firefighting personnel, TSA, FAA and PMGAA personnel may intentionally obstruct, delay, physically disturb or interfere with the free movement of any other person on the public areas of the Airport, unless doing so in accordance with the Airport's security challenge procedures.

2.14 Overnight Camping

Overnight camping-, including occupancy of vehicles, on the Airport is prohibited unless authorized by the Executive Director/CEO.

2.15 Permits

Permits and licenses authorizing certain activities on the Airport shall be issued and revoked at the discretion of the Executive Director/CEO.

2.16 Preservation of Property

a. No person shall destroy or cause to be destroyed, injure, damage, deface, or disturb in any way, property of any nature located on the Airport. Any person causing or responsible for such injury, destruction, damage, or disturbance shall report such damage to Airport Operations and shall reimburse PMGAA the full amount of repair

or replacement of the property.

b. No person shall take or use any aircraft, aircraft parts, instruments, or tools owned, controlled, or operated by any person while on the Airport or within its hangars, except with the written consent of the owner or operator thereof.

2.17 Public Demonstrations

Public demonstration, such as picketing and other peaceful action, is permitted on Airport property provided the sponsor obtains written permission from the Executive Director/CEO or authorized designee and complies with all PMGAA Rules and Regulations, with emphasis to Sections 2.12 Obstruction and 2.22 Use of Public Airport Facilities.

2.18 Signage

Signage standards are established by PMGAA in compliance with the City of Mesa Sign Code.

a. No sign, advertisement or notice shall be displayed on the outside of any structure on the Airport or on Airport property unless authorized under the Airport Design Guidelines.

b. Roadway and directional signage shall be in compliance with City of Mesa traffic control, and no roadway signage shall be displayed unless authorized by the Executive Director/CEO.

c. No person shall display solicitations, advertising, or other signs on the Airport property, including the property within the roadway easements, without the authorization of the Executive Director/CEO.

2.19 Solicitation

No person shall solicit funds or other items to the public on the Airport without the express written approval of the Executive Director/CEO.

2.20 Smoking

In accordance with the Smoke-Free Arizona Act and Mesa City Code, Title 6, Chapter 11, smoking is not permitted: 1) in any public place, including any workplace; 2) at or within 20 feet from building entrances; 3) in designated 'no smoking' areas posted as such by PMGAA; or 4) at other locations through which public movement can be anticipated. In addition, PMGAA has designated aircraft parking ramps as smoke-free.

2.21 Storage of Equipment or Property

Storage of equipment or property not used for aviation or other approved operations or activity on the Airport is prohibited unless specifically provided for by lease or other contractual agreement. This includes recreational vehicles (boats, motor homes, personal watercraft, etc.) and other motor vehicles not specifically used for the authorized operation.

2.22 Tampering with Aircraft

No person shall interfere or tamper with any aircraft or put in motion the engine of such aircraft, or use any aircraft, aircraft parts, instruments, or tools, without permission of the owner or specific direction of the Executive Director/CEO or designee.

2.23 Use of Public Airport Facilities

No person(s), firm(s), association(s), or corporation(s) shall sponsor, hold, permit or otherwise carry on any activity that would impact the operation of the Airport without first obtaining written permission from the Executive Director/CEO and complying with all the terms and conditions of such authorization. In the event approval is given, written evidence of insurance covering all injury, damages, or claims that might result from such activities shall be submitted to the Airport.

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CHAPTER 3: AIRCRAFT OPERATIONS

3.1 Accidents & Disabled Aircraft

a. Persons involved in aircraft accidents or incidents on the Airport shall make a full report thereof to the Air Traffic Control staff or Airport Operations as soon as practical. The pilot or operator involved in an accident-causing personal injury or property damage may be requested to make a written report concerning said accident.

b. Access to aircraft accident and incident scenes shall be controlled by a designated Incident Commander. Persons are not authorized to enter an accident or incident scene without the permission of the Incident Commander.

c. The pilot, aircraft owner, lessee, or operator is responsible for the prompt removal of the disabled aircraft or parts thereof as directed by the Executive Director/CEO, subject to accident investigation requirements. The Executive Director/CEO or designee is authorized to remove or relocate a disabled aircraft from any location on the Airport at the expense of the owner/operator.

3.2 Aircraft/Airport Operations during Hours of Tower Closure

After the published hours of the Air Traffic Control Tower, all aircraft/vehicles operating within the movement area must broadcast their intentions on the Common Traffic Advisory Frequency (CTAF) in accordance with suggested procedures published in the Airman's Information Manual, FAR's, and FAA Advisory Circulars.

3.3 Airport Closures and Restrictions

In the event that the Executive Director/CEO believes that the conditions of the Airport or any part thereof are unsafe for landings and take-offs, it shall be within their authority to close or restrict all or part of the Airport and issue a Notice to Airmen (NOTAM) indicating so.

3.4 Based Aircraft Registration

The owner and/or operator of aircraft based on the Airport's ramp area shall execute a written agreement with PMGAA stating, among other things, the based aircraft status, aircraft identification, and compliance with aircraft parking fees. Aircraft based at the Airport but within a tenant's leasehold shall be reported by the tenant quarterly or upon request by the Executive Director/CEO. Reports shall be detailed (including: Registration/N Number, names, address, and phone number of owner) of all based aircraft on the Airport in a form approved by the Airport Authority.

3.5 Engine Run-ups

a. Aircraft engine run-ups above ground idle shall only be conducted at the engine run-up areas adjacent to each runway end or within those areas designated by the Executive Director/CEO.

b. No aircraft engine shall be started or run unless a qualified, certificated pilot or mechanic is attending the aircraft controls.

c. Aircraft engine run-ups shall not be conducted in such positions that the path of the propeller wash or jet blast may endanger persons, structures, or property. In the event that the path of the propeller wash or jet blast may cross a marked service road, a safety flagger is required.

d. Aircraft engine maintenance run-ups are not authorized between the hours of 2000 (8:00 pm) and 0800 (8:00 am) unless: 1) they are conducted with Airport approved sound suppression devices; or 2) are performed in conjunction with an air ambulance flight; or 3) are coordinated with Airport Operations prior to commencement 4) coordinated with ATC when conducted in the movement area.

3.6 Flight Demonstrations

a. Demonstrations, including test flights or ground demonstrations other than standard maintenance test flights shall not be conducted on the Airport without the express written consent of the Executive Director/CEO.

b. PMGAA specifically reserves the right to temporarily restrict or control activities within aircraft operating areas and public areas of the Airport for purposes of aerial and ground demonstrations or for any other public purpose.

3.7 Fly Friendly Procedures

Aircraft operators shall, whenever possible, use procedures and flight patterns that help mitigate aircraft noise. PMGAA supports the use of the National Business Aviation Association (NBAA) and Aircraft Owners and Pilots Association (AOPA) noise abatement procedures. The Airport's published Fly Friendly procedures are described in Appendix B.

3.8 General Operating Rules

a. No aircraft shall be operated on the Airport if such aircraft is constructed, equipped, or loaded as to endanger persons or property.

b. No aircraft shall be operated on the Airport in a careless or negligent manner, in disregard of the rights and safety of others, without due caution, or at a speed or manner that is likely to endanger persons or property.

c. No aircraft shall be operated on the Airport while the pilot, or other persons aboard controlling any part of the operation, is under the influence of alcohol or drugs.

d. Taxiways, apron, or ramp areas shall not be used for take-offs and landings of any type aircraft without the appropriate clearance from the Air Traffic Control Tower, whenever the Tower is in operation. Aircraft operating during the hours the Tower is not operating shall comply with appropriate FAA regulations and Advisory Circulars.

e. No aircraft engine shall be operated inside any aircraft hangar or within 25 feet of any opening to a hangar or abuilding.

f. Unmanned Aerial Vehicle (UAV) operations shall comply with all FAA Part 107 regulations.

3.9 Helicopters

Helicopters shall not be operated with rotors turning unless there is a clear area of at least 25 feet in all directions from the outer tips of the rotor, unless being fueled under established procedures.

3.10 Instructor and Student Responsibilities

Flight instructors shall fully acquaint their students with these Rules and Regulations and shall be responsible for the conduct of the students under their direction during dual instruction. When a student is solo, it shall be the sole responsibility of the student to observe and abide by these rules.

3.11 Parking of Aircraft

a. Aircraft parking shall be restricted to approved parking areas designated by Airport Operations and Maintenance and/or Gateway Aviation Services Director or completely within an exclusive leasehold area with the permission of the leasehold tenant.

b. No aircraft shall be parked or staged within marked service roads, or fire lanes, or in a manner as to interfere with taxiing aircraft, or in a manner that blocks free movement

of aircraft or emergency vehicles or hinders access to any building or structure.

c. Aircraft parked or stored in unauthorized areas or which present an operational problem or safety hazard to any area of the Airport may be towed or relocated to other Airport areas at the discretion of the Executive Director/CEO and at the operator's expense.

d. Derelict or non-flyable aircraft shall not be stored on the Airport's parking ramp or on property that has not been specifically leased or designated by the Executive Director/CEO for such purpose.

3.12 Refusal of Clearance

The Executive Director/CEO or designee may delay or restrict any flights or the conduct of other aviation-related operations at the Airport and may notify Air Traffic Control to refuse take-off clearance to any aircraft for any reason the Executive Director/CEO or designee reasonably believes is in the best interest of the public or essential to the safe operation of the Airport.

3.13 Specialized Aeronautical Activities

Hot air balloon operations, ultra-light aircraft operations, banner-tow operations, and parachute drops mixing with commercial, military, and other jet activities can create a hazardous environment. Such specialized activities require prior written approval from the Executive Director/CEO.

3.14 Taxiing or Towing of Aircraft

a. No person shall taxi an aircraft into or out of an enclosed hangar under its own power.

b. All aircraft taxiing or under tow on any part of the ramp, apron, or taxiways shall proceed with aircraft position lights on at night and during periods of low visibility.

c. When the Air Traffic Control Tower is in operation, aircraft shall not be taxied, towed, or otherwise moved on any part of the movement area until specifically cleared to do so.

d. No aircraft shall be taxied, or engines operated at the Airport where the exhaust or propeller blast may cause injury to persons or damage to property. If it is impossible to taxi such aircraft in compliance with the above, then the engine(s) must be shut off and the aircraft towed to the desired destination.

e. No person shall tow an aircraft on airport movement area unless such person has

f. passed an approved Airport training program, receives recurrent training, has been issued and is in possession of an Airport security badge with the applicable endorsement.

3.15 Washing and Maintenance

a. Washing and maintenance of aircraft or other Airport related equipment shall only be conducted in accordance with environmental regulations and at approved wash racks or other areas designated by the Executive Director/CEO, or within specific tenant areas where such activity is permitted under lease or agreement.

b. Aircraft maintenance other than minor maintenance as defined by FAA is prohibited on the ramp areas unless specifically authorized by Airport Operations or the Airport Duty Manager.

3.16 Weight Bearing Capacities

Aircraft exceeding the published weight bearing capacity of any runway, taxiway, or apron area are prohibited from operating on those areas without the express written approval of the Executive Director/CEO.

3.17 Deicing

a. Air Carriers must submit a Deice Plan by November 1 of each year.

b. Air Carriers using deicing and anti-icing chemicals must be in accordance with the Storm Water Pollution Prevention Plan and their Deice pPlan.

3.18 Terminal Common Use Facility

Designated Common Use Gates, hardstand positions, and RON facilities for scheduled and non-scheduled flight operations by all carriers shall be managed and approved by Airport Operations in the best interests of facility efficiency. Aircraft Operators using the Common Use Facility shall comply with the Common Use Facility Operating Procedures.

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CHAPTER 4: VEHICLE OPERATIONS

4.1 City of Mesa Traffic Ordinances

City of Mesa traffic ordinances shall apply to all public roadways on the Airport and are enforced through the City of Mesa.

4.2 Emergency Right-of-Way

Upon the approach of a police, ambulance, fire department, Airport or other emergency vehicle giving an audible or visual signal that it is on an emergency call, each person operating another vehicle on any road inside the Airport Restricted Area shall immediately move out of the path of the approaching emergency vehicle without crossing into the controlled movement area. Stay clear of all intersections and stay there until the emergency vehicle has stopped or passes, unless otherwise directed by an emergency service worker.

4.3 Endangerment

No person shall operate a vehicle on the Airport that is constructed, equipped, or loaded in such a physical or mechanical condition as to endanger persons or property.

4.4 Equipment

No person shall operate a vehicle on the Airport unless the vehicle is in sound mechanical condition with adequate safety equipment.

4.5 Insurance

All motor vehicles operated on the Airport must have liability insurance consistent with the State of Arizona motor vehicle insurance laws.

4.6 Motor Vehicle Accident Reporting

Each operator of a motor vehicle involved in an accident on the Airport that results in damage to property or personal injury shall report it to Airport Operations as soon as possible after the accident. The report must include the name and address of the person reporting. Copies of reports taken by City of Mesa Police are acceptable for incidents that occur in the public areas of the Airport.

4.7 Movement Area Operations

a. Prior to entering the aircraft movement area all vehicles shall yield right-of-way to

all taxiing aircraft and aircraft under tow.

b. No person shall operate a vehicle in the movement area unless prior permission has been obtained from Airport Operations and the vehicle is equipped with a two-way radio in communication with and clearance has been received from the Air Traffic Control Tower, unless under the control of an authorized escort.

c. No vehicle shall enter the movement area unless equipped with an appropriately sized flashing or steady-burning yellow beacon, mounted on the uppermost part of the vehicle such that it is conspicuous from any direction including from the air. An orange and white- checkered flag may be used in lieu of the flashing beacon for daytime activities. The flag shall be mounted so that it is conspicuous from any direction.

4.8 Moving of Motor Vehicles

The Executive Director/CEO or designee has the authority to tow or otherwise move any motor vehicle on the Airport property for reasons of operational necessity, safety, security, abandonment, illegal or unauthorized or improper parking or police investigation. PMGAA may charge a reasonable amount for the moving service and for the storage of the vehicle, if any. The vehicle may be subject to a lien for that charge.

4.9 Parking

a. The Executive Director/CEO or designee are authorized to reserve all or any part of vehicle parking lots and other areas not under lease or permit for use as they may designate, and to indicate any restrictions by appropriate markings and/or signs.

b. No person shall park a vehicle in any parking area without the express or implied consent of PMGAA. All areas designated for vehicle parking are subject to City of Mesa Code, Title 10 requirements.

c. Vehicle parking areas are intended for use by a full-size passenger automobile (19 feet in length maximum). Vehicles exceeding 19 feet shall park in designated areas.

d. Where appropriate signs and/or markings have been installed, no person shall park or stand a motor vehicle on the Airport except in an area specifically designated for parking or standing. No vehicles shall be loaded or unloaded in parking areas other than those designated by PMGAA for such activities (i.e., designated loading zones, loading areas, etc.). Unauthorized vehicles in designated loading areas or areas with signs/markings prohibiting parking/ standing a motor vehicle may be subject to tow at the owner's sole cost and expense.

e. Vehicles parked in any authorized parking area shall park in such a manner as to comply with all posted and/or painted lines, signs, and rules.

f. Tenant ramp vehicles and equipment shall be only parked within the tenant leasehold areas or in approved parking stalls. Outside storage of vehicles or equipment outside of the leasehold premises area is prohibited.

g. Passenger vehicle parking areas shall only be used for parking vehicles no longer than a full-size passenger automobile, (which excludes commercial vehicles), only in the designated and entirely within the painted and striped parking stall lines. No double parking is permitted.

h. No person shall park or stand a motor vehicle on the Airport within 10 feet of a fire hydrant.

i. Privately owned vehicles are not authorized to park within the Airport Restricted Area unless prior approval has been obtained from Airport Operations, through the issuance of a PMGAA issued Vehicle Identification Permit. Such permit shall be displayed at all times, in a conspicuous location.

j. Vehicles parked in the Airport parking lots, which do not belong to passengers, Airport employees, Airport tenants, or Airport/Tenant customers are subject to tow and storage at the owner's expense (Mesa City Code, Title 10, Chapter 9). Illegally parked vehicles are subject to parking charges as published in the current Rates & Charges.

k. Tenant employees shall utilize designated parking locations identified in lease or other agreement.

l. Lessee and its invitees shall obey all signs and motor vehicle codes.

m. Every person using the parking areas shall park and then lock his/her own vehicle. PMGAA will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking areas.

n. PMGAA reserves the right to refuse the use of any parking area to any person or entity that willfully refuses to comply with these applicable parking rules, Airport regulations, laws, and or agreements.

o. Such parking use as is herein provided is intended merely as a license only, and no bailment is intended or shall be created hereby.

p. The speed limit in parking areas is five (5) miles per hour.

q. The maintenance or washing of vehicles parked on the Airport is prohibited, except in designated wash areas.

r. Parking is prohibited in common areas not designated for parking, areas not striped for parking, drive aisles, loading zones, cross hatched areas, illegal parking areas, in front of loading doors or ramps, and or any entrance or exit to or from the Airport unless authorized by the Executive Director/CEO or designee.

s. In the event that any party fails to comply with the Parking Regulations hereinabove, PMGAA shall cause the vehicle in violation to be towed off the premises at the owner's sole cost and expense, without any liability or cost to PMGAA whatsoever.

4.10 Repair of Motor Vehicles

Except for persons authorized by the Executive Director/CEO or Airport Duty Manager and for minor repairs necessary to move the vehicle from the Airport, no person shall repair a motor vehicle on a road or in a parking area of the Airport.

4.11 Restricted Area Operations

a. No person shall operate a motor vehicle within the Airport Restricted Area without a valid driver's license, and if applicable, proper Airport Driver Endorsement on their security badge unless under the control of an authorized escort. The Airport Driver Endorsement must be presented upon the request of any Airport Operations Staff.

b. No person shall operate a vehicle within the Airport Restricted Area unless their presence is specifically required for Airport business or services.

c. The Executive Director/CEO or designee has the authority to deny, restrict, or cancel the privilege of any motor vehicle operator from operating within the Airport Restricted Area.

d. No person shall operate a motor vehicle at a speed:

1. Of more than 25 mph on any marked service road
2. Of more than 15 miles per hour on any aircraft apron or ramp
3. Of more than five (5) miles per hour around aircraft
4. That could endanger any aircraft, vehicle, or person

e. Airport and aircraft support vehicles and construction vehicles driving or operating within the Airport Restricted Area shall display the company name or logo; a minimum of four (4) inches high on each side of the vehicle.

f. All vehicles operating on service roads and non-movement areas shall be equipped with an amber rotating beacon, or yellow flashing or steady burning beacon while operating in the Airport Restricted Area. Vehicles without such equipment shall be under continuous escort. Construction vehicles shall display an orange and white checkered flag or amber rotating beacon during the daytime operations, and an amber rotating beacon or yellow flashing or steady burning beacon during nighttime operations.

g. Except while in the process of servicing an aircraft or Airport facility, vehicle traffic on the apron shall use marked service roadways where designated.

h. Each person operating a motor vehicle on the Airport shall operate it so as to have it under proper control at all times, weather and traffic conditions considered.

i. Washing of vehicles at the Airport wash rack is limited to tenant company vehicles and equipment.

j. Each person operating a motor vehicle within the Airport Restricted Area shall yield the right of way to aircraft, aircraft under tow and pedestrians.

~~j.~~k. All ground service equipment utilized for transporting luggage or cargo shall tow no more than three baggage carts at a time.

4.12 Signs and Markings

No person shall operate a vehicle on Airport roadways unless it is operated in strict compliance with all roadway signs, markings, and speed limits prescribed by the Executive Director/CEO.

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CHAPTER 5: FUELING, FIRE AND ENVIRONMENTAL SAFETY

5.1 Aircraft Fueling Operations

a. No person shall operate as an FBO (Fixed Base Operator) or SASO (Specialized Aviation Service Operator) for the purpose of selling fuel for commercial revenue.

b. No person shall operate a fuel truck or fuel transfer vehicle within the Air Operations Area unless such person has passed an approved Airport training program, receives recurrent training, is issued an Airport security badge with a driver and fueling or self-fueling endorsement, and complies with the provisions outlined in PMGAA Aviation Fuel Storage, Handling and Dispensing Guidelines.

c. No person shall fuel/defuel aircraft on PMGAA property unless they are an employee of; 1) an approved on-Airport Fixed Base Operator; or 2) an aircraft operator fueling its airport-based aircraft at its based location. Fueling/defueling of non-based aircraft or aircraft not located at its based location is prohibited, unless approved in writing by the Executive Director/CEO.

   During the fueling of an aircraft, the dispensing apparatus and the aircraft must be bonded in accordance with City of Mesa Code, Uniform Fire Code Standards Section 24-1, NFPA 407 Regulations and ATA 103 Standards.

d. Fuel service vehicles are prohibited from parking within 50 feet of, or within a building.

e. No person shall fuel or defuel an aircraft on the Airport while:

   1. The aircraft is in a hangar or an enclosed space.

   2. The aircraft fuel system vents or fuel tank openings are closer than 25 feet to any terminal building, hangar, service building or enclosed passenger concourse other than a loading walkway.

   3. The aircraft vent or tank openings are within 50 feet of any ventilation air- intake to any boiler, heater, or incinerator room.

   4. Passengers are in the aircraft, unless a passenger loading ramp is in place at the cabin door, the door is open, and a cabin attendant is at or near the door.

f. No person shall start the engine of an aircraft on the Airport if there is any gasoline or other volatile flammable liquid on the ground underneath the aircraft.

g. Each person engaged in fueling or defueling on the Airport shall exercise care to prevent the overflow of fuel and must have readily accessible and adequate fire extinguishers.

h. No person shall smoke or use any material that is likely to cause a spark or be a source of ignition within 50 feet of an aircraft being fueled or defueled.

i. Each hose, funnel, or appurtenance used in fueling or defueling an aircraft on the Airport must be maintained in a safe, sound, and non-leaking condition and must be properly electrically bonded to prevent ignition of volatile liquids.

j. Fueling activities shall cease when lightning discharges occur within five (5) miles of the Airport.

5.2 Aircraft Fuel Storage Facility Requirements

Aircraft fuel storage facilities shall be permitted only if the facility is constructed and maintained in accordance with these regulations and the following: The aircraft fuel storage area is for noncommercial, private use only by the owner or aircraft operator. Aircraft fuel storage facilities which refuel aircraft, in accordance with the provisions of PMGAA Rules & Regulations and PMGAA Minimum Standards, may dispense permitted fuels as approved in writing by the Executive Director/CEO. Aircraft fuel storage areas shall only be constructed after written approval of the Executive Director/CEO and after issuance of all applicable permits. The fuel storage area shall not be approved and operated except in conjunction with aircraft storage that meets the requirements of these regulations. In the event there is a requirement for separate aviation fuel types, there shall be a maximum of two (2) aircraft fuel storage areas on each building site. Total aircraft fuel storage of Jet A shall not exceed 25,000 gallons. Total aircraft fuel storage of 100LL Avgas shall not exceed 12,000 gallons. Fuel storage areas will be fenced, with gates and warning placards, prohibiting unauthorized access.

5.3 Inspection of Fuel Facilities, Records, Meter Readings, and Reporting

a. PMGAA shall have a right of access onto private property at the airport for the purpose of inspecting fuel facilities and equipment. Fuel storage and dispensing records shall be subject to inspection by PMGAA upon reasonable notice. Such inspection may include, but not be limited to, taking meter readings, reviewing, and inspecting fuel storage records, fueling apparatus, training records, emergency equipment, and any and all material for safe fuel handling.

b. Not later than the last day of each month, the operator of the fuel storage area shall submit to PMGAA, in a form acceptable to the Executive Director/CEO, a monthly fuel inventory reconciliation report for the immediately preceding month. At a minimum, the report shall include:

   1. The type and amount of fuel received, spilled, leaked, de-fueled from aircraft or otherwise accounted for from the fuel storage area.

c. At the time of submission of the monthly fuel inventory reconciliation report, each operator of a fuel storage area shall remit to PMGAA, in a form acceptable to the Executive Director/CEO, all applicable fees then due under the Airport Rates and Fees Schedule.

d. The operator of the fuel storage area shall comply with, at the operator's expense; all PMGAA, local, state, and federal regulations, including but not limited to observed testing and submission of annual reports to the appropriate authorities and PMGAA.

5.4 Self-Fueling Operations-Aircraft

a. Individuals desiring to self-fuel their own aircraft shall receive instruction from PMGAA and obtain a permit authorizing such operations unless using an approved self-service fuel island.

b. Gravity feed fueling shall not be permitted from a container with a capacity of more than five gallons. Plastic containers shall not be used for fuel dispensing due to static discharge potential.

c. Fueling hoses shall be approved for flammable liquids and shall be maintained in accordance with nationally recognized standards.

d. Fueling nozzles shall be equipped with a deadman flow control valve. Notches or latches in the nozzle handle that could allow the valve to be locked open are prohibited.

e. An approved portable fire extinguisher having a minimum classification of 40: B shall be provided and maintained within 50 feet of all self-fueling operations.

f. Aircraft shall not be occupied during self-fueling or defueling operations.

g. Aircraft being self-fueled or defueled shall have the battery and ignition switches in the "off" position.

h. Battery chargers shall not be connected, disconnected, or operated during self-fueling or defueling operations.

i. The fueling nozzle shall be bonded with a nozzle bond cable having a clip or plug to a metallic component of the aircraft that is metallically connected to the tank filler port. The bond connection shall be made before the filler cap is removed. If there is no plug receptacle or means for attaching a clip, the operator shall touch the filler cap with the nozzle spout before removing the cap so as to equalize the potential between the nozzle and the filler port. The spout shall be kept in contact with the filler neck until the fueling is completed.

j. When a funnel is used in aircraft self-fueling, it shall be kept in contact with the filler neck as well as the fueling nozzle spout or the supply container to avoid the possibility of a spark at the fill opening. Only metal funnels shall be used.

k. Self-fueling operations shall comply with all other rules and regulations regarding aircraft fueling operations.

5.5 Self-Fueling Operations- Automotive Vehicles and Equipment

Automotive and equipment other than Refueling Service Vehicles and Tank Vehicles shall be refueled by authorized persons only at prescribed refueling stations and from dispensing systems that are approved by the Executive Director/CEO. “Motor gasoline (MOGAS)”, as defined in ASTM Specification D 4814 or Federal Specification VV-G-1690C, is characterized as blended to form a fuel suitable for use in spark-ignition engines. Motor fuel includes diesel and conventional gasoline; all types of oxygenated gasoline, including gasohol; and reformulated gasoline, but excludes aviation gasoline. Any person seeking to perform MOGAS self-fueling operations at the Airport shall comply with all applicable requirements concerning such activities as set forth in this policy and all Local, State, and Federal laws.

5.6 Parking of Aircraft Fuel Service Vehicles

Aircraft fuel service vehicles shall not be parked inside any buildings, except for approved vehicle maintenance and repair facilities. Such vehicles may only be parked in areas authorized by the Executive Director/CEO.

5.7 Explosives & Other Hazardous Materials

Explosives and other hazardous materials not acceptable for transportation under applicable federal regulations are not permitted on the Airport. Hazardous materials that pose a present or potential hazard to human health and safety or to the environment if released are also prohibited. Class 1 explosives, Class A poisons and radioactive materials as defined in the latest edition of the Emergency Response Guidebook are not permitted anywhere on the Airport, except as approved in writing by the Executive Director/CEO.

5.8 Fire Equipment

Airport fire extinguishers and Airport fire protection systems shall not be tampered with at any time, relocated nor used for any purpose other than firefighting or fire prevention. All tenants shall supply and maintain such adequate and readily accessible fire extinguishers within their leaseholds as may be required by the City of Mesa Fire Department

5.9 Hazardous Material Spills

a. Whenever a hazardous material spill or leak occurs, the owner of the material or equipment involved in such spill or leak shall take immediate steps necessary to ensure discovery, containment, and clean-up of such release and notify the Mesa Fire Department and Airport Operations of the occurrence. Charges may be assessed by the Executive Director/CEO for cleanup services including, but not limited to, reimbursement of labor, equipment, and materials.

b. Fuel spills greater than 10 feet in any dimension, covering an area of over 50 square feet, greater than five (5) gallons, or continuous in nature shall be immediately reported to City of Mesa Fire Department and Airport Operations.

5.10 Open Flames

a. No person shall start any open fire of any type on any part of the Airport without advance written permission from the Executive Director/CEO.

b. No person shall operate a flame or spark-producing device on any part of the Airport except in areas within leased premises specifically designated for such use unless a permit from the City of Mesa Fire Marshall or other appropriate official has first been obtained. No permit shall be issued for operations within any aircraft hangar, any fuel storage area, or upon any components of the fuel distribution system unless the work is required for the repair of such areas or hangars. Where such repair is required, permission shall first be obtained from the City of Mesa Fire Marshall and shall be subject to conditions as he/she may impose.

c. Every person observing any unattended or uncontrolled fire on Airport premises shall immediately report it to 9-1-1. No person shall make any regulation or order, written or verbal, which would require any person to take unnecessary delaying action prior to reporting such a fire.

5.11 Storm Water Discharge

All storm water discharge requirements, including applying for, paying for, and obtaining the required Arizona Pollutant Discharge Elimination System (AZPDES) Storm Water Permit are the responsibility of each tenant or authorized contractor that will cause, create, or develop an industrial discharge at any location on the Phoenix-Mesa Gateway Airport property. All Tenants are responsible for determining their industrial status through the Arizona Department of Environmental Quality (ADEQ), filing the appropriate forms (i.e., Notice of Intent), and completing the applicable section of their Lease documentation pertaining to Environmental Compliance. All Tenants are responsible for compliance with the Storm Water Control Measures as outlined in PMGAA Storm Water Pollution Prevention Plan (SWPPP).

5.12 Volatile Compounds

a. No person shall use a flammable volatile liquid having a flash point of less than 100 degrees Fahrenheit for cleaning purposes in a hangar or other building on the Airport unless it is approved by the City of Mesa Fire Department.

b. No fuel, oil, grease, flammable liquids, or contaminants of any kind including detergents used to wash aircraft or other surfaces, shall be allowed to flow into any sewer system, storm drain, or open water area without a separator.

c. No person, tenant, or company shall store any cylinders of compressed flammable gas inside any building except as may be permitted under applicable NFPA standards and the City of Mesa Fire Code.

d. No person shall store lubricating oils or other flammable materials except in appropriate storage cabinets suited for such use.

5.13 Dust Control

All tenants and personnel performing any type of ground disturbing activities(s) shall minimize the amount of dust generated from said activity by spraying clean water on the source or by using a dust palliative. Tenants creating any dust-generating activity may need to apply for a Maricopa County Air Quality Dust Control Permit at their expense.

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CHAPTER 6: LEASES & TENANT OPERATIONS

6.1 Condition of Tenancy

All Airport tenants must acknowledge through their lease or operating agreement that they will comply with these Rules and Regulations and appropriate minimum standards as a condition of tenancy or operation on the Airport.

6.2 Damage

Tenants and lessees, in addition to any terms that may be contained in their lease agreement, shall be fully responsible for all damages to buildings, equipment, real property, appurtenances, or other improvements in the ownership or custody of PMGAA, caused in whole, or in part, by their employees, agents, customers, visitors, suppliers, or persons with whom they may do business.

6.3 Design Guidelines

All facilities developed on the Airport shall conform to PMGAA Design Guidelines, Landscape Master Plan, and other pertinent standards, guidelines, or requirements.

6.4 Employees

Tenants are responsible for ensuring their employees are familiar with and comply with these Rules and Regulations, applicable minimum standards, and appropriate portions of their lease or other agreement with PMGAA. Tenants are also responsible for ensuring their employees and contractors meet physical and mental standards necessary for the safe conduct of the employee's job tasks.

6.5 Fire Equipment

Tenants are responsible for supplying and maintaining any required fire equipment on a tenant's premises unless specifically excluded in their lease agreement.

6.6 Floor Care

Each person to whom space on or at the Airport is leased, assigned, or made available for use shall keep the space free and clear of oil, grease, or other foreign materials that could cause a fire hazard or otherwise unsafe condition, or damage to the flooring material.

6.7 Free of Debris

Tenants shall keep hangars, shops, offices, other buildings, and areas adjacent thereto free of waste material, rubbish, junk, landscaping litter and flammable material. Tenants shall clear FOD in the AOA generated from their premises, vehicles, or equipment.

6.8 Hangar Storage

a. Aircraft hangars shall be used for aeronautical purposes or be available for use for an aeronautical purpose. Aircraft hangars shall remain in compliance with FAA policy, specifically 81 FR 38906 Policy on the Non-Aeronautical use of Airport Hangars, and all occupancy shall be subject to and in compliance with the City of Mesa Building Code, City of Mesa Fire Code, and Airport Rules and Regulations (collectively "Code") at all times.

b. The incidental storage of the aircraft owner's personal property related to the use, care, maintenance, and storage of an aircraft is permitted, provided that all non-aviation related items shall not obstruct any aircraft ingress and egress to the aircraft hangar or right of way thereto.

c. Preventative maintenance of an aircraft by the aircraft owner or properly licensed mechanic is permitted, provided that such activity creates no hazard or nuisance to the hangar facility or to Airport property.

d. Storage of aircraft parts, equipment, and supplies that relate to the aircraft owner's airworthy aircraft are permitted, provided that such storage of materials creates no hazard or nuisance to the hangar facility or to Airport property.

e. This section applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at the occupant's own expense while holding a ground lease. When land designated for aeronautical use is made available for construction of hangars, the hangars built on the land are subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.

f. The following activities or items shall be prohibited in an aircraft hangar:

1. The storage of any vehicle, boat, or recreational vehicle that impedes with the storage or movement of the aircraft.

2. No aircraft hangar shall be used for any residential purposes.

3. Storage of ammunition or explosives in any quantity is strictly prohibited.

6.9 Insurance

The Executive Director/CEO shall establish insurance requirements as a condition of operating on the Airport for all persons engaging in activities and business on the Airport. These requirements may vary among different types of service providers and may be periodically adjusted to ensure that PMGAA, passengers and the interests of the public are adequately protected. Continuous proof of proper insurance and business licensing shall be provided to PMGAA as a condition of operating at or on the Airport.

6.10 Marking of Paved Areas

Other than as provided in tenant leases, no surface painting or marking of any paved area on Airport property shall be permitted without submission of measured drawings and written permission from the Executive Director/CEO.

6.11 Preservation of Property

No person or tenant shall destroy, injure, deface, or disturb any building (except hangar 24 or the ASR), sign, fence, or other structure, tree, lawn, or other property on the Airport; nor alter, make additions to, or erect any building or sign or make any excavations on the Airport without the approval of the Executive Director/CEO.

6.12 Regulation of Commercial Activities

a. No person shall occupy or rent space, carry on any business, commercial operations, or other form of revenue-producing activity on the Airport without first obtaining a written contract, lease agreement or permit authorizing such activity, from the Executive Director/CEO.

b. The Airport Minimum Standards shall be met and maintained at all times by any individual, group of persons, business, or enterprise desiring to provide such commercial services or commodities at or on the Airport.

6.13 Storage and Equipment

No tenant or lessee of a hangar, shop facility, or other operational area specified by the Executive Director/CEO on the Airport shall store or stack equipment or material in a manner to be unsightly or constitute a hazard to persons or property. Areas of equipment storage shall be kept free of litter, trash, refuse, waste, rubbish, and debris.

6.14 Structural and Decorative Changes

Structural and decorative changes to any building, ramp, or other structure on the Airport require written approval of the Executive Director/CEO and must comply with local building codes and inspections and Airport Design Guidelines.

6.15 Trash Containers

Tenants shall place and maintain trash receptacles in the public areas of their premises, and other areas where necessary to promote and encourage the proper disposal of trash. All exterior trash receptacles on the Airport shall be sufficiently covered to prevent the inadvertent discharge of trash onto the Airport and prevent access by wildlife. The Airport encourages tenants to participate in recycling trash. Acceptable recyclable trash items are listed under the City of Mesa's Blue Barrel Recycling Program.

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CHAPTER 7: SECURITY REQUIREMENTS

7.1 Aircraft Security

When the condition or mission of an aircraft requires security guards or police officers, the owner or operator of the aircraft must coordinate this requirement with Airport Operations. The owner or operator of the aircraft is responsible for obtaining and paying security service personnel.

7.2 Airport Security Program

All persons using the Airport are subject to the Airport Security Program pursuant to TSA Regulation Part 1542.

7.3 Air Carrier

Air carrier tenants required to have a TSA approved Aircraft Operator Standard Security Program (AOSSP) shall maintain a current copy at the Airport.

7.4 Aviation Repair Station

Aviation Repair Stations covered under FAR Part 145 subject to TSA Security Directives shall maintain a security coordinator at all times.

7.5 Challenge

All persons who are provided access to the Airport Restricted Area shall reasonably challenge any person not displaying proper identification media while in the Airport Restricted Area. Any person challenged to display an approved Airport identification media shall do so immediately upon request. Challengers are not expected to place themselves or others in a dangerous situation and shall not approach when they feel making a verbal challenge would do so, but rather the challenger is obligated to notify Airport Operations or the Mesa Police Department in such instances.

7.6 Doors and Gates

a. At no time shall any Airport Restricted Area access gate be left open and unattended in a manner that would allow unauthorized access.

b. Security doors leading into the Airport Restricted Area shall be kept locked as required by the Airport Security Program.

c. Automated vehicle gates are for vehicle access only. No pedestrians shall use an

automated vehicle gate for pedestrian access.

d. Tenants shall be responsible for doors and gates located in their leased areas. Security gates leading into the Airport Restricted Area shall be controlled and monitored by the Airport Access and Monitoring System.

7.7 Employee Access Investigations

a. Employee access investigations in accordance with TSA Part 1542 and the Airport Security Program shall be conducted by employers for each employee. Certification of completion of the access investigation is required prior to PMGAA issuing any access materials.

b. The Airport Security Coordinator, or his/her designee, may deny issuance of an ID badge based on an applicant's conviction for a non-disqualifying offense if the offense occurred on Airport property and the offense interfered with or threatened the property, safety, comfort, efficiency or security of passengers, employees, tenants, or Airport operations.

c. Any person applying for identification media, covered under 49 C.F.R. 1542.209, who is charged with a Disqualifying Crime and awaiting a final judicial disposition will be denied issuance of an ID badge until a final judicial disposition is made and documentation is provided for review. ~~If an applicant has any outstanding warrants, their badge will not be issued until the warrant is handled (within 30 days).~~

d. PMGAA reserves the right, and makes the final determination, whether to grant, deny, or revoke a ~~badge~~ID media and access media at any time ~~it feels that an~~ when an individual ~~may~~ jeopardizes the security of the airport or compliance with the Airport Security Program.

e. Applicants with active warrants shall not be issued identification media until charges are adjudicated and applicant is fully vetted according to the Airport Security Plan.

7.8 Escorting

No person shall escort or allow non-badged persons access to the AOA or other secure areas without first complying with requirements of the Airport Security Plan.

7.9 General Aviation Aircraft

General Aviation aircraft are prohibited from entering the commercial passenger or cargo areas of the Airport unless otherwise coordinated in advance with Airport Operations and the Air Traffic Control Tower.

7.10 Identification Media and Access Cards

a. Identification media and access cards issued by PMGAA are property of PMGAA and must be surrendered upon the request of Airport Operations personnel or Mesa Police.

b. No person shall loan or provide Airport identification media or access cards to anyone other than to whom the media was issued.

c. PMGAA-issued or approved identification media must be properly displayed on the outermost garment, above the waist, at all times while within the Airport Restricted Area.

d. PMGAA-issued or approved identification media shall not be mutilated or altered from its original form in any way, nor shall any such media be reproduced or copied in such a manner as to degrade the security of the identification system.

e. PMGAA-issued or approved identification media shall not be duplicated, photocopied, posted or likeness otherwise distributed.

7.11 Restricted Areas

a. Only those persons specifically authorized by Airport Operations with proper personnel and vehicle identification are allowed access to the Airport Restricted Area, Air Operations Area (AOA) or Security Identification Display Area (SIDA) unless otherwise provided for under the Airport Security Program.

b. Pedestrians or motor vehicle operators observed in areas other than those designated for public use without authorization by the Executive Director/CEO will be considered trespassing and subject to arrest.

7.12 Security Fence Line

A minimum clear area of six (6) feet shall be kept between the security fence line and any object that may be used to conceal persons along the fence line or that would aid any individual in gaining access to the Airport Restricted Area unless specifically approved by the Executive Director/CEO.

7.13 Security Screening

All persons ~~desiring~~ approaching or entering ~~to enter~~ the ~~a~~ sterile area are subject to security screening.

7.14 Tailgating/ Piggybacking

No person or vehicle shall enter the Airport Restricted Area through an access portal that was opened for or by an authorized person or vehicle unless under the direct escort and control of that authorized person. All persons and vehicles using any airfield access gate or secured door, or gate shall ensure the gate or door is secured behind them prior to leaving the area to prevent unauthorized access.

7.15 Tenant Security

Tenants and tenant employees are responsible for safeguarding doors, gates, and other forms of passageways between Airport Restricted Areas and public areas. Tenants are responsible for safeguarding aircraft and other private property entrusted to their care within the Airport Restricted Area or other locations on their leased premises.

7.16 Violation of Security Regulations

Violation of security regulations may result in the immediate revocation of security privileges, revocation of access media, and denial of future entry into the Airport Restricted Area. Any fines levied against PMGAA for security violations will be charged to the offending individual and tenant.

7.17 Weapons

No person, except a peace officer, authorized air carrier employee, authorized Airport

employee, or a member of an armed force of the United States on official duty, shall carry any weapon, explosive, or flammable material on or about his person, openly or concealed, in the Airport Restricted Area without the written permission of the Executive Director/CEO. This section shall not apply to persons carrying firearms in cases, broken down or unloaded, when said firearms are being transported by air. No person shall furnish, give, sell, or trade a weapon on the Airport.

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CHAPTER 8: SPECIAL EVENTS

8.1 Authorization

Specialized events require advance written coordination, regulation, and authorization by the Executive Director/CEO prior to the public disclosure or advertisement of the event. The authorization will be in the form of a letter of authorization from the Executive Director/CEO to the special event sponsor in which the sponsor is recognized as involved in the planning process for a specific type of event. Certain activities shall require an executed lease, operating agreement, deposit or permit with PMGAA. A City of Mesa event permit may also be required as determined by the City of Mesa.

8.2 Aviation Activities

a. A special event that involves aerobatic maneuvers by aircraft must be coordinated in advance with Airport Operations and the local FAA Flight Standards District Office.

b. Special events involving aerial activities that are not of a routine nature for the Airport will require the designation and approval of an "air boss" who is experienced in directing and controlling the aerial activities planned for the event.

8.3 Closures or Restrictions

All runway, taxiway, ramp area, landside, or public area closures or restrictions must be coordinated with Airport Operations and other users of the Airport well in advance of the event.

8.4 Coordination

The sponsor shall make arrangements for such things as auto towing, garbage pickup, and refuse cleanup for any and all persons attending or associated with the event. If the special event is expected to attract an attendance of 500 persons or more, the sponsor must coordinate road and highway impacts with City of Mesa Police, Maricopa County Sheriff's office, and Arizona Department of Public Safety or other affected jurisdictions. In addition, the sponsor shall coordinate public safety impacts with City of Mesa Police and Fire and arrange any necessary protection (security, ambulance, fire protection, Aircraft Rescue and Fire Fighting support). Air traffic impacts shall be coordinated and approved by the Air Traffic Control Tower Manager.

8.5 Damages

Event sponsors shall pay for all direct expenses related to the special activity and

compensate PMGAA for damaged property. If the sponsor fails to adequately perform trash and litter clean-up of the Airport or repair damaged property in a timely fashion as determined by Airport Operations, PMGAA may perform these functions and charge the sponsor accordingly.

8.6 Fees

The event sponsor shall provide a written disclosure of all special event fees charged to the public to the Executive Director/CEO. In addition, when fees are charged, the sponsor shall pay fees to PMGAA as specified by Lease or Operating Agreement.

8.7 Insurance

The special event sponsor will be required to obtain liability insurance for the event in an amount determined by the Executive Director/CEO. The sponsor shall provide proof of insurance policy identifying PMGAA as a "named insured" for the event.

8.8 Normal Ingress/Egress

All special events must be planned to accommodate the normal ingress and egress of motor vehicles for those persons involved in passenger carrier flights, general aviation users of the Airport, air ambulance, or business activities normally conducted at or on the Airport.

8.9 Plans

In addition to the required coordination elements, the sponsor shall prepare and present to the Executive Director/CEO written plans to handle adverse weather, dust, hazardous materials spills, emergency services, and public protection.

8.10 Special events

Special events include air shows, balloon festivals, air races, fly-ins, parachute team demonstrations, static displays for the public, aerobatic events, filming for television, movies, or commercials, and other events or activities not normally associated with the daily operation of the Airport.

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CHAPTER 9: GROUND TRANSPORTATION

9.1 Ground Transportation General Authority

a. PMGAA has established ground transportation operating procedures for all Ground Transportation Providers subject to A.R.S, Title 28, Chapter 30 operating at the Airport. These operating procedures are to ensure the most fair and consistent ground transportation service. They will provide the public with the safe and convenient passenger movement.

b. It is imperative that all Ground Transportation Providers abide by the terms of the Airport license agreement and these Airport Rules and Regulations. Ground Transportation Providers are subject to on site supervision and direction by any personnel designated by the Airport Executive Director/CEO. Any person who violates these rules and regulations will, at the discretion of the Authority or its authorized representative, be denied use of the Airport and its facilities.

c. The ground transportation rules and regulations contained herein supersede and cancel all other previous ground transportation rules and regulations set forth by the Authority and its facilities.

9.2 Ground Transportation Provider Insurance Requirements

a. Before commencing ground transportation operations at the Airport, Ground Transportation Providers shall submit to the Authority an original certificate of motor vehicle insurance with a reputable insurance company or companies evidencing PMGAA's minimum policy limits and which names PMGAA as the certificate holder and as additionally insured by endorsement. The Airport shall be notified 30 days prior to cancellation or non-renewal of said endorsement.

b. Vehicle insurance shall cover all automobiles owned, leased, hired, rented, borrowed, or otherwise used by or on behalf of the Ground Transportation Provider.

c. PMGAA, its officers, officials, agents, employees, and volunteers are to be listed as additional insured with respect to liability arising out of: activities performed by, or on behalf of, the commercial operator including automobiles owned, leased, hired, or borrowed by the Operator.

d. PMGAA, its officers, officials, agents, employees, and volunteers shall be additional insured to the full limits of liability purchased by the Ground Transportation Provider even if those limits of liability are in excess of those required by permit.

e. Proof of insurance shall be available in each vehicle and provided when requested.

9.3 Conditions of Ground Transportation Provider

a. All Ground Transportation Provider vehicles shall be properly identifiable with company name logo or trade dress visible within 50 feet in front of the vehicle to enable passengers to identify the company name and address. Magnetic removable placards are not permitted.

b. All Ground Transportation Provider vehicles shall be validly registered in a state and must be able to produce proof of registration upon request. Ground Transportation Providers must provide proof of registration with the Arizona Department of Transportation if registration if required by A.R.S. Title 28, Chapter30.

c. Every vehicle shall be structurally sound and maintained in such good condition as to provide for the safety of the public in accordance with each and every applicable requirement of A.R.S. Title 28 and Title 49.

d. All Ground Transportation Provider vehicles serving the Airport shall be properly maintained and operated in a clean, safe, and businesslike manner at the sole discretion of the Authority or its representative. Vehicles are subject to inspection by Airport Operations staff.

1. Air conditioners will be operated at all times when temperatures reach 85 degrees Fahrenheit or upon passenger request.

2. Heaters will be operated upon passenger request and sufficiently heat the interior of the vehicle.

3. Exterior paint shall be maintained free of oxidation and rust.

4. Vehicle shall be free of any sheet metal damage.

5. Vehicle shall be free of dirt, trash, and debris.

6. The exterior of each vehicle in service shall be kept clean from road dust, mud, and grime.

7. The interior of each vehicle in service shall not contain offensive odors.

8. All vehicle interiors, trunk space and exteriors shall be kept clean and free of any damage. All vehicles shall have matching hubcaps and door handles. Trunks shall be kept clean and empty to accommodate passenger luggage.

9. All glass, including windshields shall be free of cracks and chips ¼ inch or larger.

9.4 Ground Transportation Provider Vehicle Driver Requirements

a. All drivers shall meet all Federal, State, and City requirements. Drivers shall possess a valid state issued driver's license, knowledge of the area and streets, ability to speak, read, and understand the English language.

b. All drivers operating Ground Transportation Provider vehicles must display or present valid company identification upon request.

c. Driver's Airport operating privileges may be revoked at the discretion of a representative of the Authority.

d. Drivers shall at all times be courteous, professional, and informative when interacting with passengers, airport staff, and other drivers. Customer complaints relating to a driver's failure to meet the foregoing standards of conduct may provide grounds for the termination of the driver's operating privileges at the Airport.

e. Drivers will contact their company's Supervision for complaints regarding other drivers of the same company and will refrain from making contact with drivers of other companies.

f. Drivers shall not engage in any physical fighting or loud, boisterous verbal disputes while on the Airport. If a dispute develops between a driver and a passenger, or another driver, the driver should immediately contact airport staff to resolve the dispute.

g. All drivers operating commercial vehicles at the Airport shall be clean and neat in their personal appearance and shall be courteous to passengers loading or unloading at the Airport.

h. All drivers must carry vehicle registration and insurance in vehicle at all times.

9.5 Regulations and Licenses

a. The Ground Transportation Provider shall comply with all applicable local, state, and federal regulations and abide by the Rules and Regulations of the Authority now in effect, or that may be promulgated from time to time, including but not limited to the utilization of loading zones, queuing areas, and other such traffic control arrangements as designated by Airport Management. The Ground Transportation Provider will provide the Authority with current copies of all applicable licenses from state or local authorities for areas the Operator proposes to serve.

b. The Ground Transportation Provider shall secure and pay the costs of all required licenses, supplementary equipment, permits, franchises, both of its employees and vehicles. The Operator will pay all taxes, fees, licenses, and moneys required by the Federal, state, or local governments for its operations at the Airport.

c. The Ground Transportation Provider shall maintain and operate its service in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, and Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title 6 of the Civil Rights Act of 1964, as said regulations may be amended.

d. No Ground Transportation Provider vehicle operator shall engage in the business of picking up passengers at the Airport terminal without first obtaining a Ground Transportation License Agreement from the airport authority. A Ground Transportation License shall not be issued until the owner has completed an application form provided by PMGAA.

e. Ground Transportation Providers that are not licensed through the Airport and that attempt to pick-up passengers in any terminal related areas are subject to eviction without loading their client and may face criminal trespass charges.

Ground Transportation Providers shall pay license fees and report activity to the Airport Authority pursuant to the License Agreement. Fees will be based on either a one-time annual fee for each registered vehicle or a trip fee for each trip at the Airport Passenger Terminal, provided that the Ground Transportation Provider utilizes a GPS tracking/reporting application which is approved by the Airport Executive Director/CEO.

9.6 Access and Parking

a. All Ground Transportation Provider drivers shall operate their vehicles in a safe manner while operating at the Airport property. Excessive speed and / or reckless driving are strictly prohibited. Drivers will refrain from blocking crosswalks or thru lanes at all times.

b. All Ground Transportation Provider vehicles desiring to drop off passengers shall be permitted to use the designated passenger loading/unloading zone of the Airport terminal curbside for active unloading of passengers and their baggage. No parking shall be allowed in this area. Vehicles may be cited and towed away. Drivers are not permitted to leave their vehicle unattended on the terminal curbside at anytime

c. Baggage delivery service vehicles must use the designated area for both loading and unloading baggage and are responsible for any charges incurred

d. Ground Transportation Provider vehicles not having a valid Ground Transportation License with the Airport are authorized to enter Airport property to discharge passengers only in accordance with this paragraph.

e. Ground Transportation Provider with a prior reservation from a passenger awaiting pick up may proceed to the designated area to await their client and are responsible for any charges incurred. When picking up a pre-arranged assisted needed passenger, Ground Transportation Provider may pick up their client at the terminal curbside provided the passenger is ready to load. Waiting along the curbside is strictly prohibited.

f. Passenger pick up by licensed pre-arranged shuttle operators is permitted only in the shuttle queue. Pre-arranged shuttle operators arriving early may stage in the Airport designated lot until the scheduled arrival time or actual arrival.

g. Passenger pick up by licensed Ground Transportation Provider vehicles other than taxicab or pre-arranged shuttle operators to include sedan/VIP type vehicles is permitted only in the designated parking lots, or along the terminal curbside provided the passenger is ready for pick up. Drivers of these vehicles shall be responsible for any charges incurred while staged in these lots. Sedan/VIP drivers parked in designated lots may meet & greet their clients inside the baggage terminal and will remain at least 15 feet away from Rental Car counters, concessionaires, and the baggage claim information counter.

h. Ground Transportation Provider vehicles shall enter the commercial vehicle queuing area only for the purpose of loading customers or passengers. Only those Ground Transportation Provider authorized vehicles shall have access to the taxi stand or pre-arranged shuttle queuing area.

i. Drivers may park in the passenger loading/unloading zones to drop off passengers only long enough to unload passengers and luggage at the curb. Vehicles left unattended will be subject to citation and/or towing enforcement.

j. There shall be no unattended vehicles parked in the queuing areas; vehicle drivers shall remain within 25 feet of their respective vehicles.

k. Limousines shall stage in designated lots. When contacted by their client and when their client states that they are ready for pick up, operators may then proceed to the terminal curbside and load their passenger(s).

l. Buses or coaches shall stage in designated lots. When contacted by their client and when their client states that their group is ready for pick up, buses or coaches may then proceed to a place along the terminal curbside designated by the Airport operator or operations personnel.

m. Transportation Network Company vehicles may stage in designated lots. When matched with a client ready to pick up, Transportation Network Company vehicles may then proceed to the designated pick-up curb location for loading. Transportation Network Companies may not stand or wait at the curbside for clients.

~~m.~~n. All Pre-Arranged Ground Transportation Service Providers (limo/livery, shared ride, TNC, Peer to Peer Car Sharing, and Hotel Shuttles) are limited to a single thirty (30) minute staging time interval at the designated curbside pickup location(s) for each provider before being required to relocate until their passengers are present.

9.7 Soliciting

a. The authorized solicitation of passengers by a Ground Transportation Provider shall only be conducted by the first driver in line in the designated areas at the taxicab queue. Taxicab drivers may not refuse transportation of a passenger based on the length of transport. Driver and passenger communication shall be conducted in a courteous and professional manner. Drivers shall not make any misrepresentation of their service. Drivers shall not be loud and boisterous with/or in the presence of potential customers.

b. Soliciting passengers is an offense that may result in the loss of ground transportation Licenses. Drivers soliciting passengers or in any manner offering to transport passengers in non-designated areas may be subject to an NOV.

c. Off duty drivers are not allowed to loiter on airport premises. Any off-duty driver using a Ground Transportation Provider vehicle for personal use at the Airport shall utilize the public parking facilities and shall not load passengers.

9.8 Miscellaneous Provisions

a. The Ground Transportation Provider shall repair promptly, and at no cost to the Authority, any damages to property of the Authority, which the Operator or its

representatives have caused. If repairs are not carried out promptly, the Authority shall cause repairs to be performed and bill the company for the cost.

b. No signs, posters or similar devices shall be erected, displayed, or maintained by the

Ground Transportation Provider on Airport premises without prior written approval of the Authority or its representatives.

c. Solicitation of business in any manner whatsoever upon Airport property is strictly prohibited. Cruising is specifically prohibited.

d. The Authority or its representatives shall have the right to restrict drivers or vehicles from operating at the Airport in noncompliance with Airport Rules and Regulations.

e. A Ground Transportation Provider may request that specific documents provided to the Airport be treated in a confidential or proprietary (collectively, "Confidential"), provided that the Ground Transportation Provider clearly labels the documents "Confidential". The Airport will notify the Ground Transportation Provider in writing of the public records request to view the documents, or any portion of the documents marked "Confidential". The Ground Transportation Provider will have seven calendar days from the date such notice is received to obtain a court order enjoining the release of the documents marked "Confidential". If the Ground Transportation Provider does not provide the Airport with a court order enjoining release of the documents, the Airport will make the documents requested available for inspection as required under the public records law, seven (7) calendar days after the written notice to the Ground Transportation Provider is received.

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APPENDIX A: DEFINITIONS

Advisory Circular: FAA publications that outline and describe recommended standards and procedures for numerous aviation entities.

Air Operations Area (AOA): That area of the Airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. The AOA includes the active runways, taxiways, ramp and turf areas. The AOA is considered part of the Airport Restricted Area and is off-limits to the general public.

Air Traffic Control (ATC): A service operated by appropriate authority to promote the safe, orderly, and expeditious flow of air traffic on or in the vicinity of the Airport.

Air Traffic Control Tower (ATCT): The Airport traffic control tower at Phoenix-Mesa Gateway Airport.

Aircraft (also Airplane, Balloon, Blimp, Ultralight, Helicopter): Any device or contrivance now known or hereafter invented that is used or intended to be used for flight in the air.

Aircraft Maintenance: The repair, adjustment, or inspection of an aircraft by a pilot, owner, or mechanic other than the routine cleaning, upkeep, and servicing of an aircraft in preparation for flight. Minor repairs are characterized as normal, routine annual inspection with attendant maintenance, repair, calibration or adjustment or repair of aircraft and their accessories. Major repairs are characterized as major alterations to the airframe, power plant, propeller and accessories as defined in FAR Part 43.

Aircraft Operation: An aircraft takeoff, landing, touch and go (two operations), low approach and/or missed approach.

Aircraft Rescue and Fire Fighting (ARFF): The personnel, equipment, and facilities on or off the Airport dedicated to dealing with aircraft accidents/incidents and all rescue and firefighting tasks, structural fires, and other firefighting emergency activities.

Airport: Shall mean and have reference to all the areas comprising the Phoenix-Mesa Gateway Airport as now existing, or as the same may hereafter be expanded and developed, and shall include all of its buildings, facilities and appurtenances.

Airport Authority: PMGAA, a Joint Powers Airport Authority authorized under the laws of the State of Arizona, its successors, and assigns, formed pursuant to A.R.S. §28-8521, et seq.

Airport Driver Endorsement: The authority issued by Airport Operations authorizing motor vehicle operations within the Airport Restricted Area. An Airport Driver Endorsement shall mean an indication of completed airfield driver training, and so noted on an individual's Airport security identification badge.

Airport Duty Manager: The designated management representative of PMGAA during emergency incidents and after regular business hours.

Airport Executive Director/CEO (also Executive Director/CEO). The Executive Director/CEO of PMGAA or his/her designee. The term "Executive Director/CEO" as herein used, shall include persons duly designated to represent the Airport Executive Director/CEO and to act on behalf of the Airport

Airport Minimum Standards: A separate document adopted and formally approved by the Airport Authority within which are detailed provisions outlining the minimum building size, performance, or other standards acceptable by the Airport Authority for a business firm aspiring to do business at the Airport.

Airport Operations: Airport staff responsible for monitoring compliance with operations involving Airport airside and landside activities.

Airport Restricted Area(s)/ Restricted Area(s): Areas closed to access by the general public. These are limited access areas that the Executive Director/CEO, the FAA, TSA, or commercial aviation business owners have elected to restrict for purposes of security or safety. These areas include but are not limited to the Air Operations Area, Airport perimeter roadways, fenced-in areas, aircraft hangars and maintenance shops, fuel storage areas and hazardous materials storage areas.

Airport Rules and Regulations: A document adopted and formally approved by the Airport Authority within which are detailed provisions for the safe, orderly, and efficient operation of the Airport.

Airport Security Program: A program developed in accordance with TSA Part 1542 and approved by a TSA Federal Security Director outlining Airport security requirements, methods, and procedures for Phoenix-Mesa Gateway Airport.

Apron (also Ramp): Those areas designated by the Airport, both public and private/leased, designated by the Executive Director/CEO for the parking or storage of aircraft. These areas are usually restricted areas and involve activities such as enplaning and deplaning passengers, servicing aircraft, and aircraft movements.

Arizona Revised Statutes (A.R.S.): the set of books which contains the constitution and laws

enacted by the Legislature to govern the state.

Based Aircraft: Aircraft that are "operational and airworthy", which are based at an airport for a majority of the year.

Emergency Vehicles: Vehicles that are painted, marked, lighted or escorted and used by law enforcement officers (or security officers), fire department (ARFF), ambulance or other Airport officials to carry out their daily duties or used in response to an emergency situation.

Engine Run-up: The operation of an aircraft engine at power settings in excess of those power settings needed for normal taxiing of the aircraft. Engine run-ups are usually conducted at relatively high-power settings in order to determine the performance of an aircraft engine.

Escort: A person authorized by the Airport to accompany a contractor or other persons within the Airport Restricted Area(s) in accordance with all FAA safety and security regulations and Airport-specified responsibilities.

Executive Director/CEO: Executive responsible for the enforcement of these Rules and Regulations to ensure the efficient, proper, and safe operation of the Airport, but only to the extent authorized by law or properly delegated by said Airport Executive Director/CEO.

FAA: The Federal Aviation Administration.

FAR: The Federal Aviation Regulations as written, approved, and published by the FAA.

Flight Standards: FAA standards for promoting safe air transportation by certification and oversight of airmen, air operators, air agencies, and designees.

General Aviation: All categories and types of aviation/aircraft in the U.S. except for certified air carriers (under FAR Part 121 or Part 129) and Part 129 Foreign Air Carriers and Department of Defense military aircraft.

GPS Tracking/Reporting Application: Any online-enabled application, software, website, or system that is offered or used by the authorized provider and that enables a potential passenger to arrange a ride with a Ground Transportation Provider driver and utilizes Global Positioning Satellite for tracking and reporting.

Ground Transportation: Modes of vehicle transportation to facilitate the movement of passengers and visitors to and from the airport.

Ground Transportation Provider: Any entity that provides Ground Transportation services for a fee.

Hangar: Any fully or partially enclosed storage space for an aircraft.

Hazardous Material: A substance or material in a quantity or form that may pose an unreasonable risk to health or safety, or property when stored, transported, or used in commerce as defined in applicable Federal, State, and local environmental laws.

Incident Commander: The individual responsible for directing and / or controlling resources during an Airport emergency; the leader of Unified Incident Command.

Lease: A contract granting occupation or use of property during a certain period in exchange for a specified rent.

Movement Area: Those areas of the Airport under the control of the Air Traffic Control Tower including runways, taxiways, and helipads designated and made available for the landing, take-off, and taxiing of aircraft and which require a clearance from the Air Traffic Control Tower prior to entering.

Notice of Violation (NOV): An NOV is a form issued by Airport Operations personnel for violations of any rules and regulations governing the Airport.

Notice to Airmen (NOTAM): Information issued by a representative of the Executive Director/CEO, FAA, the Air Traffic Control Tower, or other authorized official advising pilots of temporary changes to published information regarding Airport facilities, conditions, or other items that may affect safe flight.

Operating Agreement: A contract granting short-term occupation or use of Airport facilities (i.e., runways, taxiways) during a certain period in exchange for specified rent and/or fees. Operating agreements are used for, but not limited to, flight-testing and flight training operations.

Park or Parking: The standing of an aircraft or vehicle whether occupied or not.

Permit: A written authorization issued by the Airport Authority that allows specific activities or the temporary use or occupancy of certain areas or facilities at the Airport.

Person: Shall mean an individual, firm, general or limited partnership, corporation, company, limited liability partnership, trust, association, or any trustee, receiver, assignee, or similar representative thereof leasing, subleasing, making application for, or using any land or facility at the Airport.

Rates and Charges: Airport fee structure approved by the Board for use of airport infrastructure, facilities, and equipment.

Secured Area: That portion of the Airport where domestic air carriers and foreign air carriers enplane and deplane passengers and sort and load baggage and any adjacent areas that are not separated by adequate security measures.

Security Identification Display Area (SIDA): That portion of the Air Operations Area (AOA) where each person is required by federal law to continuously display, on an outermost garment, an Airport-approved identification badge. Any person observed in the SIDA not displaying the identification badge and not accompanied by an Airport-approved escort must be promptly reported to a security officer or other designated authority.

Soliciting: The act of entreating, enticing, or otherwise requesting money, business, or exchange of goods/ services outside of authorized areas.

Sterile Area: The portion of the Airport defined in the Airport Security Program that provides passengers access to board aircraft and to which the TSA generally controls the access through the screening of persons and property.

Transportation Network Company (TNC): An entity that has been issued a permit by the State of Arizona that operates in the State of Arizona, that uses a digital network or software application to connect passenger(s) to transportation network services provided by transportation network drivers, and that may but is not deemed to own, operate of control a personal motor vehicle of a transportation network driver.

TSA: The Transportation Security Administration.

UAV: Term is used interchangeably with Unmanned Aerial System (UAS) and Drone. An unmanned aerial vehicle (UAV) is an aircraft without a human pilot on board. UAV's have a ground-based controller, and a system of communications between the two. Civil UAV operations are regulated under FAA Part 107.

Vehicle: Shall mean all conveyances, except aircraft.

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APPENDIX B: FLY FRIENDLY NOISE ABATEMENT PROCEDURES

Unless otherwise directed by the Tower, please comply with the following:

1. Runway 30 is designated as the "calm wind" runway.
2. Use best rate of climb, consistent with safety.
3. Runway 12C/30C or 12L/30R for jet aircraft pattern work (1700' AGL – above ground level) is preferred. When using Runway 30C or 30R, start right crosswind turns as soon as practical to avoid residential areas north of the Airport (complete turns within 3.5 DME).
4. On departure from 30L, left turn after end of runway to minimize low overflights of the Gateway Campus.
5. Military aircraft terminate afterburner use when safe to do so.
6. Jets are requested to use NBAA Standard Noise Abatement Departure or comparable aircraft manufacturer procedures.
7. Propeller aircraft are requested to use AOPA Noise Awareness Steps.
8. Helicopter traffic: please avoid low overflights of the Gateway Campus. Use a Northwest or Southwest arrival-departure corridor.
9. Compliance with the Fly Friendly procedures is at the pilot's discretion.

SAFETY ALWAYS COMES FIRST!

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-02

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Fire Pump Skids and Installation Services – Cross Fire Protection LLC**
Date:	**February 21, 2023**

Proposed Motion

To authorize the purchase and installation of four (4) 1500GPM and one (1) 2500GPM Fire Pump Skids and four (4) three-hundred-gallon Fuel Tanks from Cross Fire Protection LLC (Cross Fire) in an amount not to exceed $499,921.59 under CIP1238.

Narrative

Three of the current Fire Protection Pump Units in Building 1083 (the Pump House) and one of the current Pump Units at South Central (Fire Tanks), have reached the end of their useful life cycle and are in need of replacement. The current costs to repair and maintain these units is increasing significantly, many parts are no longer available, and downtime would cause a safety issue due to having no fire protection to the buildings supported by these Pumps.

The Request for Proposal (RFP), Solicitation 2023-013-RFP - Fire Pump Skids & Installation Services, was issued on November 3, 2022, and advertised in the Arizona Business Gazette on 11/3, 11/10, 11/17 and 11/24/22. It was also posted on the AzAA, ACC, ACI-NA and SWAAAE Websites as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFP was emailed to a list of 26 prospective firms. The Proposal opening was held on December 1, 2022, and two (2) proposals were received.

AP Fire Protection
Cross Fire Protection LLC

After reviewing the submitted proposals, the Evaluation Panel selected Cross Fire. The Cross Fire proposal demonstrated excellent fire pump installation experience, was the least expensive, offered reasonable lead times and a longer warranty on labor as well as met all the requirements and minimum specifications stated in the RFP.

The not to exceed amount includes a 2% early payment discount offered by Cross Fire.

Fiscal Impact

This purchase was included in the FY23 Capital Budget and is funded with PMGAA non-grant funds under CIP1238.

Attachment(s): Proposal

RESOLUTION NO. 23-02

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase and installation of four (4) 1500GPM and one (1) 2500GPM Fire Pump Skids and four (4) three-hundred-gallon Fuel Tanks from Cross Fire Protection LLC (Cross Fire) in an amount not to exceed $499,921.59 under CIP1238;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase and installation of four (4) 1500GPM and one (1) 2500GPM Fire Pump Skids and four (4) three-hundred-gallon Fuel Tanks from Cross Fire Protection LLC (Cross Fire) in an amount not to exceed $499,921.59 under CIP1238. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of February, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

REQUEST FOR PROPOSALS
SOLICITATION #2023-013-RFP FOR
FIRE PUMP SKIDS AND INSTALLATION SERVICES

SUBMITTAL COVER SHEET

Name of Offeror:	Cross Fire Protection Llc
EIN#:	473315139
DUNS#:	08-587-2656
Principal Address:	703 E. Ironwood Dr
	Chandler, AZ 85225
Primary Point of Contact:	P. Shayne Castellani
Phone:	480-450-0690
Email:	shayne@azcrossfireprotection.com

The undersigned hereby affirms that:

- The undersigned is a duly authorized agent of the Offeror
- The undersigned has read and understands all terms, conditions and commitments contained within the RFP and any addenda issued and fully understands and accepts these terms by submission of a proposal.
- The submission is being offered independently of any other Offeror and did not involve collusion or other anti-competitive practices.

By: P. Shayne Castellani
Signature

11/20/2022
Date

P. Shayne Castellani
Printed Name

Owner
Title

Phoenix-Mesa Gateway Airport

Request for Proposals
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CROSS FIRE
PROTECTION LLC

Cross Fire Protection Llc.

11/20/2022

703 E. Ironwood Dr.
Chandler, Az 85225

480-450-0690

shayne@azcrossfireprotection.com

www.azcrossfireprotection.com

Cross Fire Protection Llc

We are a family owned and veteran staffed fire protection company that specializes in Fire pumps, AFFF and wet based systems. Although we specialize in the above fields, we are a full-service fire protection company.

Since our inception we have worked with dozens of fire protection companies to help them facilitate their fire pump needs. They are able to utilize our experience and state of the art equipment to help better service their customers.

Our employees are experienced in multiple facets of the fire industry but also specialize in their own fields of work. Our technicians hold certifications through CSA, NICET, ABPA, OSHA 10 hour along with various factory trainings. (SPP Fire pumps, Oklahoma State fire pump school, Chemguard and Ansul) to name a few.

Cross Fire Protection is committed to our customers and our focus is to provide the best customer service possible while training and informing them of their systems.

We may be a smaller company, but we utilize companies that are tailored to helping small businesses succeed in the larger business-based world. We partner with companies such as BBSI to handle our payroll. They act as our human resources group and OSHA regulations partners.
We are committed to safety on all our jobs and hold our technicians to a high standard, requiring them to hold tailgate meetings and job safety briefings.

CROSS FIRE PROTECTION, LLC
703 E. Ironwood Dr.
Chandler, AZ 85225
Ph: 480-450-0690

From Our Family Business To Your Facility!

PMGA

Equipment Proposed

Solicitation 2023-013-RFP

1. The following items listed are included in the following Fire pump Solicitation.
   The Clarke diesel fire pump skid will include the following:
   Diesel Engine- John Deere 157 HP 1760 Rpm M/D JU4H-UF-ADY8
   Fire Pumps- SPP
   a) M/D TE15G 1500 Gpm Horizontal split case pump
   b) M/D TF20J 2500 Gpm Horizontal split case pump

   Diesel Controller- Firetrol/Tornatec M/D FTA1100

   Diesel fuel tank- Up to a 500-Gal Steele double wall tank

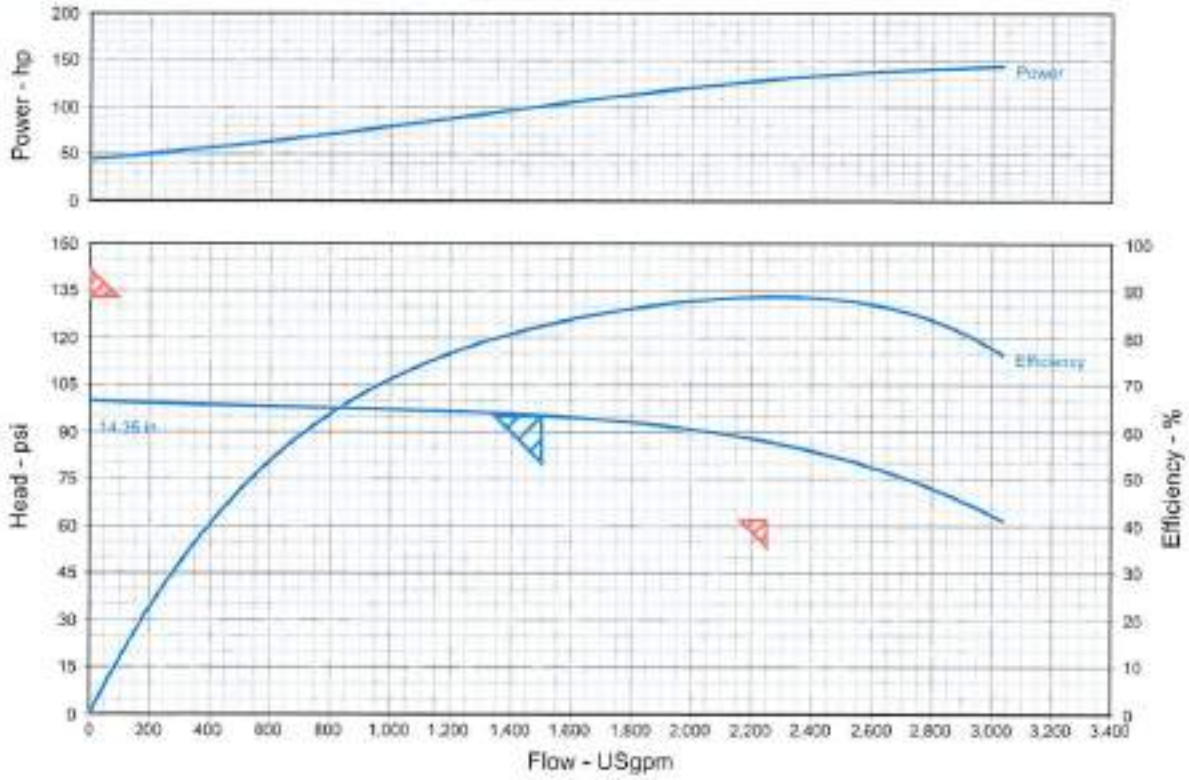
2. Diesel controllers have been included in the proposal even though the existing controllers would meet the minimum requirements. We fill that a total package that includes new controllers will prove beneficial to meet the current and future standards, be beneficial in trouble shooting and user operation.
3. Including the new controllers and new diesel fuel tanks will prolong the life of the new equipment. It will also help to cut down on service and repairs and be a UL listed package.

Pump Performance Datasheet

Customer	: FFF - Arizona	Quote number	: 460494
Customer enquiry	: CROSS FIRE PROTECTION	Pump Size	: TE15G
Item number	: 001	Stages	: 1
Usage - Tertiary	:	Based on curve number	: TE15G Rev 0
Quantity	: 1	Date last saved	: 11 Nov 2022 12:06 PM

Operating Conditions		Liquid	
Flow, rated	: 1,500.0 USgpm	Liquid Type/ Application	: Water
Differential Head (requested)	: 95.00 psi	Additional liquid description	:
Suction pressure, rated / max	: 10.00 / 10.00 psi.g	Temperature, max	: 68.00 deg F
NPSH available, rated	: Ample	Fluid density, rated / max	: 1.000 / 1.000 SG
Site Supply Frequency	: 60 Hz	Viscosity, rated	: 1.00 cP

NFPA Limits		Performance	
Flow, rated	: 1,500.0 USgpm	Speed, rated	: 1760 rpm
Head, rated	: 95.06 psi	Impeller diameter, rated (approx.)	: 14.35 in
Power, rated	: 102 hp	Impeller diameter, maximum	: 15.26 in
NPSHr, rated	: -	Impeller diameter, minimum	: 12.40 in
Efficiency, rated	: 83.00 %	Efficiency	: 83.00 %
Flow at 150%	: 2,260.0 USgpm	NPSH required / margin required	: - / 0.00 ft
Head at 150%, actual/limit	: 86.44 psi	Head, maximum, rated diameter (approx.)	: 99.89 psi
Efficiency at 150%	: 88.62 %	Diameter ratio (rated / max)	: 94.06 %
NPSHr at 150% flow	: -		
Power required at 150% flow	: 129 hp	**Driver & Power Data (@Max diameter)**	
Peak power	: 143 hp	Power, hydraulic	: 84.84 hp
Closed valve pressure	: 109.9 psi.g	Power, rated	: 102 hp
140% Head at shutoff	: 133.1 psi	Power, maximum, rated diameter	: 143 hp
65% Head at 150% flow	: 61.79 psi	**Material**	
Cooling flow (2%)	: 30.00 USgpm	Material selected	: CI / Br / CS (Standard)
Pressure Data		**Selection status**	
Maximum working pressure	: 109.9 psi.g	FM/UL/cUL approved	: FM/UL
Maximum allowable working pressure	: 225.0 psi.g	Near miss reasons	:
Maximum allowable suction pressure	: 75.00 psi.g		
Hydrostatic test pressure	: 250.0 psi.g		



Pump Performance Datasheet

Customer	: FFF - Arizona	Quote number	: 480494
Customer enquiry	: CROSS FIRE PROTECTION	Pump Size	: TE15G
Item number	: 001	Stages	: 1
Usage - Tertiary	:	Based on curve number	: TE15G Rev 0
Quantity	: 1	Date last saved	: 11 Nov 2022 12:05 PM

Operating Conditions		Liquid	
Flow, rated	: 1,500.0 USgpm	Liquid Type/ Application	: Water
Differential Head (requested)	: 95.00 psi	Additional liquid description	:
Suction pressure, rated / max	: 10.00 / 10.00 psi.g	Temperature, max	: 68.00 deg F
NPSH available, rated	: Ample	Fluid density, rated / max	: 1.000 / 1.000 SG
Site Supply Frequency	: 60 Hz	Viscosity, rated	: 1.00 cP

Flow (USgpm)	Head (psi)	Pump Efficiency (%)	Power Required (hp)	NPSH required (ft)
0.00	99.89	0.00	44.65	-
379.8	98.82	39.06	56.06	-
759.7	97.85	62.11	69.82	-
1,139.5	96.79	75.28	85.46	-
1,519.4	95.12	82.84	102	-
1,899.2	92.05	87.18	117	-
2,279.0	86.46	88.82	129	-
2,658.9	76.91	86.39	138	-
3,038.7	61.88	76.26	143	-

Pump Performance Datasheet

Customer	: FFF - Arizona	Quote number	: 490488
Customer enquiry	: CROSS FIRE PROTECTION	Pump Size	: TF20J
Item number	: 001	Stages	: 1
Usage - Tertiary	:	Based on curve number	: TF20J Rev 0
Quantity	: 1	Date last saved	: 11 Nov 2022 12:00 PM

Operating Conditions		Liquid	
Flow, rated	: 2,500.0 USgpm	Liquid Type/ Application	: Water
Differential Head (requested)	: 125.0 psi	Additional liquid description	:
Suction pressure, rated / max	: 10.00 / 10.00 psi.g	Temperature, max	: 68.00 deg F
NPSH available, rated	: Ample	Fluid density, rated / max	: 1.000 / 1.000 SG
Site Supply Frequency	: 60 Hz	Viscosity, rated	: 1.00 cP

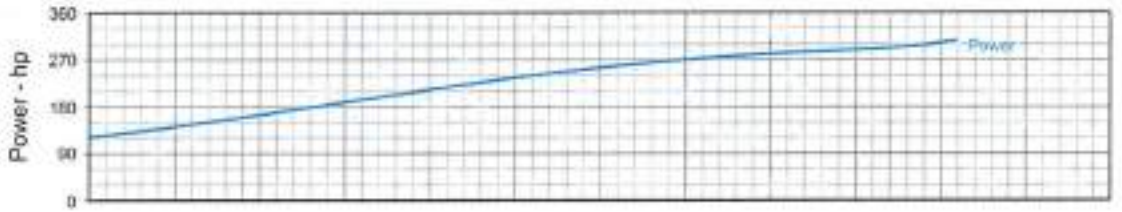
NFPA Limits		Performance	
Flow, rated	: 2,500.0 USgpm	Speed, rated	: 1760 rpm
Head, rated	: 125.4 psi	Impeller diameter, rated (approx.)	: 18.48 in
Power, rated	: 236 hp	Impeller diameter, maximum	: 18.90 in
NPSHr, rated	: -	Impeller diameter, minimum	: 16.85 in
Efficiency, rated	: 78.89 %	Efficiency	: 78.89 %
Flow at 150%	: 3,800.0 USgpm	NPSH required / margin required	: - / 0.00 ft
Head at 150%, actual/limit	: 96.80 psi	Head, maximum, rated diameter (approx.)	: 155.9 psi
Efficiency at 150%	: 77.60 %	Diameter ratio (rated / max)	: 97.81 %
NPSHr at 150% flow	: -		
Power required at 150% flow	: 276 hp		
Peak power	: 306 hp		
Closed valve pressure	: 165.9 psi.g		
140% Head at shutoff	: 175.5 psi		
65% Head at 150% flow	: 81.49 psi		
Cooling flow (2%)	: 50.00 USgpm		

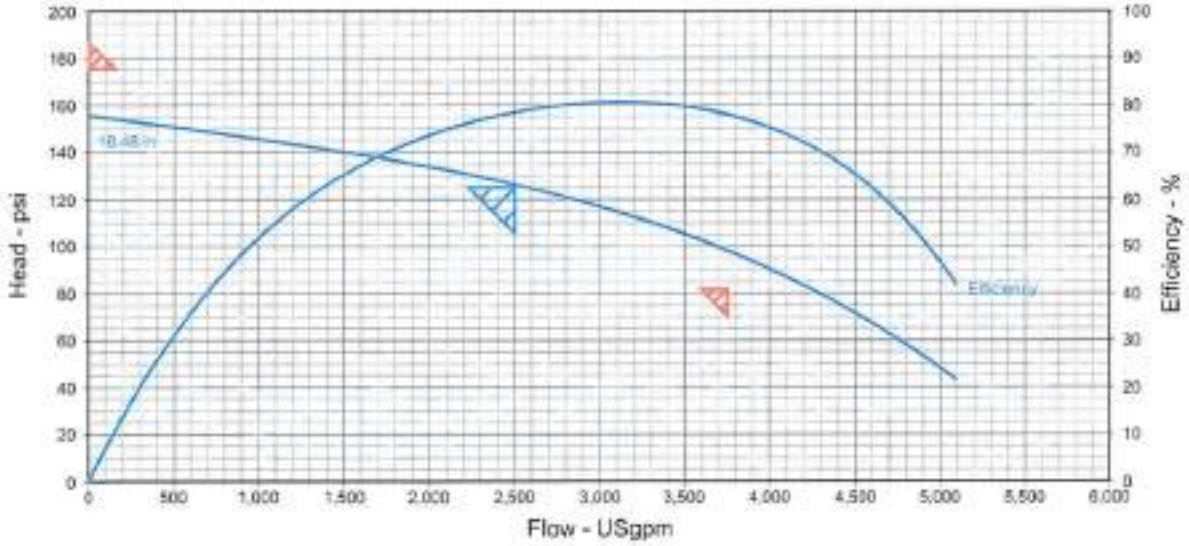
Driver & Power Data (@Max density)	
Power, hydraulic	: 186 hp
Power, rated	: 236 hp
Power, maximum, rated diameter	: 306 hp

Material	
Material selected	: CI / Br / CS (Standard)

Pressure Data	
Maximum working pressure	: 165.9 psi.g
Maximum allowable working pressure	: 355.0 psi.g
Maximum allowable suction pressure	: 75.00 psi.g
Hydrostatic test pressure	: 250.0 psi.g

Selection status	
FM/UL/cUL approved	: FM/UL
Near miss reasons	:



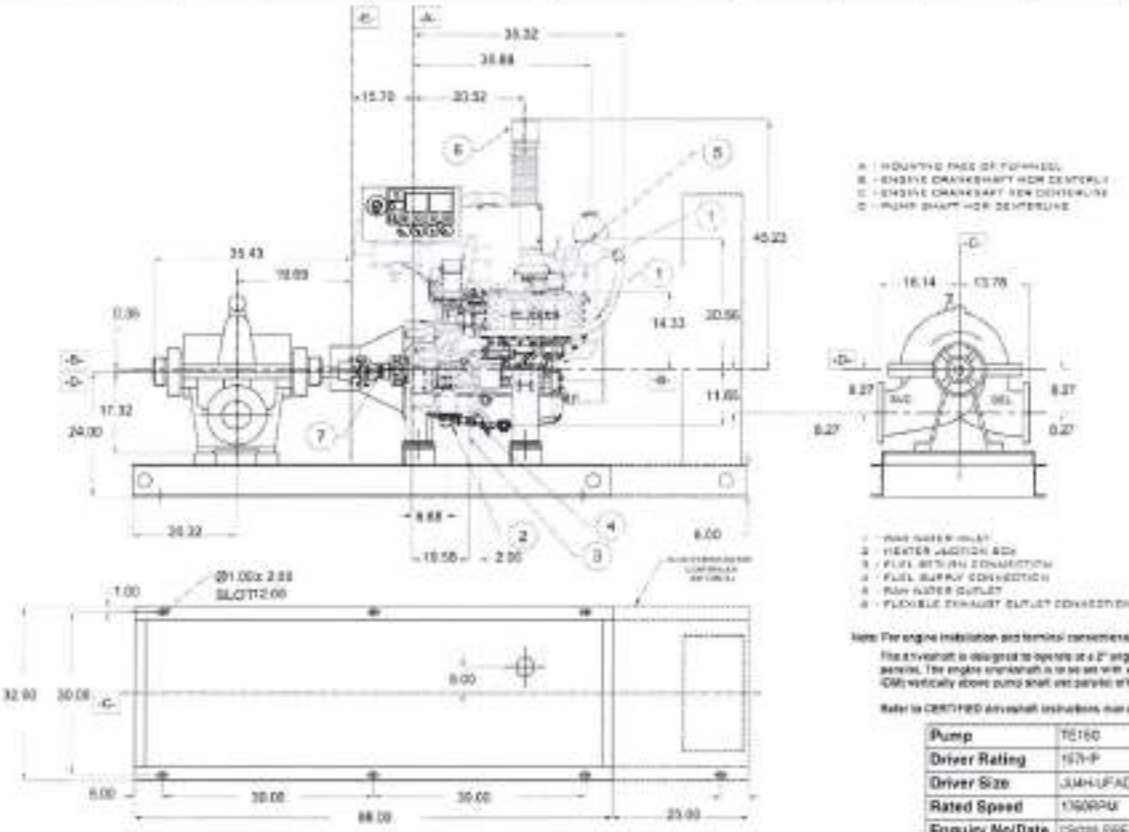


Pump Performance Datasheet

Customer	: FFF - Arizona	Quote number	: 480488
Customer enquiry	: CROSS FIRE PROTECTION	Pump Size	: TF20J
Item number	: 001	Stages	: 1
Usage - Tertiary	:	Based on curve number	: TF20J Rev 0
Quantity	: 1	Date last saved	: 11 Nov 2022 12:00 PM

Operating Conditions		Liquid	
Flow, rated	: 2,500.0 USgpm	Liquid Type/ Application	: Water
Differential Head (requested)	: 125.0 psi	Additional liquid description	:
Suction pressure, rated / max	: 10.00 / 10.00 psi.g	Temperature, max	: 68.00 deg F
NPSH available, rated	: Ample	Fluid density, rated / max	: 1.000 / 1.000 SG
Site Supply Frequency	: 60 Hz	Viscosity, rated	: 1.00 cP

Flow (USgpm)	Head (psi)	Pump Efficiency (%)	Power Required (hp)	NPSH required (ft)
0.00	155.9	0.00	121	-
636.5	149.5	37.76	147	-
1,273.0	142.8	60.00	177	-
1,909.5	135.0	72.49	207	-
2,546.1	125.4	78.87	236	-
3,182.6	112.9	80.69	260	-
3,819.1	96.01	77.41	276	-
4,455.6	73.34	66.41	287	-
5,092.1	43.08	41.78	306	-



A - MOUNTING FACE OF FLANGE
B - ENGINE CRANKSHAFT HOR CENTERLI
C - ENGINE CRANKSHAFT VER CENTERLINE
D - PUMP SHAFT HOR CENTERLINE

1 - RAW WATER INLET
2 - HEATER JUNCTION BOX
3 - FUEL RETURN CONNECTION
4 - FUEL SUPPLY CONNECTION
5 - RAW WATER OUTLET
6 - FLEXIBLE EXHAUST OUTLET CONNECTION

Note: For engine installation and terminal connections, always use engine OEM supplied with set.

This driveshaft is designed to operate at a 2° angle with the input and output shafts parallel. The engine crankshaft is to be set with a parallel offset of approx. (where gear weg OEM) vertically above pump shaft and parallel offset horizontally right or left of the pump shaft

Refer to CERTIFIED driveshaft instructions, manual for alignment instructions.

Pump	TE150	Static load	1,909.4 lb
Driver Rating	157-P	Dynamic load	2,375.5 lb
Driver Size	JU4H-UFADY9	GD2	1.86 lb.ft2
Rated Speed	1760RPM	Rotation	CLOCKWISE
Enquiry No/Date	CROSS RIVE	Quantity	1
Quotation No /	49MSH 10 NW	Item no	001
Customer	FFF - Arizona		
Project	-		
Service	-		

SPP PUMPS INC

2985 PACIFIC DRIVE NORCROSS GA 30071

GENERAL ARRANGEMENT DRAWING

PUMP DUTIES				FLANGE DRILLING STANDARD AND DETAILS		
Capacity	1,530.0 USgpm	Efficiency	83.00 %	BRANCH	Nom Size	Flange drilling std
Total Head	95.00 psi	Peak Power	143 hp	Suction	5.00 in	ANSI B16.1 CL250b (FF)
				Delivery	5.00 in	ANSI B 16.1 CL250 (FF)

Note1: This drawing is not to be used for installation purpose until it has been certified by SPP Pumps Limited.

Note2: All dimensions are in inches unless stated otherwise.

Note3: Refer to the SPP Pumps Limited installation guide for advice on pump installation.

Note4: Dimensions without tolerances for welded parts are as per ISO13920-D.

CLARKE®

FIRE PUMP ENGINES

MODELS

JU4H-UFAD5G
JU4H-UFADP0
JU4H-UFADR0
JU4H-UFADW8
JU4H-UFADY8
JU4H-UFAD98

FM-UL-cUL APPROVED RATINGS BHP/*KW*

JU4H MODEL ◆	RATED SPEED 1760		2100		2350		2400		US-EPA (NSPS) Available Until ●
UFAD5G	110	*82*	113	*84*	118	*88*	118	*88*	*No Expiration*
UFADP0	121	*90*	125	*93*	130	*97*	130	*97*	*No Expiration*
UFADR0	113	*84*	136	*101*	140	*104*	140	*104*	*No Expiration*
UFADW8	144	*107*							*No Expiration*
UFADY8	157	*117*							*No Expiration*
UFAD98	175	*131*							*No Expiration*

●USA EPA (NSPS) Tier 3 Emissions Certified Off-Road (40 CFR Part 89) and NSPS Stationary (40 CFR Part 60 Sub Part III). Meet EU Stage IIIA emission levels.

◆ All Models available for Export

Picture shown represents JU4H-TRWA engine model

SPECIFICATIONS

ITEM	JU4H MODELS UFAD5G	UFADP0	UFADR0	UFADW8	UFADY8	UFAD98
Number of Cylinders	4					
Aspiration	TRWA					
Rotation*	CW					
Overall Dimensions in. (mm)	59.9 (1523) H x 44.4 (1127) L x 37.3 (949) W					
Crankshaft Centerline Height – in. (mm)	14 (356)					
Weight – lb (kg)	1490 (676)					
Compression Ratio	19.0:1					
Displacement – cu. in. (l)	275 (4.5)					
Engine Type	4 Stroke Cycle – Inline Construction					
Bore & Stroke – in. (mm)	4.19 x 5.00 (106 x 127)					
Installation Drawing	D630					
Wiring Diagram AC	C07651					
Wiring Diagram DC	C071367, C072146, C071361					
Engine Series	John Deere 4045 Series Power Tech E					
Speed Interpolation	N/A					

Abbreviations: CW – Clockwise TRWA – Turbocharged with Raw Water Aftercooling N/A Not Available L – Length W – Width H - Height

*Rotation viewed from Heat Exchanger / Front of engine

CERTIFIED POWER RATING

- Each engine is factory tested to verify power and performance.
- FM-UL power ratings are shown at specific speeds. Clarke engines can be applied at these single rated RPM settings with a speed adjustment of ± 50 RPM.

ENGINE RATINGS BASELINES

- Engines are to be used for stationary emergency standby fire pump service only. Engines are to be tested in accordance with NFPA 25.
- Engines are rated at standard SAE conditions of 29.61 in. (752.1 mm) Hg barometer and 77°F (25°C) inlet air temperature [approximates 300 ft. (91.4 m) above sea level] by the testing laboratory (see SAE Standard J 1349).
- A deduction of 3 percent from engine horsepower rating at standard SAE conditions shall be made for diesel engines for each 1000 ft. (305 m) altitude above 300 ft. (91.4 m).
- A deduction of 1 percent from engine horsepower rating as corrected to standard SAE conditions shall be made for diesel engines for every 10°F (5.6°C) above 77°F (25°C) ambient temperature.

c UL us

NFPA 20 Requirements

FM APPROVED

Product Description

FTA1100J

MARK[II] Diesel Engine Fire Pump Controller

Description – Firetrol® combined automatic and manual MARK[II] based diesel engine fire pump controllers are intended for starting and monitoring fire pump diesel engines. They are suitable for use with both mechanical and electronic type engines. The controller is available for 12 or 24 volt negative ground systems, using lead acid or Nickel-Cadmium batteries. The controller monitors, displays and records fire pump system information.

Approvals – Firetrol fire pump controllers are listed by Underwriters' Laboratories, Inc., in accordance with UL218, *Standard for Fire Pump Controllers*, CSA, *Standard for Industrial Control Equipment* (cUL), and approved by Factory Mutual. They are built to meet or exceed the requirements of the approving authorities as well as NEMA and the latest editions of NFPA 20, *Installation of Centrifugal Fire Pumps*, and NFPA 70, *National Electrical Code*.

Standard Features – The following are included as standard with each controller:

- NEMA Type 2 (IP22) Enclosure with Bottom Entry Gland Plate, Lifting Lugs and Locking Door Handle
- AC Line & Battery circuit breakers
- Two independent battery chargers, 10A continuous charge - 500mA Trickle Charge
- 7.0" LCD color touch screen (HMI technology) software upgradeable operator interface powered by an embedded microcomputer with software PLC logic.
- Push-buttons for Crank from Battery #1, Crank from Battery #2, Stop and Run Test
- 500 PSI Pressure Transducer (calibrated for 300 PSI (20.7 Bar) and Test Solenoid for fresh water applications, externally mounted with protective cover
- Audible Alarm Bell
- Pressure and Event Recording with Date Stamp to System Memory Accessible VIA The User Interface and Downloadable to a USB Flash Drive
- Visual Indication for: Engine Run • Main Switch Position • Periodic Test • Cranking Cycle • AC Power Available • Pump Room Temperature
- Visual Alarm Indication for: Pump Room Trouble • Pump On Demand • AC Power Failure • Charger 1-2 Failure • Battery 1-2 Weak • Battery 1-2 Overvoltage • Loss of Continuity on Starter 1-2 • High Fuel Level • Fuel Tank Leak • PLD Low Suction Pressure • High Raw Water Temp. • Low Pump Room Temp. • High Pump Room Temp. • ECM Warning • Weekly Test Cut-In Pressure Not Reached • Check Weekly Test Solenoid • Pressure Transducer Fault • Invalid Cut-In Pressure • Service Required
- Audible and Visible Alarm Indication for: Engine Trouble • Controller Trouble • Engine Low Oil Pressure • Engine High Temp. • Engine Low Temp. • Engine Overspeed • DC Failure • Battery 1-2 Failure • Engine Fail To Start • Low Fuel Level • ECM Fault • ECM SS In Alternate Position • Fuel Injection Malfunction
- DPDT 8A 250V Remote Alarm Contacts Are Provided For:
  - Engine Run
  - Common Controller Trouble (Charger Failure, Pressure Transducer Fault)
  - Common Engine Trouble (High Engine Temp., Fail To Start, Fuel Injection Malfunction, ECM Selector Switch in Alternate Position, Battery 1-2 Failure, DC Failure, Loss of Continuity to Starter 1-2, Engine Overspeed, Fail When Running, Low Oil Pressure, PLD Low Suction Pressure)
  - Common Pump Room Trouble (Low Fuel Level, High Fuel Level, Fuel Tank Leak, Low / High Pump Room Temperature, AC Power Failure, H-O-A Selector Switch in OFF or HAND)
- Modbus Communications with TCP/IP frame format and a shielded female RJ45 connector.
- Input Terminals for Connection to External Devices:
  - Low Fuel Level
  - Remote AUTOMATIC Start
  - Deluge Valve Start (re-assignable)
  - Fuel Tank Leak (re-assignable)
  - High Fuel Level (re-assignable)
- Pump Room Ambient Temperature Switch, Display and Alarms
- Seismic Certification per IBC 2015, CBC 2016

Phoenix-Mesa Gateway Airport

Attachment A
Minimum Specifications Checklist

1. By submitting a proposal, Offeror hereby certifies that the Equipment submitted for consideration by PMGAA under this solicitation, 2023-013-RFP, meets all specifications contained on the following pages.

2. Manufacturer of Equipment proposed:
   Combination 1500GPM fire pump skid: SPP- Pump/ Clarke(John Deere) - Diesel engine

   Combination 2500GPM fire pump skid: SPP- Pump/ Clarke(John Deere) - Diesel engine

3. Model of Equipment proposed:
   Combination 1500GPM fire pump skid: TE15G

   Combination 2500GPM fire pump skid: TF20J

Signed: P. Shayne Castellani **Date:** 11/20/2022

#	New 1500GPM Fire Pump Skid Required Minimum Specifications	Met (Y or N)	Comments
1.	New	Y	
2.	Diesel Engine	Y	
3.	1500GPM Split Case Pump	Y	
4.	1500GMP @ 95PSI RMP 1750 PSI @ 150% 74 BHP 113 Stages 1 Max Pressure 115 PSI Max BHP 131 @ Max Suction PSI 110 IMP DIA 15.980	Y	1500 GPM @ 95 PSI RPM 1750
	Other		
5.	Provide two (2) complete hard copies and one (1) electronic copy of the operations, maintenance, and parts manuals within 2 days of delivery.	Y	

Phoenix-Mesa Gateway Airport

#	New 2500GPM Fire Pump Skid Required Minimum Specifications	Met (Y or N)	Comments
1.	New	Y	
2.	Diesel Engine	Y	
3.	2500GPM Split Case Pump	Y	
4.	2500GMP @ 125PSI RMP 1750 PSI @ 150% 99 BHP 230 Stages 1 Max Pressure 145 PSI Max BHP 269 @ Max Suction PSI 63 IMP DIA 17.250	Y	2500 GPM @125 PSI RPM 1750
		Other	
5.	Provide two (2) complete hard copies and one (1) electronic copy of the operations, maintenance, and parts manuals within 2 days of delivery.	Y	

CROSS FIRE PROTECTION, LLC
703 E. Ironwood Dr.
Chandler, AZ 85225
Ph: 480-450-0690

From Our Family Business To Your Facility!

PMGA

Installation experience

Solicitation 2023-013-RFP

1. The following technicians will be present during the installation of the diesel fire pump skid packages:

a) Marcus Huffman 20 Years in the fire industry
b) Shayne Castellani 27 Years in the fire industry

(Proposed helpers)

a) Dylan Stringer 7 Years in the fire industry
b) Sebastian Stringer 11 Years in the fire industry

SPP Pumps University

Operation and Maintenance of FM/UL Fire Pump Sets

THIS CERTIFICATE IS PROUDLY PRESENTED TO

Shayne Castellani

For completion of SPP Pumps University Training. This course covered fire pump engine training, flow test training, NFPA 20, general fire pump room design, flow test results and analysis, fire pump repacking, fire pump alignment, remote alarm training, control panel starting applications, sprinkler head spray patterns and electric motor training.

PRESIDENT OF SPP PUMPS

August 15th - August 17th, 2018

DATE OF COURSE

CERTIFICATE

PROUDLY PRESENTED TO

Shayne Castellani

Fire Pumps / Controllers & Air Supply Equipment
with SPP & General Air (2 NICET CPDs)

Sep 15, 2020	*Raymond Fremont Jr.*
Date of Completion	Organizer

GENERAL AIR PRODUCTS

spp PUMPS

Fire Pump Inspections & Maintenance Workshop

This Certifies That

Marcus Huffman

Has successfully completed a three day training curriculum focused on the maintenance of fire pumps, comprised of both classroom and hands-on training. This training encompassed NFPA 25 requirements for fire pumps and fire pump systems.

Given at Grundfos and USAutomatic - Indianapolis, IN on November 7 - 9, 2018

21 Credit Hours

Tom Doty
President, Fire Tech Productions, Inc.

FIRE TECH
PRODUCTIONS

Lisa Salzman
CEO, Fire Tech Productions, Inc.

OSHA 001008513

U.S. Department of Labor
Occupational Safety and Health Administration

P. SHAYNE CASTELANI

has successfully completed a 10-hour Occupational Safety and Health Training Course in

Construction Safety & Health

(Trainer) 5-24- (Date)

LICENSE EFFECTIVE THROUGH: October 31, 2023

STATE OF ARIZONA

Registrar of Contractors CERTIFIES THAT

Cross Fire Protection LLC

CONTRACTORS LICENSE NO. ROC 301855 CLASS C-16

Specialty Commercial
Fire Protection Systems

THIS CARD MUST BE
PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR

OSHA 001472153

U.S. Department of Labor
Occupational Safety and Health Administration

Marcus Huffman

has successfully completed a 10-hour Occupational Safety and Health Training Course in

Construction Safety & Health

Christopher H. Williams — 4/29/2008
(Trainer) U05118951 (Date)

NATIONAL INSTITUTE FOR CERTIFICATION IN ENGINEERING TECHNOLOGIES®

NICET CERTIFIED

Marcus Bradley Huffman

INSPECTION AND TESTING OF WATER-BASED SYSTEMS/I

CERT NO. 141967 VALID THRU 03/01/2022

Phoenix-Mesa Gateway Airport

Attachment B
Price Proposal

BASE PROPOSAL Item	Price
Three (3) New 1500GPM Fire Pump Skids, To Meet Minimum Specifications per Attachment A	$ 218,835.00
One (1) New 2500GPM Fire Pump Skid, To Meet Minimum Specifications per Attachment A	$ 88,722.50
New Pump Controllers (if applicable to Offeror's proposal)	$ 18,875.00
Installation of all Equipment and Testing per RFP Requirements	$ 25,200.00
Manuals on Maintenance, Operations, and Parts – Hard Copy & Digital	$ 0.00
Sales Tax, 8.3% PMGAA is NOT tax exempt. If Offeror does not collect sales tax on behalf of the State of Arizona when invoicing, Offeror should still include tax at a rate of 7.6% for Use Tax.	$ 27,093.90
Shipping (for all Equipment)	$ Included
Total	$ 378,726.40

ADD PROPOSAL No. 1 Item	Price
One (1) New 1500GPM Fire Pump Skid, To Meet Minimum Specifications per Attachment A	$ 72,945.00
New Pump Controller (if applicable to Offeror's proposal)	$ 4,718.75
Installation of Add Proposal No 1 Equipment and Testing per RFP Requirements	$ 6,040.00
Sales Tax, 8.3% PMGAA is NOT tax exempt. If Offeror does not collect sales tax on behalf of the State of Arizona when invoicing, Offeror should still include tax at a rate of 7.6% for Use Tax.	$ 6,446.09
Shipping (for Add Proposal No. 1 Equipment)	$ Included
Total	$ 90,149.84

Phoenix-Mesa Gateway Airport

ADD PROPOSAL No. 2 Item	Price
Four (4) New 300 gallon double wall tanks and stand, installation of tanks, sales tax, and shipping.	$ 38,143.63

ADD PROPOSAL No. 3 Item	Price
Three (3) New 400 gallon double wall tank and stand, installation of tanks, sales tax, and shipping.	$ 28,607.72

Labor Rate for Service: $82.50 Lead technician and $75.00 Helper technician

Offeror's Payment Terms: Equipment: Net 30

Parts: Net 30

Discounts:

Prompt Payment: Equipment: Discounted 2 % if payment is made within 10 days.

Parts: Discounted _____ % if payment is made within _____ days.

Parts: PMGAA price for purchasing parts direct from the Offeror shall be discounted by 0 % of the current list price for parts published by Offeror.

Exceptions / Clarifications of Offeror:

30% Down Payment is due once the proposal is approved and the PO is issued.

Delivery Time Estimate: 22 To 25 Weeks

Equipment is Manufactured in (Country): US

P. Shayne Castellani
Printed Name

P. Shayne Castellani
Signature

12/1/2022
Date

Phoenix-Mesa Gateway Airport

Attachment C
Warranty

Standard Warranty Information

Area / Category	Length (months)	Comments
Diesel fire pump skid	12	
Labor	24	

Extended Warranty Options

Length (months)	Cost Per Unit
12	$3200.00

Phoenix-Mesa Gateway Airport

Attachment D
Parts Availability and Capability

Offeror to describe their parts availability and capability as it pertains to PMGAA ordering and receiving parts (i.e. domestic availability or foreign availability, parts readily stocked, technical service advisors available, etc.), including turnaround time for order processing and shipping.

Fire Pumps and controllers are all stocked in the Manufacturers warehouse in Atlanta Georgia.

Diesel engines are put through final assembly when ordered and shipped out to the pump manufacturer to be assembled. They are then shipped out as a package with the controllers if ordered as a total package.

Equipment listed on the proposal is a direct replacement that meets or exceeds the existing equipment.

6720 Best Friend Road
Norcross, GA 30071
Phone: (770) 409-3280
Fax: (770) 409-3290

Bourdon Tube Pressure Gauge

Applications

- Fire sprinkler systems
- Suitable for all media that will not obstruct the pressure system or attack copper alloy parts

Special features

- UL-listed (UL-393), United States and Canada (Discharge Only)
- Factory Mutual (FM) approved (Discharge Only)
- Reliable and economical

Standard Features

Design
EN 837-1 & ASME B40.100

Sizes
4" (100 mm)

Accuracy class
± 3/2/3% of span (ASME B40.100 Grade B)

Ranges
0/60 psi, retard to 250 psi (air)
0/300 psi (water)

Working pressure
Steady: 3/4 of full scale value
Fluctuating: 2/3 of full scale value
Short time: full scale value

Operating temperature
Ambient: -40°F to 140°F (-40°C to 60°C)
Media: 140°F (+60°C) maximum

Temperature error
Additional error when temperature changes from reference temperature of 68°F (20°C) +0.4% for every 18°F (10°C) rising or falling. Percentage of span.

Bourdon tube
Material: copper alloy
C-type

Pressure connection
Material: copper alloy
1/4" NPT lower mount (LM)

Movement
Copper alloy

Dial
White aluminum with stop pin; black and red lettering

Pointer
Black aluminum

Case
Black polycarbonate

Window
Snap-in clear polycarbonate

Approvals
UL listed (UL-393) – (Discharge Only)
Factory Mutual – (Discharge Only)

Flotronix

FLO-L10785-SS

FUEL SPILL SWITCH

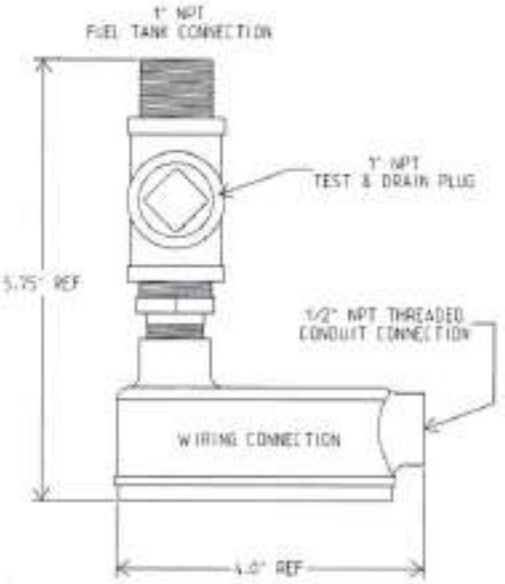
Fuel Spill Switch suitable for use with double wall diesel fuel tanks used in fire pump applications.

Pre-Assembled for Simple Installation!

Just remove the existing fuel tank drain plug, thread in the fully assembled fuel spill switch assembly. Connect two wires to your alarm system and you're done!

The Flotronix Model FLO-L10785-SS fuel spill switch is ruggedly designed to detect fuel spill and leakage in the interstitial space of double wall diesel fuel tanks. It is constructed with corrosion resistant 304 Stainless Steel fittings and float switch assembly.

The switch assembly is mounted in the 1" NPT annular space bottom drain connection found on most fuel tanks.
When a leak occurs in the inner tank, the fuel drains into the installed fuel spill switch assembly. The float rises which closes the normally open contacts. The switch can be wired to either a fire pump controller or other alarm system to provide notification of fuel spill.



SPECIFICATIONS

Float Switch
- ANSI / U.L. 508 Listed
- All Stainless Steel Float Assembly
- Contact Rating:
  - **PILOT DUTY ONLY**
  - 1A @ 200VDC/265VAC Max
- N.O. Normally Open closes when fuel is detected in assembly.

Tee and Fittings
- 304 Stainless Steel
- 1" Tank Connection
- 1" Test & Drain Plug

Conduit Connections
- ½" Threaded LB Powder Coated Aluminum Conduit Body Rated NEMA 4, UL22455

Shipping Weight: 3 lbs.

Installation Notes:

1. ***Very Important!*** Install in the annular space drain, <u>not the main tank drain</u>.
2. Remove the annular space drain plug from the bottom of the fuel tank.
3. Remove the plastic CAPLUG from the 1" tank connection nipple provided on the fuel spill switch assembly.
4. Thread the assembly into the bottom of the tank and tighten using a pipe wrench on the tee fitting only. Do not use the electrical conduit body as a lever. Tighten with "test & drain" plug in front facing outward for easy inspection.
5. The electrical or alarm installer is provided with a ½" NPT conduit body for alarm connections.

Alarm Testing:

Removing the 1" test & drain plug from the side of the assembly can test the fuel spill switch. Using your finger gently push up on the float to active the alarm. After testing, reinstall the drain plug.

UL LISTED

FLO-L10785-SS 2015

Subject to Change Without Notice

MADE IN U. S. A.

Flotronix Corporation

www.flotronix.com

Phone (317) 849-7377
Fax (317) 849-7337
Email support@flotronix.com

Series 34
Air Release Valve

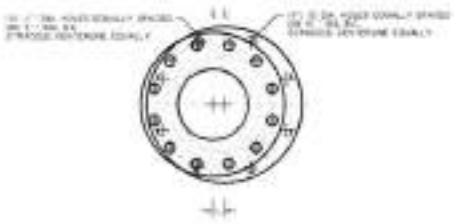
Air Release Valve Sizing

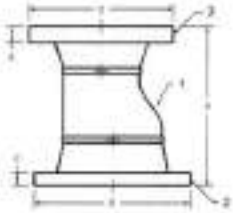
Air release valve sizing requires determining the volume of air that must be released from pipeline high points during normal operation and the diameter of the pipeline. Series 34 Air Release Valves are primarily used to continuously release pockets of air (as they develop) from high point, hence it is not critical to determine exact volume of air to be released.

See chart on page 3 for sizing based on venting capacity.

Air Release Valve Sizing Chart For Water Pipelines

Figure A	Model No.	Inlet Size	Outlet Size	Orifice Size	GPM	MWP	Height	Width	Wt. (lbs.)
	UL Listed - FM Approved 3450-AR332 3475-AR332 3410-AR332	1/2", 3/4", 1"	1/2"	3/32"	200 - 2200	175	5-7/8"	3-3/4"	6
	FM Approved 3450-AR116.3 3475-AR116.3 3410-AR116.3	1/2", 3/4", 1"	1/2"	1/16"	200 - 2200	300	5-7/8"	3-3/4"	6
Figure B	**Model No.**	**Inlet Size**	**Outlet Size**	**Orifice Size**	**GPM**	**MWP**	**Height**	**Width**	**Weight**
	3410-AR316C 3420-AR316C	1", 2"	1/2"	3/16"	2200 - 15000	150	10"	7"	20
	3410-AR532.3C 3420-AR532.3C	1", 2"	1/2"	5/32"	2200 - 15000	300	10"	7"	20
	3410-AR332.6C	1", 2"	1/2"	3/32"	2200 - 15000	600	10"	7"	20
Figure C	**Model No.**	**Inlet Size**	**Outlet Size**	**Orifice Size**	**GPM**	**MWP**	**Height**	**Width**	**Weight**
	3420-AR038C 3430-AR038C	2", 3"	1"	3/8"	15000 - 50000	150	12-1/2"	9-1/2"	45
	3420-AR732C 3430-AR732C	2", 3"	1"	7/32"	15000 - 50000	300	12-1/2"	9-1/2"	45
Figure D	**Model No.**	**Inlet Size**	**Outlet Size**	**Orifice Size**	**GPM**	**MWP**	**Height**	**Width**	**Weight**
	3420-AR-HP500	2"	1"	7/32"	2200 - 50000	500	132"	12"	75
	3420-AR-HP800	2"	1"	1/8"	2200 - 50000	800	132"	12"	75





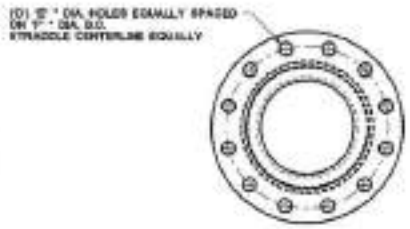
L	J	I	A	B	C	D	E	L
4" x 3"	4"-150#	3"-150#	30	8	0.9375	7.5	0.9375	0.5
6" x 4"	6"-150#	4"-150#	11.75	11	1	9	0.9375	1
		6"-300#	12.625	11	1	10	1.25	1
	6"-300#	4"-150#	12.625	11.5	1.4375	9	0.9375	1
		6"-300#	13	11.5	1.4375	10	1.25	1
8" x 6"	8"-150#	6"-150#	11.75	11	1	10	0.9375	0.5
		6"-300#	13.125	11	1	11	1.375	0.5
	8"-300#	6"-150#	13.5	13.5	1.4375	11	1.375	0.5
		6"-300#	14.5	13.5	1.4375	11	1.375	0.5
8" x 3"	8"-150#	3"-150#	14.125	13.5	1.125	11	1.375	1.5
8" x 4"	8"-150#	4"-150#	13.75	13.5	1.125	11	1	1
		4"-300#	14.125	13.5	1.25	12.5	1.4375	1
	8"-300#	4"-150#	14.5	13	1.625	11.5	1.4375	1
		4"-300#	15	13	1.625	12.5	1.4375	1
10" x 8	10"-150#	8"-150#	15.25	16	1.1875	13.5	1.125	1
		8"-300#	16.625	16	1.1875	15	1.625	1
12" x 10"	12"-150#	10"-150#	16.75	19	1.25	16	1.1875	1
		10"-300#	17.375	19	1.25	17.5	1.875	1
14" x 12"	14"-150#	12"-150#	22.75	21	1.375	19	1.29	1
		12"-300#	23.375	21	1.375	20.5	1	1

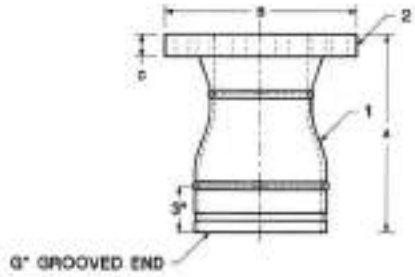
J	K	I	F	G	H	I	J	L
3" x 3"	3"-150#	3"-150#	8	0.75	7.5	1	0.75	0
6" x 4"	6"-150#	4"-150#	8	0.875	9.5	8	0.75	7.5
		4"-300#	8	0.875	9.5	8	0.875	7.875
	6"-300#	4"-150#	11	0.875	10.625	9	0.75	7.5
		4"-300#	11	0.875	10.625	9	0.875	7.875
8" x 6"	8"-150#	6"-150#	8	0.875	9.5	8	0.875	8.5
		6"-300#	8	0.875	9.5	8	0.875	8.25
	8"-300#	6"-150#	11	0.875	10.625	9	0.875	8.25
8" x 3"	8"-150#	3"-150#	8	0.875	11.75	8	0.875	8.75
8" x 4"	8"-150#	4"-150#	8	0.875	11.75	8	0.875	9.5
		4"-300#	8	0.875	11.75	12	0.875	10.625
	8"-300#	4"-150#	12	1	14	12	0.875	10.625
10" x 8"	10"-150#	8"-150#	12	1	14.25	8	0.875	13.75
		8"-300#	12	1	14.25	12	1	15
12" x 10	12"-150#	10"-150#	12	1	17	12	1	16.25
		10"-300#	12	1	17	16	1.125	16.25
14" x 12"	14"-150#	12"-150#	12	1.125	18.75	12	1	17
		12"-300#	12	1.125	18.75	16	1.25	17.75

SPP PUMPS, INC
2905 PACIFIC DRIVE
NORCROSS, GA 30071
(770) 409-3280

SCALE NTS

REDUCER
PLANGED BY PLANGED





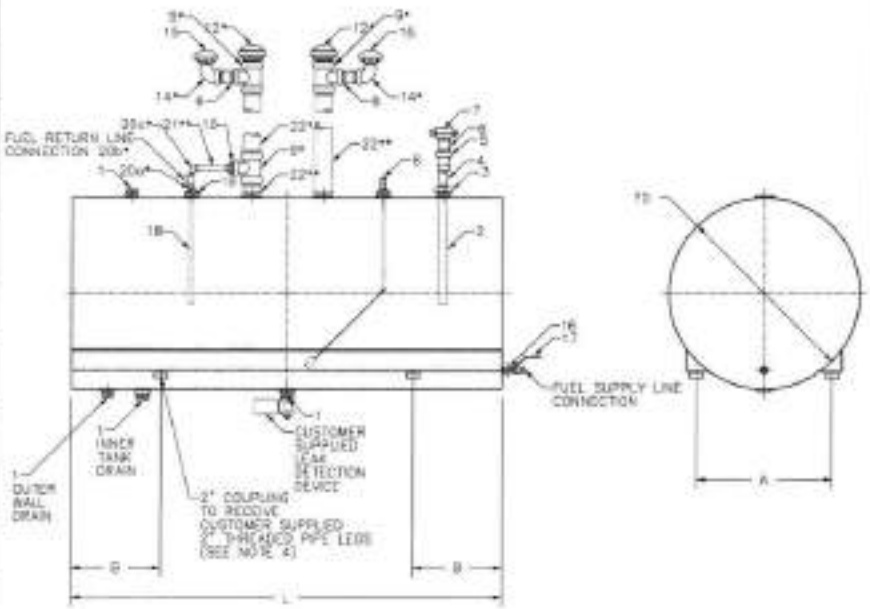
1	2	G	A	B	C	D	E	F
3" x 4"	3"-300#	4"	10.375	8.25	1.125	8	0.875	6.625
3" x 6"	3"-150#	6"	11.5	7.5	0.9375	4	0.75	6
	3"-300#	6"	11.875	8.25	1.125	8	0.875	6.625
4" x 6"	4"-150	6"	11.75	9	0.9375	8	0.75	7.5
	4"-300#	6"	12.125	10	1.25	8	0.875	7.875
5" x 6"	5"-150#	6"	12.25	10	0.9375	8	0.875	8.5
	5"-300#	6"	12.625	11	1.375	8	0.875	9.25
5" x 8"	5"-150#	8"	12.75	10	0.9375	8	0.875	8.5
	5"-300#	8"	13.125	11	1.375	8	0.875	9.25
6" x 8"	6"-150#	8"	12.75	11	1	8	0.875	9.5
	6"-300#	8"	13.125	12.5	1.4375	12	0.875	10.625
6" x 10"	6"-150#	10"	13.75	11	1	8	0.875	9.5
	6"-300#	10"	14.125	12.5	1.4375	12	0.875	10.625
8" x 10"	8"-150#	10"	14.25	13.5	1.125	8	0.875	11.75
	8"-300#	10"	14.625	15	1.625	12	1	13
8" x 12"	8"-150#	12"	15.25	13.5	1.125	8	0.875	11.75
	8"-300#	12"	15.625	15	1.625	12	1	13

SCALE MTS

SPP PUMPS LP
6715 BEST FRIEND ROAD
NORCROSS, GA 30071
(770) 409-3280

DISCHARGE INCREASER
FLANGED BY GROOVED

REVISION DETAILS



TANK DIMENSIONS								
CAPACITY	D	L	A	B	C	V	F	WEIGHT
70	24	36	17	6	2-3/4	3	18	120
115	24	60	17	6	2-3/4	3	18	–
140	24	72	17	15	2-3/4	3	18	285
150***	30	48	23	15	2-3/4	3	18	–
175***	30	56	23	15	2-3/4	3	18	–
225	30	66	23	15	2-3/4	3	18	–
250	30	72	23	15	2-3/4	3	18	350
280	36	60	27	15	2-3/4	3	32	375
300***	36	63	27	15	2-3/4	3	32	–
350	36	72	27	15	2-1/2	3	32	435
400	48	48	34	15	2-1/2	4	32	–
500	48	63	34	15	2-1/2	4	32	575
550	48	69	34	15	2-1/2	4	32	–
700	48	90	34	15	2-1/2	4	32	880
800***	64	60	45	15	2-1/2	4	32	–
800	64	60	45	15	4-1/2	4	48	–
900***	64	65	45	15	4-1/2	6	48	–
1000***	64	72	45	15	4-1/2	6	48	–

COMPONENT LIST		
ITEM NO.	QTY. REQ.	DESCRIPTION
1	4	2" ROUND PLUG
2	1	1-1/2" x 16 or 32" PIPE 1 x PE (SEE TANK DIMS. F)
3	1	2" x 1-1/2" DOUBLE TAP BUSHING
4	1	1-1/2 x 4" NIPPLE
5	1	2" x 1-1/2" REDUCER
6	1	2" x 4" NIPPLE
7	1	2" LOCKABLE FUEL CAP
8	1	FUEL GAUGE (2 NPT)
9*	1	3 or 4" x 3 or 4" x 2" TEE (SEE TANK DIMS. "X")
10*	2	3" x 3/4" BUSHING
12*	2	3 or 4" EMERGENCY VENT (SEE TANK DIMS. "V")
14*	2	2" STREET ELL
15	2	2" SCREWED VENT
16	1	3/4" CLOSE NIPPLE
17	1	3/4" LOCKABLE BALL VALVE
18	1	3/4" x 16 or 32" PIPE 1 x PE (SEE TANK DIMS. "F")
19	1	2" x 3/4" DOUBLE TAP BUSHING
20a*	1	3/4" CLOSE NIPPLE
20b*	1	3/4" TEE
20c*	1	3/4" STREET ELL
21**	1	3/4" TUBING OR BLACK PIPE AND FITTINGS
22**	3	3 or 4" VENT HOSE (SEE TANK DIMS. "V")

* UL-142 EMERGENCY VENT KIT.
** CUSTOMER SUPPLIED EQUIPMENT
*** NON-STOCK TANK – CALL FACTORY FOR LEAD TIME.

NOTES:

1. THIS DRAWING IS THE PROPERTY OF SPP PUMPS LP AND MUST NOT BE USED OR COPIED WITHOUT ITS PERMISSION.
2. TANK TO BE BUILT AND LABELED PER U.L. SPEC. 142.
3. TANK TO BE PITCHED TOWARD DRAIN 1/4" PER FOOT.
4. OUTLET TO BE AT SAME ELEVATION AS ENGINE FUEL PUMP. LEGS TO BE SUPPLIED BY CUSTOMER.
5. COMPONENTS TO BE SHIPPED LOOSE FOR FIELD ASSEMBLY.
6. FUEL SUPPLY AND RETURN LINES TO BE SUPPLIED BY CUSTOMER.
7. ALL DIMENSIONS ARE IN INCHES.

DIMENSIONAL TOLERANCE: +/-1/8"
ALL HOLES 3G, MILD PROJECTION

DRAWN BY	RJB	08/09/05	FUEL TANK FITTINGS
APPROVED BY	MEL	08/09/05	
SCALE	NTS		

SPP PUMPS LP
2905 PACIFIC DRIVE
NORCROSS, GA 30071
(770) 409-9900

DOUBLE WALL FUEL TANK

SHOP ORDER NUMBER	N/A	DRAWING SIZE	B
DRAWING NUMBER	DWT-111	SHEET 1 OF 1	

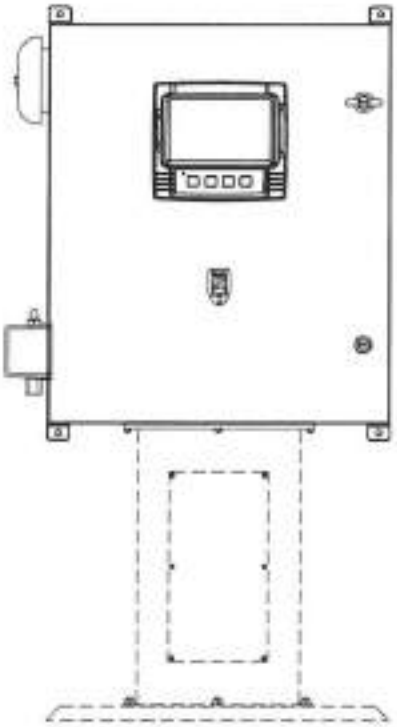
Submittal Package

FTA1100J

Firetrol

MARK[15] Diesel Engine Fire Pump Controllers

Project Information



(DRAWINGS INCLUDED IN THIS PACKAGE ARE FOR STANDARD CONTROLLERS. ACTUAL "AS BUILT" DRAWINGS MAY DIFFER FROM THOSE SEEN HERE).

Firetrol, Inc.
3412 Apex Peakway
Apex, North Carolina 27502
P 919 460 5200
F 919 460 5250
www.firetrol.com

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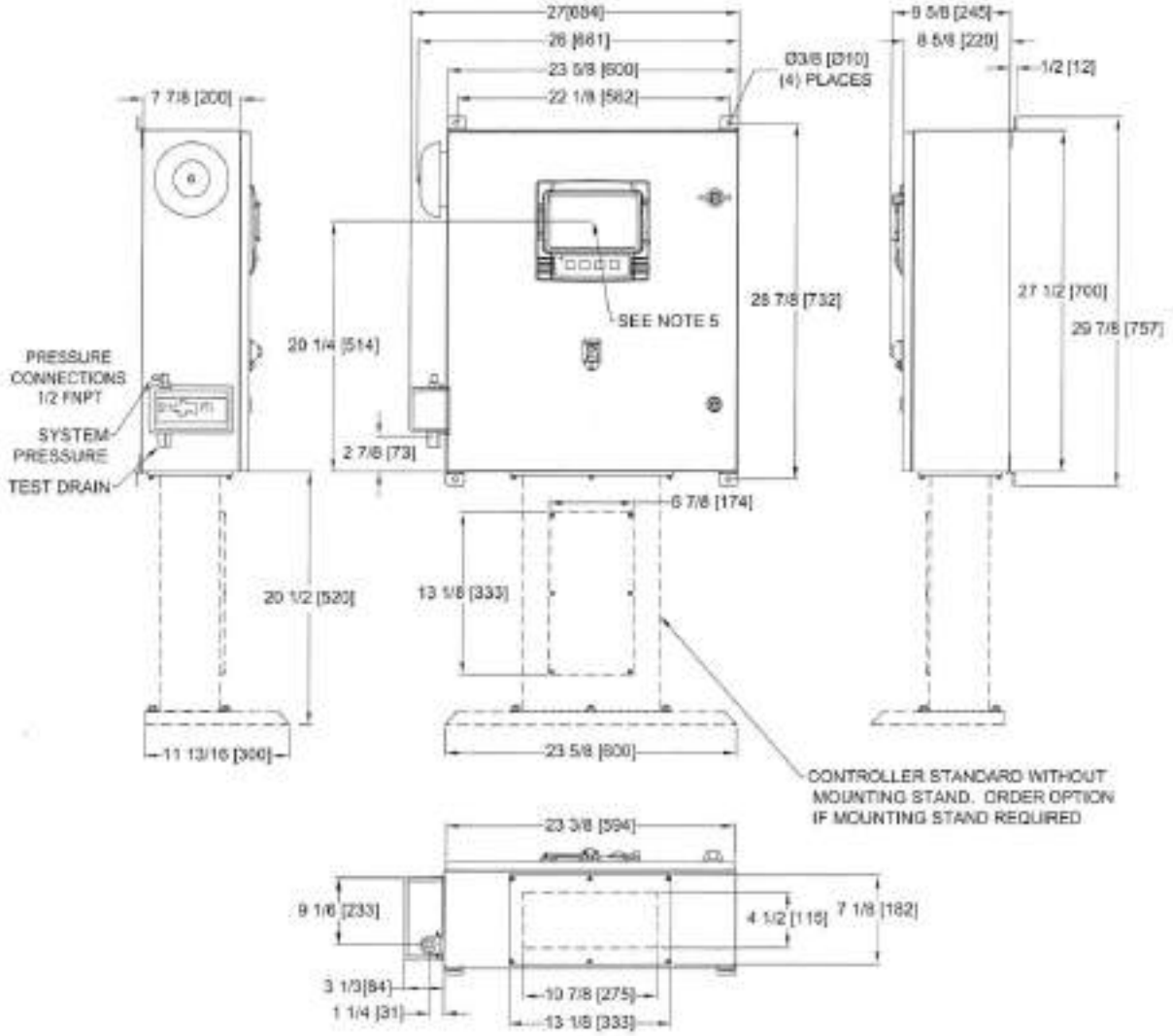
Publication SBP1100J-60 Rev. B

Dimensions and Shipping Weight

FTA1100J

MARK[III] Diesel Engine Fire Pump Controller



NOTES:

1. STANDARD: NEMA 2
2. STANDARD PAINT: TEXTURED RED RAL3002
3. ALL DIMENSIONS IN INCHES [MILLIMETERS]
   SHIPPING WEIGHT IN POUNDS [KG]
4. CENTER OF MARK III SCREEN: 20-1/4" FROM BOTTOM W/O FEET
5. BOTTOM CONDUIT ENTRANCE THROUGH REMOVABLE GLAND PLATE RECOMMENDED
6. USE WATERTIGHT CONDUIT AND CONNECTOR ONLY
7. PROTECT EQUIPMENT AGAINST DRILLING CHIPS
8. DOOR SWING EQUAL TO DOOR WIDTH
9. DRAWINGS USED FOR CONSTRUCTION PURPOSES MUST BE OBTAINED FROM FIRETROL OR THE LOCAL FIRETROL REPRESENTATIVE

APPROXIMATE SHIPPING WEIGHT
115 [52]

REV	REVISION DESCRIPTION	BY	APP	DATE
A	ADDED DIM ON LH SIDE VIEW	-	-	2-23-20
-	NEW RELEASE	-	-	11-04-19

SIZE A	BY	DATE	
DRAWN BY	JMW	11-04-19	
TECH. APPROVAL	CIR	11-04-19	

THIRD ANGLE PROJECTION

Firetrol, Inc.

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DIMENSIONS AND SHIPPING WEIGHT | FTA1100

DIESEL ENGINE FIRE PUMP CONTROLLER
12VDC OR 24VDC NEGATIVE GROUND

DRAWING NUMBER: DD1100-30

DWG REV: A | SCH NO: - | SHEET 1 OF 1

Firetrol MARK[III] Diesel Engine Fire Pump Controller

FTA1100J - 12 or 24 Volt

Specifications

1.0 Main Fire Pump Controller

The main fire pump controller shall be a factory assembled, wired and tested unit. The controller shall be of the combined manual and automatic type designed for diesel engine operation of the fire pump.

1.1 Standards, Listings & Approvals

The controller shall conform to all the requirements of the latest editions of:

- NFPA 20
- UL (UL218 and CSA C22.2 No. 14)
- FM Global (Class 1321/1323)
- City of New York for fire pump service

1.2 Enclosure

The controller components shall be housed in a NEMA Type 2 (IEC IP22) drip-proof, wall mounted enclosure with bottom entry gland plate.

1.3 Operator Interface (HMI)

7.0" LCD color touch screen (HMI technology) operator interface powered by an embedded microcomputer with software PLC logic. Included shall be keypad type push-buttons for Crank from Battery #1, Crank from Battery #2, Stop and run test.

The screen shall include menus for: *Home · Alarms · Configuration · History · Service · Manuals · Language.*

The HMI shall graphically display the following: *AC Power Present · Charger #1 & #2 Charging Mode · Battery #1 & #2 Voltage and Amperage · System Pressure · Cut In and Cut Out Pressure Settings · Starter #1 and #2 Cranking or Resting · Engine Running · Starting Cause · Fuel Valve Energized · Timers Operation · H-O-A Switch Position · Actuation Mode · Controller Type · Shutdown Mode · Time & Date · Pump Room Temperature · System Pressure*

System pressure shall be capable of being displayed as: *PSI, kPa, Bar, Feet of Head or Meters of Water.*

The HMI shall allow programming and display of: *Cut In & Cut Out Pressure Settings · Minimum Run Timer · Sequential Start Timer · Periodic Test Timer*

The HMI allows the user to select the language of the system and download the manual or view the manual on screen.

1.4 State and Alarm Visual Indication

The digital display shall visually indicate and color code by criticalness the following:

AC Fail · DC Fail · Battery 1/2 Fail · Charger 1/2 Fail · Engine Trouble · Pump Room Trouble · Controller Trouble · Service Required · Battery 1/2 Weak · Loss of Continuity with Starting Contactor 1/2 · Weekly Test Start Pressure Not Reached · Weekly Test Check Solenoid Valve · Faulty Pressure Transducer · Low Raw Water Flow · Engine Fail When Running · Engine Fail To Start · Engine Overspeed · Low Ambient Temp. · Pump On Demand · Invalid Cut-In · Overpressure · Underpressure · Battery 1/2 Overvoltage · Water Reservoir Low · Fuel Tank Leak · Low Fuel Level · High Fuel Level · Engine ECM In Alternate Position · Engine Fuel Injection Malfunction · Engine High Temperature · Engine Low Temperature · Engine ECM Warning · Engine ECM Fault · Engine Low Oil Pressure · High Raw Water Temperature · Low Suction Pressure · Engine Run · Main Switch In Auto · Pump Room Temperature · Periodic Test · Main Switch in Hand · Cranking Cycle · Main Switch In Off · AC Power Available

1.5 Pressure and Event Recording

The system shall be capable of logging pressure data and operational events with time/date stamp. The system shall display operational events for the lifetime of the controller and display the pressure data in text or graphical form. The controller shall log the Date/Time of the first start-up and the controller total power on time from that date. The controller shall log first and last statistics for: *First Setup · On Time · Engine On Time · Engine Start Count · Engine Last Start Time · Min/Max/Average System Pressure · Min/Max/Average Pump Room Temp · Jockey Pump On Time · Jockey Pump Start Count · Jockey Pump Last Start Time*

1.6 USB Host Controller

A USB port capable of accepting a USB Flash Memory Disk shall be provided for downloading pressure and event logs.

1.7 Serial Communications

The controller shall feature Modbus with TCP/IP frame format and a shielded female RJ45 connector.

1.8 Pressure Sensing / Wet Parts

The controller shall be supplied with a solid state pressure transducer with a range of 0-500 psi calibrated for 0-300 psi (0-20.7 bar) and a run test solenoid valve. The wet parts shall be externally mounted and include a protective cover. The pressure sensing line connection to the transducer shall be 1/2-inch FNPT. Provisions for a redundant pressure transducer shall be provided.

1.9 Seismic Certification

The controller shall be certified to meet or exceed the requirements of the 2015 International Building Code, the 2016 California Building Code and OSHPD Special Seismic Certification Preapproval - OSP. The controller test criteria shall be per ICC-ES AC156 and the Seismic Parameters per ASCE 7-10 Chapter 13.

2.0 Controller Operation

On a call to start, the controller will crank from battery 1 for 15 seconds then rest for 15 seconds before cranking on battery 2. This cranking cycle shall repeat 3 times. If a running signal is not received from the engine, the controller will alarm "Fail To Start".

The controller shall have the capability to schedule service reminders. The controller also provides for inputting of pump flow test data, generating and displaying the pump curve and permanently storing this data in memory.

Provisions shall be available for connection of external devices for Manual Remote Start, Automatic Remote Start and Deluge Valve Start.

DPDT dry contacts rated 8A - 250VAC shall be provided for remote indication of:
Engine Run · Main Switch in Hand or Off · Controller Trouble (common) · Engine Trouble (common) · Pump Room Trouble (common)

An audible alarm device shall be provided on the controller.

2.1 Manufacturer

The controller shall be a Firetrol brand.

3412 Apex Peakway
Apex, North Carolina 27502
P +1 919 460 5200
F +1 919 460 5260
www.firetrol.com

Firetrol, Inc.

While every precaution has been taken to ensure accuracy and completeness herein, Firetrol, Inc. assumes no responsibility, and disclaims all liability, for damages resulting from use of this information or for any errors or omissions. Specifications and drawings are subject to change without notice. ©2019 Firetrol, Inc., All Rights Reserved.

Publication SP1100-60

Phoenix-Mesa Gateway Airport

Attachment E
Standard Certifications

Complete Attachment E by checking the applicable box(s) and/or providing responses. Failure to complete this Attachment E in its entirety and submit with Offeror's proposal will result in Offeror's submittal being deemed nonresponsive and not evaluated.

If Offeror cannot affirmatively certify to statement numbers 1 and 2 below, Offeror's submittal will be rejected and will not be evaluated.

1. Offeror hereby ☑ certifies ☐ does not certify
   That this engagement, if selected, will not result in a conflict of interest.

2. Offeror hereby ☑ certifies ☐ does not certify
   That the Equipment submitted for consideration by PMGAA under this solicitation 2023-013-RFP, meets or Exceeds, all specifications contained in Attachment A.

If Offeror cannot affirmatively certify to statement number 3 below, PMGAA will consider Offeror's written response to determine if it's submittal will be accepted and be evaluated.

3. Offeror hereby ☑ certifies ☐ does not certify
   That it has no known business or financial relationships between Offeror or Offeror's firm and members of the PMGAA Board of Directors.

   If Offeror does have known business or financial relationships, please list them below:

   _____

   _____

   _____

   _____

   _____

By signature below, Offeror certifies that the information in this Attachment is true, and accurate.

P. Shayne Castellani
Signature

11/20/2022
Date

P. Shayne Castellani
Printed Name

Owner
Title

Phoenix-Mesa Gateway Airport

Attachment F

Authorization for Release of Performance Information and Waiver

---

The purpose of this disclosure is to provide references to PMGAA. Offeror hereby consents that as an Offeror to PMGAA's Solicitation 2023-013-RFP, Fire Pump Skid and Installation Services, for Phoenix-Mesa Gateway Airport, Offeror authorizes those companies and government entities listed in Offeror's RFP submittal and any other government entity for whom this company has provided fire pump skids and installation services, to disclose and release to PMGAA, or their representatives, information, records and opinions concerning this company's past performance.

Cross Fire Protection Llc (Offeror) hereby waives any claim it may have against PMGAA or any company or entity providing information to PMGAA by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for one (1) year.

This consent or copy of this authorization shall be as valid and effective as the original.

P. Shayne Castellani
Signature of Offeror

11/20/2022
Date

Phoenix-Mesa Gateway Airport

Attachment G
Offer Agreement

OFFER TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY:

The Offeror hereby certifies and agrees to furnish the Equipment and/or services in compliance with all terms, conditions, specifications, and amendments in the Request for Proposals including Attachment B – Price Proposal.

Company Name: Cross Fire Protection Llc

Federal Tax Identification Number: 473315139

Sales Tax Identification Number: _____

P. Shayne Castellani
Signature

11/20/2022
Date

P. Shayne Castellani
Printed Name

Owner
Title

For clarification of this offer, contact:

Name: P. Shayne Castellani

Title: Owner

Telephone: 480-450-0690

Email:shayne@azcrossfireprotection.com

Phoenix-Mesa Gateway Airport

Attachment H
References

Company Name: Cousins Companies
Contact Person: Tim Thurlow
City, State: Tempe, AZ
Telephone: 480-318-3376
Model(s) Purchased: TB10D
Date Purchased: 7/22/2021

Company Name: Az Fire Sprinkler
Contact Person: Nathan Jackson
City, State: Cottonwood, AZ
Telephone: 928-301-7761
Model(s) Purchased: 6AEF16C
Date Purchased: 5/14/2021

Company Name: Stonelake Capital Partners
Contact Person: John Detamore
City, State: Tempe, AZ
Telephone: 512-660-6217
Model(s) Purchased: TF20F
Date Purchased: 4/13/2021

Phoenix-Mesa Gateway Airport

Attachment I
Addenda Acknowledgement

Offeror is responsible for obtaining all addenda, if issued, via the PMGAA website at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section or by other means (see Section One, Subsection A, paragraph 2, Addenda).

Failure to acknowledge, and include this form in Offeror's submittal, may cause Offeror's proposal to be deemed nonresponsive. If no addenda were issued, Offeror does not need to include this attachment in its proposal.

Offeror hereby acknowledges receipt of the following addenda issued by PMGAA for solicitation 2023-013-RFP (fill in Addendum Number and Date Issued).

Addendum No. 1	Date Issued: 11/22/2022
Addendum No. _____	Date Issued: _____
Addendum No. _____	Date Issued: _____
Addendum No. _____	Date Issued: _____
Addendum No. _____	Date Issued: _____

By: P. Shayne Castellani
Signature

11/22/2022
Date

P. Shayne Castellani
Printed Name

Owner
Title

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-03

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Structural Engineering & Fire Proofing Inspection Services – Crosspoint Testing and Inspection Services, LLC**
Date:	**February 21, 2023**

Proposed Motion

To authorize a contract with Crosspoint Testing and Inspection Services, LLC (Crosspoint) to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project and future projects, on a per task basis, utilizing an Authorization of Services, under CIP1201.

Narrative

The Terminal Annex Modernization project has become necessary due to the age and deterioration of the current modular facility. DWL has created a new design configuration that has modernized the facility and increased its capacity. McCarthy, the Construction Contractor, has installed the Temporary Hold Space and will soon demolish the Annex and begin the construction of the new, connected Terminal Concourse containing five (5) gates.

In support of large capital projects, the Airport utilizes professional Engineering Services. These services are needed to ensure that the Airport manages the project in accordance with project specifications, and to ensure compliance with federal and state grant requirements. Specifically, Special Inspections performed as required by and in accordance with the 2018 International Building Codes (IBC) Chapter 17 for structural components associated with buildings and Fireproofing Inspection is also required. Crosspoint will provide structural special inspections for the Terminal Modernization Project. These special inspections will include, but are not limited to, the following: Fabrication Welding, Field Welding, Visual verification of moment frame, High Strength Bolts, Post installed anchor epoxy verification, Verification of spray applied fireproofing and Firestop verification.

The Notice of Request for Qualifications (RFQ), Solicitation 2023-016-RFQ – Structural Special Inspection and Fire Proofing Special Inspection Services, was issued on October 25, 2022, and advertised in the Arizona Business Gazette on 10/27, 11/2/11/10 and 11/17/22; it was also posted on the AzAA, ACC, ACI-NA, SWAAAE and FAA Matchmaker Websites as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFQ was emailed to a list of 24 prospective firms and included DBE and Small Business outreach. PMGAA Staff received five (5) Statements of Qualifications (SOQs) on November 21, 2022.

Crosspoint Testing and Inspection Services, LLC
Ninyo & Moore Geotechnical & Environmental Sciences Consultants
PK Associates, LLC
Professional Service Industries, Inc. (PSI)
Terracon Consultants, Inc.

After reviewing the submitted SOQs, the Evaluation Panel selected Crosspoint. Crosspoint met all the RFQ requirements, they are a specialty firm concentrating on structural steel inspections, have an excellent project understanding and the approach was detailed and project specific.

Fiscal Impact
The funds for these Inspection Services are included in the Terminal Modernization Project, which is included in the FY23 Capital Budget under CIP1201.

Attachment(s)
Professional Services Agreement (Contract)

RESOLUTION NO. 23-03

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a contract with Crosspoint Testing and Inspection Services, LLC (Crosspoint) to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project and future projects, on a per task basis, utilizing an Authorization of Services, under CIP1201;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a contract with Crosspoint Testing and Inspection Services, LLC (Crosspoint) to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project and future projects, on a per task basis, utilizing an Authorization of Services, under CIP1201. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of February, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

CROSSPOINT TESTING AND INSPECTION SERVICES, LLC

FOR

STRUCTURAL SPECIAL INSPECTION AND FIRE PROOFING SPECIAL INSPECTION SERVICES

CONTRACT NUMBER 20230155

The Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority (PMGAA), a joint powers airport authority authorized by the State of Arizona and consisting of the City of Mesa, City of Phoenix, City of Apache Junction, Town of Gilbert, Town of Queen Creek and the Gila River Indian Community.

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20230155** ("Contract") and the attached exhibits. Crosspoint Testing and Inspection Services, LLC, an Arizona Limited Liability Company ("Consultant"), with its principal offices located at 7931 E. Pecos Road, Mesa, AZ, 85212, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under to this Contract shall generally include, but not be limited to, the following: Structural Special Inspection and Fire Proofing Special Inspection Services, as more specifically described in Consultant's detailed scope of work attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Engineering and Facilities Director, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied. Consultant shall possess the certifications as required to perform special inspections per the International Building Codes (IBC).

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract as amended.

The term of this Contract shall commence on the date signed by PMGAA and ends on 2/20/2026 ("Term"), unless terminated, canceled or extended as provided in this Contract. PMGAA reserves the right, at its sole option, to extend the Term for such additional time as may be warranted and/or appropriate. If PMGAA exercises such right, all terms, conditions and provisions of the original Contract shall remain the same and apply during the extended period with the possible exception of price. All prices stated in the original Contract shall apply unless an increase or decrease is agreed to in writing by PMGAA.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant and its subconsultants listed below, shall provide all services to be performed under this Contract. If additional sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said subconsultants. PMGAA may, at its sole discretion, accept or reject proposed subconsultants.

Subconsultants to perform work under this Contract include:

ACS Services, LLC

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with the Phoenix-Mesa Gateway Airport Authority Procurement Policy. Payments will be made for the actual hours worked and/or other costs incurred or provided for in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate agreements or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all agreements with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all agreements with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX – INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage ($5,000,000 if operating in the Air Operations Area of the Airport).
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions.

   The insurance policies shall provide, or be endorsed to include:

   i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.

   ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract.

   iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX – DISADVANTAGED BUSINESS ENTERPRISE

Phoenix-Mesa Gateway Airport Authority's DBE program is race-neutral. The entire DBE program can be found on PMGAA's website at: www.gatewayairport.com

Owner encourages prime contractors to create subcontracting opportunities, especially for small businesses. Owner does not have a specific SBE goal, however, reporting on SBE utilization is required.

A. Consultant's DBE Performance Plan (DBEPP)
Consultant shall utilize its DBEPP as submitted under solicitation 2023-008-RFQ, throughout the duration of the project/Contract. Failure to fulfill the plan's terms and the plan's intent, shall be a material breach of the contract.

B. Contract Assurance
The Consultant, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Owner deems appropriate, which may include, but is not limited to: (1) withholding

monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the Consultant from future bidding as non-responsible.

C. Subcontracts

i. Consultant is required to include the required clauses and obtain the required certifications, as provided for in Exhibit E, Federal Contract Provisions, in all subcontracts or agreements it enters into, and all lower tier subcontracts and agreements, as a result of this contract, regardless of whether or not the subcontractor is a DBE.

ii. Consultant is required to make available a copy of all subcontracts, DBE, SBE, and non-DBE/SBE, prior to any commencement of work by Consultant or any of Consultant's subcontractors. The Consultant shall ensure that all subcontracts or agreements to supply labor or materials be performed in accordance with this part's provisions.

D. Required Outreach Documentation

The following documentation is required to demonstrate that sufficient outreach efforts have been made to engage DBE subcontractors in the performance of this contract:

i. Detailed evidence that the Consultant's DBE Performance Plan (DBEPP), as submitted under solicitation 2023-008-RFQ, was and will continue to be utilized in obtaining DBE participation. This should include such things as the following, depending on the Consultant's DBEPP:

a) Copy of notifications sent to DBE firms of subcontracting opportunities
b) Documentation of each DBE firms contacted and their response or other action taken as a result of the contact.
c) Documentation of bid responses and/or quotes from all subcontractors who bid to perform work on the project in the areas that DBE firms were also bidding on, including information regarding the reasons why DBE bids were not considered or chosen if applicable).
d) Dates and times of outreach events held and a list of attendees.

The following are examples of factors that are illustrative of whether or not the Consultant implemented its DBEPP in good faith:

a) The number of contacts attempted or made with DBE firms that perform in trade areas where subcontracting work was identified.
b) The timeliness of contacts made with DBE firms so as to allow the firms a reasonable amount of time to respond
c) Attempts made to break down portions of the project into economically feasible units to facilitate DBE participation.
d) Whether the bidder negotiated in good faith with interested DBEs and did not reject a bid as unqualified without sound reason.

ii. **Attachment A**: Subcontracting and Outreach Efforts Summary.

The Consultants' proposed subcontracting and summary of outreach efforts form (Attachment A) must reflect the scope of work that was identified to be potentially subcontracted and the result of the outreach efforts conducted by the Consultant for each scope of work. The Consultant shall clearly list the scope of work to be subcontracted. The firms contacted in consideration for contracting the scope of work must be listed with the DBE/SBE/Non-DBE/SBE status noted. The Consultant must indicate which firm(s), if any, were selected for the opportunity identified. Consultant must complete one Attachment A for each scope of work (NAISC or group of NAISC codes) that has been identified to potentially be subcontracted. **Note:** It is the responsibility of the Consultant to ensure that the scope of work to be performed by the subcontractor(s) is consistent with the area in which the firm is qualified, and in the case of a DBE subcontractor, that the firm has been granted DBE certification. The Consultant can confirm what NAICS code(s) a DBE is certified for by visiting: https://utracs.azdot.gov/ **DBE scopes of work listed on the form that fall outside the trade or performance area in which a DBE has been granted certification shall not be counted as work subcontracted to a DBE firm.** If there are questions, the Consultant should contact the Phoenix-Mesa Gateway Airport Authority Procurement Department for verification. Owner reserves the right

to validate information on the form with the DBE subcontractor and/or other certifying entities or licensing agents as part of the verification process.

iii. **Attachment B**: Letter of Intent to Perform as a Subconsultant/Supplier.

a) The dollar value and the scope of work **every** subcontractor, regardless of DBE/SBE status, is bidding to perform must be completed in full on the form.

b) For scopes of work where a total contract amount cannot be determined, the Letter of Intent to Perform as a Subcontractor/Supplier should reflect the minimum amount agreed upon between the Consultant and the subcontractor that will be paid to the subcontractor. When the form contains scopes of work where all of the dollars that will be paid to a DBE cannot be counted towards achieving the DBE program goal, the form should reflect the amount that is applicable to the program goal. **Example:** A DBE firm will provide uniformed officers on the job. The DBE pays the officers $21 per hour but has bid the contract to the prime Consultant at $30 per hour. Only the $9 per hour that the DBE maintains as a fee/commission should be reflected on Attachment B.

iv. **Attachment C**: Subconsultant Data Collection Form.
The Consultant must complete, and submit to Owner, Attachment C for <u>each</u> firm subcontracting work for under this project.

E. DBE Participation Calculation

i. **Subcontracts with DBE Firms:** DBE participation on the contract will be calculated based on that portion (dollar value) of the contract that DBEs actually perform with their own forces. This includes the cost of supplies and materials obtained by the DBE for the work on the contract, ***except*** when supplies and/or equipment is purchased or leased from the prime Consultant or its affiliate. Special emphasis and care should be taken to ensure that the following types of participation are handled properly when preparing your bid packet.

ii. **Fees & Commissions*:*** DBE firms that supply a bona fide service for a fee or commission may be counted only to the extent of the fees or commissions charged by the DBE. This includes, but is not limited to, providing professional, technical, consultant, or managerial services, and bonds or insurance specifically required for the performance of a contract. The fees must be reasonable and not excessive as compared with fees customarily allowed for similar services. ***Example:*** *A DBE firm that supplies uniformed officers for security or traffic control may count only the amounts shared as a commission. The hourly amount paid to the officers may not be counted. If the "per hour" bid amount to the prime Consultant is $30, and $21 per hour will be paid to the officers, only $9 per hour can be counted towards achieving the DBE program goal. If the firm estimates that there will be 200 hours of work, only $2,700 of the total $6,000 bid could be counted.*

iii. **Trucking & Hauling*:*** The amount of a trucking/hauling subcontract that may be counted towards the DBE utilization may be limited. A DBE must itself own and operate at least one fully licensed, insured, and operational truck that will be used on the contract. The DBE subcontractor may lease trucks from another DBE firm and receive full credit for the services of those leased vehicles. Non-DBE trucks may also be leased to perform work on the contract, but non-DBE leased trucks can be counted fully **only up to the value of transportation services provided by all DBE-owned trucks on the contract**. Any additional non-DBE leased trucks may only be credited for the fees or commissions the DBE subcontractor retains over and above the cost of the lease arrangement. ***Example:*** *A DBE trucking firm uses seven trucks on a job. Two are owned by the DBE and one is leased from another certified DBE firm. Four trucks are leased from a non-DBE. The amounts paid to the DBE for the services of three of the non-DBE trucks can be counted in full towards meeting the DBE requirement. Only the amount that the DBE subcontractor receives that is over and above the cost of leasing the fourth truck may be counted as DBE utilization.*

iv. **DBE Prime Consultant:** A DBE prime Consultant will be credited with DBE participation for that portion of the contract that they themselves perform, in addition to any portion of the contract that is subcontracted and performed by an eligible DBE subcontractor. ***Example:*** *If a DBE prime Consultant proposes to perform 60 percent of the contract with the firm's equipment and workforce, and subcontracts 20 percent to a DBE firm and 20 percent to a non-DBE firm, DBE participation will be credited as being 80 percent.*

v. **DBE/Non-DBE Joint Ventures:** A DBE/non-DBE joint venture, functioning as the prime Consultant or as a subcontractor on a Phoenix-Mesa Gateway Airport Authority project, will be credited with DBE

participation on the basis of the percentage of profit accruing to the DBE firm. ***Example:*** *A joint venture made up of one DBE and one non-DBE proposes to perform 60 percent of a project quoted at $400,000. A total of 50 percent of the profits for performing the work will go to the DBE partner in the joint venture. DBE participation will be credited at 30 percent, or $120,000.*

vi. **Lower Tier Non-DBE Participation:** Subcontract dollars paid by DBE primes and/or qualifying joint ventures to non-DBE subcontractors will not be considered when determining the percentage of DBE participation on this contract. Amounts subcontracted to a non-DBE by a DBE subcontractor (2nd tier or lower) may not be counted.

vii. **Lower Tier DBE Participation:** Consultant is obligated and must report all utilization of DBEs of lower tier subcontracts and ensure subcontractors comply with all applicable DBE reporting requirements.

viii. **DBE Suppliers:** Purchases from DBE suppliers may be counted towards the program goal as follows:

ix. **Manufacturers:** Amounts paid to a DBE supplier that manufactures or substantially alters the material or product it supplies will be credited at 100% of the expenditure when determining the percentage of DBE participation.

x. **Regular Dealer:** Purchases from a DBE firm that is an established, regular business that engages, as its principal business, in the purchase, sale, or lease of the products being supplied **may be credited towards the DBE program goal at sixty percent (60%) of the sale price** when determining the percentage of DBE participation.

xi. **Packagers, Brokers, Manufacturers' Representatives:** Purchases from a DBE firm who arranges or expedites transactions not as regular dealers, **may not be counted in full** when determining DBE participation. Only the fees or commissions charged in the procurement of the materials or supplies, or fees or transportation charges for the delivery of the materials or supplies may be credited towards achievement of the DBE program goal.

F. Definitions

i. **Disadvantaged Business Enterprise (DBE)** means a small business concern that has successfully completed a DBE certification process and been granted DBE status by the Arizona Unified Certification Program or by a U.S. Department of Transportation (USDOT) recognized agency who certifies DBE applicants pursuant to the criteria contained in 49 CFR Part 26.

ii. **Small Business Enterprise** (SBE) means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. A small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual(s) that has annual average gross receipts in excess of the cap established by federal regulation. The Secretary shall adjust this figure from time to time for inflation.

iii. **Socially and Economically Disadvantaged Individuals** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Membership in one of the above-mentioned groups does not qualify the firm to be considered a DBE for purposes of this contract. Only firms that have completed a DBE certification process and been granted DBE status shall be considered socially and economically disadvantaged individuals for purposes of this contract.

iv. **DBE Joint Venture** is an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. One participant in the joint venture arrangement must hold DBE status from a recognized certifying entity. The joint venture is limited in scope and duration to this contract, and resources, assets and labor of the participants must be combined in an effort to accrue profit.

v. **Sole Proprietorship** is a DBE for purposes of this contract, if it is 100 percent owned, operated, and controlled by a socially and economically disadvantaged individual.

vi. **Corporation** is a DBE, for purposes of this contract, if the ownership, operation, and control of the business is conditioned upon the control of its shares of stock or other equitable securities, at least 51 percent of which (of all shares) is legally and equitably owned by socially and economically disadvantaged individuals.

vii. **Partnership** is a DBE, for purposes of this contract, if one or more socially and economically disadvantaged individuals own more than 51 percent of the assets or interest in the partnership's property.

viii. **Purchaser** for purposes of this contract, means the Phoenix-Mesa Gateway Airport Authority.

ix. **Bidder** is an individual, partnership, joint venture, corporation or firm submitting a proposal or bid to the Phoenix-Mesa Gateway Airport Authority to perform services required by the contract. The submittal may be direct or through an authorized representative.

x. **Contract** is a written agreement obligating the seller or business enterprise to furnish goods or services as proposed and the Purchaser or Buyer to pay for such goods or services.

xi. **Subcontract** is any contract at any tier below the prime contract, including purchase orders.

xii. **Supplier** is a business enterprise that manufactures the goods or materials it sells.

xiii. **Wholesaler, Distributor, Broker, or Jobber** is a business enterprise that does not manufacture the goods or materials it sells or does not perform the essential work of the contract. ***Examples:*** *1) A trucking company who does not own or operate the trucks necessary to perform the work, but brokers the work to another trucking firm; 2) A distributor who supplies goods or materials as a pass-through, from the manufacturer, without substantial alteration of the goods or materials; and, 3) A sub-tier bidder who purchases and supplies the goods and materials on behalf of the prime bidder, and delivers the goods and materials to the prime bidder without substantial alteration of the goods and materials.*

Executed as of the Date signed.

CONSULTANT
CROSSPOINT TESTING AND INSPECTION SERVICES, LLC, an Arizona Limited Liability Company

By: Brent A Couch

Name: BRENT A COUCH

Title: MANAGING MEMBER

Date: 1/8/23

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A - SCOPE OF SERVICES AND FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

SCOPE OF SERVICES

Special Inspections performed as required below and by and in accordance with the 2018 International Building Codes (IBC) Chapter 17 for structural components associated with buildings.

As required for the Terminal Modernization project, and other projects, structural special inspections including, but not limited to the following:

Fabrication Welding
Field Welding
Visual verification of moment frame
High Strength Bolts
Post installed anchor epoxy verification
Verification of spray applied fireproofing
Firestop verification

PMGAA will issue an Authorization of Services (AOS) for each specific service to be performed by Consultant. Prior to commencement of any work, each AOS shall be signed by both parties and will provide a Not to Exceed cost.

FEE SCHEDULE

Service Price List

CrossPoint Testing and Inspection Service, LLC 7961E Peoria Rd. Suite 209 Mesa, AZ 85212 PH-480-986-6002

CrossPoint Testing
www.crosspointtesting.com

Service ID Number	Service Type	Description	Price Per Hour or Incident
BT001	High Strength Bolt Verification/Testing	Pre-installation verification, torque, snug tight, turn of the nut verification per AISC	$75.00
LT001	Load Testing	Pull testing of post installed anchors, rebar	$85.00
EXP001	Epoxy Installation Verification	Post-installed anchors, rebar and repair	$85.00
GPR001	Ground Penetrating Radar	Used for locating sub-surface objects in concrete and masonry structures	$175.00
MT001	Magnetic Particle Testing	Non-destructive testing for detecting surface discontinuities in ferromagnetic materials	$85.00
PT001	Penetrant Testing	Non-destructive testing for detecting surface discontinuities in ferrous and non-ferrous materials	$85.00
UT001	Ultrasonic Testing	A non-destructive volumetric examination allowing the detection of internal flaws	$85.00
VTCW001	Visual Inspection/Certified Welding Inspection	Weld procedure, welder qualification, visual inspection	$75.00
FFFLOOR	Floor Flatness Verification	Verification of concrete slabs to specified tolerances for floor level and flatness	$450.00
FP001	Spray Applied/Intumescent Fire Proofing	Thickness, density, and bond testing of field applied fireproofing	$75.00

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below and in accordance with each Authorization of Services initiated under this Contract. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the amount of time required for performance, the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT A**, "Scope of Services and Fee Schedule".

2. Method of Payment

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice or payment application depicting tasks performed, hours spent, utilized and expenses incurred for services performed. Invoices or payment applications must be based on the actual hours required and expenses incurred for the services completed during the billing period. Consultant's invoices or payment applications must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice or application as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and progress reports in accordance with terms specified in the Contract, which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices/requisitions for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices/requisitions for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C – SPECIAL PROVISIONS

1. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA all Consultant's and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* listing available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

2. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict. Wherever Standard Terms & Conditions are in conflict with conditions stated in this Special Provisions Section, the conditions stated in this Section shall take precedence.

3. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

4. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

5. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. Certification

By signature of this Contract, Consultant certifies:

a. The award of this Contract did not involve collusion or other anti-competitive practices.
b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. Dispute Resolution

a. Negotiations. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.
b. Mediation. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.
c. Binding Dispute Resolution. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

3. Independent Contractor

At all times, each party acts in its individual capacity and not as agent, employee, partner, joint venturer, or associate the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days.

PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

4. Affirmative Action

Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

5. Human Relations

Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

6. Non-Exclusive Contract

This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

7. Americans with Disabilities Act

Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

8. Confidentiality of Records

Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

9. Gratuities

PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

10. Applicable Law

This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

11. Contract

This Contract is based on and the result of a negotiated Scope of Services and Fee Schedule submitted by Consultant. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

12. Contract Amendments

This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

13. Provisions Required by Law

Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

14. Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

15. Protection of Government Property

Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

16. Interpretation – Parol Evidence

This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade

shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

17. Subcontracts

Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days or written request by Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Offeror referred to herein. Offeror is responsible for Contract performance whether or not subcontractors are used.

18. No Waiver

No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

19. Warranties

Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

20. Indemnification

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

21. Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

22. Advertising

Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

23. Right to Inspect

PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of a Consultant's or subcontractor's business, which is related to the performance of this Contract or related subcontract.

24. Force Majeure

In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed

to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

25. Inspection

All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

26. Exclusive Possession

All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

27. Title and Risk of Loss

The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

28. Liens

All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

29. Licenses

Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

30. Subsequent Employment

PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

31. Clean Up

Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

32. Patents

Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

33. Records and Audit Rights

Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

34. E-Verify Requirements

To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

35. Availability of Project Funding

This Contract's approval and continuation is conditioned on the availability of funds appropriated by PMGAA for this purpose. If funds are not available or appropriated for the Contract's requirements, PMGAA may terminate the Contract. Possible sources of funding for this Contract include FAA and ADOT, and this Contract is contingent on the availability of those funds to PMGAA.

EXHIBIT E – FEDERAL CONTRACT PROVISIONS

For this Exhibit: Contractor shall mean the same as "Consultant", "Offeror", "Bidder", "Proposer" or "Firm"
Owner shall mean Phoenix Mesa Gateway Airport Authority

A1 ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

A2 AFFIRMATIVE ACTION REQUIREMENT

Not Applicable

A3 BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Consultant or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

A4 BUY AMERICAN PREFERENCE

Not Applicable

A5 CIVIL RIGHTS - GENERAL

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

A6 CIVIL RIGHTS – TITLE VI ASSURANCE

Phoenix Mesa Gateway Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect

the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);

Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

A7 CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds $150,000.

A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

A9 COPELAND "ANTI-KICKBACK" ACT

Not Applicable

A10 DAVIS-BACON REQUIREMENTS

Not Applicable

A11 DEBARMENT AND SUSPENSION

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Lower Tier Contract Certification

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

A12 DISADVANTAGED BUSINESS ENTERPRISE

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Phoenix Mesa Gateway Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

Contract Assurance (§ 26.13) –

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from Phoenix Mesa Gateway Airport Authority. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Phoenix Mesa Gateway Airport Authority. This clause applies to both DBE and non-DBE subcontractors.

See Section XX of this Contract for additional information and requirements regarding DBE. Consultant agrees to all rules, policies, and requirements a set forth in these Contract documents and Exhibits.

A13 DISTRACTED DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

A14 ENERGY CONSERVATION REQUIREMENTS

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201*et seq*).

A15 DRUG FREE WORKPLACE REQUIREMENTS

Not Applicable

A16 EQUAL EMPLOYEMENT OPPORTUNITY (EEO)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance*: Provided, however*, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The *Consultant* has full responsibility to monitor compliance to the referenced statute or regulation. The *Consultant* must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

A19 PROHIBITION of SEGREGATED FACILITIES

Not Applicable

A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

A21 PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

a) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or

The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
b) Fails to meet reasonable contract performance requirements; or
c) Is only available at an unreasonable price.

A22 RIGHT TO INVENTIONS

This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of *experimental, developmental, or research work only*.

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

A23 SEISMIC SAFETY

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

A24 TAX DELINQUENCY AND FELONY CONVICTIONS

Consultant has completed and submitted the following certifications under the Owners solicitation and has indicated its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from the solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

b) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

c) The applicant represents that it is ( ) is not ( ) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

> **Felony conviction:** Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.
>
> **Tax Delinquency**: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

A25 TERMINATION OF CONTRACT

Termination for Convenience

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

Termination for Default

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner**: The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
   1. Perform the services within the time specified in this contract or by Owner approved extension;
   2. Make adequate progress so as to endanger satisfactory performance of the Project; or

3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant**: The Consultant may terminate this Agreement in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

A26 TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

A27 VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

EXHIBIT F- DBE FORMS

Consultant shall submit the following DBE Forms at the times noted:

Prior to Contract Award:	Attachment(s) A Attachment(s) B
After Contract Award:	Attachment(s) C

ATTACHMENT A
SUBCONTRACTING AND OUTREACH EFFORTS SUMMARY

Submit: **Prior to contract award or each subcontracting opportunity identified** **(even if it did not result in a subcontract)**
Completed By: **Prime Consultant**

NAME OF CONSULTANT: Crosspoint Testing & Inspection Services LLC **PROJECT DESCRIPTION:** Structural & Fire Proofing Special Inspection Services - Terminal Modernization

Scope of Work That May Be Subcontracted	NAISC Code(s) for Scope

FIRMS CONTACTED	NOTES / OUTCOME	DBE (Y/N)	SBE (Y/N)	SELECTED (Y/N)

THIS FORM SHALL NOT RELEASE CONSULTANT FROM PROVIDING DETAILED DOCUMENTATION OF OUTREACH EFFORTS AS SPECIFIED IN THE CONTRACT

1. **CONSULTANT SHALL COMPLETE THIS FORM TO SUMMARIZE THEIR OUTREACH EFFORTS FOR EACH SCOPE OF WORK OPPORTUNITY IDENTIFIED TO SUBCONTRACT. MAKE COPIES OF THIS FORM AS NECESSARY. EXPAND TEXT BOXES OR ATTACH INFORMATION AS NEEDED.**

Consultant Hereby affirms that the above information, as well as the detailed documentation submitted regarding Consultant's outreach efforts, is true and complete to the best of Consultant's knowledge.

Further, Consultant hereby affirms that the Consultant will enter into a formal agreement with the identified selected subcontractors/subconsultants/suppliers listed herein conditioned upon the execution of a contract with the Phoenix-Mesa Gateway Airport Authority.

Signed By _____ Title _____

Date _____

ATTACHMENT B
LETTER OF INTENT TO PERFORM AS A SUBCONSULTANT

Submit: **For each subconsultant that is selected**
Completed By: **EACH Subconsultant (regardless of DBE status) selected to perform work**

PROJECT DESCRIPTION: Structural & Fire Proofing Special Inspection Services - Terminal Modernization **Project No.:** 1201

TO: Crosspoint Testing and Inspection Services, LLC,

1. The undersigned (Subcontractor) is prepared and licensed in Arizona to perform the following scope(s) of work on the above referenced project for Prime Consultant:

Scope of Work Description	NAICS Code(s) for Scope of Work to be Performed	Total Minimum Contract Amount
		$

2. If you (subconsultant) are a DBE or SBE, complete "A" below:

A. The undersigned is certified as a:

☐ Disadvantaged Business Enterprise.
☐ is certified by the Arizona UCP to perform the NAICS work code(s) above.

☐ Small Business Enterprise.

3. The undersigned will sublet _____ , for $_____ of their Work to a
(Scope of Work Subletting) *(amount of work subletting)*

☐ Certified DBE ☐ Certified SBE ☐ Neither a DBE nor SBE (must select at least one if subletting)

Name of DBE Firm you are subletting to (if applicable): _____

On the _____ day of _____, 202__, by signature below, the undersigned agrees to enter into a formal agreement/subcontract for the work cited herein should the Consultant receive award of this contract from the Phoenix-Mesa Gateway Airport Authority.

_____ _____
(Authorized Signature of Subconsultant) (Print Subconsultant Firm Name)

_____ _____
(Print Name and Title) (Phone Number)

IF THE CONSULTANT DOES NOT RECEIVE AWARD OF THE CONTRACT, ANY AND ALL REPRESENTATIONS IN THIS LETTER OF INTENT AND AFFIRMATION SHALL BE NULL AND VOID.

ATTACHMENT C
SUBCONSULTANT DATA COLLECTION FORM

Submit: **After contract award AND prior to any work being done by the subconsultant**
Completed By: **Each Subconsultant/Supplier who will perform under the Contract**

PROJECT DESCRIPTION: Structural & Fire Proofing Special Inspection Services – Terminal Modernization **Project No.:** 1201_

SUBCONSULTANT FIRM NAME: _____

1. The undersigned is certified as (select one only): ☐ Male Owned ☐ Woman Owned

2. The undersigned is certified as (select one only) ☐ Non-Minority ☐ Hispanic American ☐ Native American
   ☐ Asian-Pacific American ☐ Subcontinent Asian American
   ☐ Black American

3. The undersigned affirms that of the trucking/hauling work to be contracted to perform under this project (if applicable), is as follows:

   # of trucks needed to perform project _____ # of trucks owned by DBE to be used on the project _____
   # of trucks to be leased from a DBE _____ # of trucks to be leased from a non-DBE _____

4. Age of Firm: ☐ Less than 1 year
   ☐ 1 – 3 years
   ☐ 4 – 7 years
   ☐ 8 – 10 years
   ☐ More than 10 years

5. Annual Gross Receipts of Firm: ☐ Less than $500,000.00
   ☐ $500,000.00 - $1,000,000.00
   ☐ $1,000,001.00 - $2,000,000.00
   ☐ $2,000,001.00 - $5,000,000.00
   ☐ Greater than $5,000,000.00

_____ _____
Authorized Signature Date

_____ _____
Printed Name Title

EXHIBIT G- SUBCONSULTANT PAYMENT FORMS

Consultant shall use the following forms when subconsultants are paid.

ATTACHMENT D
STATEMENT OF SUBCONSULTANT UTILIZATION

Submit & Completed By: 1) Consultant with every pay request involving any Subconsultant AND
2) Any Subconsultant when paying any lower tier Subconsultant as a reporting mechanism only (check box below)

SHEET ____ OF _____

☐ **CHECK IF FORM IS FOR SUB-TIER REPORTING** **PROJECT NAME: Structural & Fire Proofing Special Inspection Services** **PROJECT NUMBER: 1201**

PAY REQUEST NO._____ **PAY REQUEST $_____**

PMGAA USE ONLY

SUBCONSULTANT RECEIVING PAYMENT	CONTRACT AMOUNT	CONTRACT ADJUSTMENTS	REVISED CONTRACT AMOUNT	AMOUNT EARNED THIS PERIOD	AMOUNT EARNED TO DATE	AMOUNT RETAINED THIS PERIOD	AMOUNT RETAINED TO DATE	NET PAYMENT THIS PERIOD	PP RCVD	REVIEW DATE	NOTES

PRIME CONSULTANT/SUBCONSULTANT _____ **AUTHORIZED SIGNATURE** _____ **DATE** _____

NOTE: Amount earned this period, less retention, (NET PAYMENT THIS PERIOD) MUST equate to amount on Prompt Payment certification. If not, attach explanation please.

ATTACHMENT E
CERTIFICATION OF PAYMENT BY A DBE FIRM TO LOWER TIER

Submit: **When a DBE subconsultant/supplier makes a payment to a firm/individual they have sublet a portion of their contract to --- Submit with Attachment D**

Completed By: Subconsultant

PROJECT DESCRIPTION: Structural & Fire Proofing Special Inspection Services – Terminal Modernization **Project No.:** 1201

DBE Subconsultant Name: _____ ☐ **Submitted with Attachment D**

The work listed below was sublet to: _____**, who is a**
(firm name)

1. ☐ DBE ☐ SBE ☐ NEITHER A DBE NOR SBE (must select at least one)

2. ☐Contractor ☐Trucker ☐Broker (Fees/Commission) ☐Supplier ☐Manufacturer ☐Other (must select one)

Start Date	End Date	Description / Scope of Work	Total Amount Sublet

TOTAL $ _____

I, _____ confirm that _____
(Authorized DBE firm officer, print name) (Name of firm work sublet to)

has performed the scope(s) as described above for $_____

_____
(Authorized DBE firm officer, signature)

_____ _____
(Title) (Date)

ATTACHMENT F
CERTIFICATION OF PROMPT PAYMENT TO SUBCONSULTANTS

Submit: **For each payment made to a Subconsultant or lower tier Subconsultant**
Completed By: **Prime Consultant and Subconsultant OR Subconsultant and Lower Tier Subconsultant**

PRIME CONSULTANT or SUBCONSULTANT: _____ INVOICE/PAY REQUEST NO.: ____

PRIME CONSULTANT OR SUBCONSULTANT AFFIDAVIT:
The undersigned, having contracted as the prime Consultant or Subconsultant (herein includes Suppliers) on Project #1201 (Structural Special Inspection and Fire Proofing Special Inspection Services), hereby certifies that a payment has been made to the Subconsultant cited below. The total value of this payment made to the Subconsultant for materials and/or work performed on this project contract is as follows:

Subconsultant: _____ Total Amount Paid: $_____Date Sent _____

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years following final completion of the contract. In the event the Subconsultant was not paid in accordance with affidavits submitted by the Prime Consultant or Subconsultant, all documentation supporting the payee's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Prime Consultant or Subconsultant (Print Name and Title)

Date: _____

SUBCONSULTANT AFFIDAVIT:
The undersigned Subconsultant hereby certifies that a contract was entered into with the above named prime Consultant or Subconsultant to perform work or provide materials on the project cited in this document. I further certify that the total amount of this payment received as provided herein by the Prime Consultant or Subconsultant is accurate and unchallenged.

Total Amount Received: $_____ Date Received _____

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Subconsultant (Print Name and Title)

Date: _____

OVER FOR INSTRUCTIONS

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
CERTIFICATION OF PROMPT PAYMENT TO SUBCONSULTANTS

INSTRUCTIONS

Prime Consultant or Subconsultant will prepare a form for each Subconsultant being paid from each Airport payment for services when the Subconsultant is being paid. The amount paid to each Subconsultant should match the amount earned less any retention held on a pay application as shown on Attachment D.

The date documented by the Prime Consultant or Subconsultant must be the date a check is issued or that an Electronic Fund Transfer is completed as payment to the Subconsultant. This must be in conformance with State and Federal prompt payment regulations per the contract.

The authorized Prime Consultant or Subconsultant must sign and certify the accuracy of the information on this Attachment F and send it to the Subconsultant.

The Subconsultant must document the amount of payment received and the date payment from the Prime Consultant or Subconsultant was received. The authorized Subconsultant representative must sign and certify accuracy of the information.

The Subconsultant must email a scan of the record to the Airport within five (5) days of receipt of the Prime Consultant or Subconsultant payment. Airport contact information is as follows:

PromptPayment@gatewayairport.com

The Subconsultant should also copy the Prime Consultant or Subconsultant on the record.

The Prime Consultant and Subconsultant must retain the payment records and evidence of compliance for three years following completion of the contract.

FOR QUESTIONS ON COMPLETING THIS FORM, PLEASE CONTACT THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY AT (480) 988-7628.

Subconsultants may file complaints on alleged violations of the Prompt Payment standards by contacting the Airport Project Manager or Airport Staff at the number noted above.

EXHIBIT H – CONSULTANT'S DBE PERFORMANCE PLAN

PMGAA and Consultant acknowledge that the project is funded with Federal funds and Consultant's approved DBE Performance Plan submitted under PMGAA's solicitation 2023-016-RFQ is hereby incorporated into the Contract and will be utilized by Consultant throughout the duration of the project.

EXHIBIT I – CONSULTANT'S RFQ SUBMITTAL

Consultant's Statement of Qualifications in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2023-016-RFQ dated November 17, 2022 is hereby incorporated into the Contract and made part of this Contract.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-04

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Authorization of Services - Crosspoint Testing and Inspection Services, LLC**
Date:	**February 21, 2023**

Proposed Motion

To approve an Authorization of Services (AOS) with Crosspoint Testing and Inspection Services, LLC (Crosspoint) to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project in an amount not to exceed $114,150 under CIP1201.

Narrative

The Terminal Annex Modernization project has become necessary due to the age and deterioration of the current modular facility. McCarthy Building Companies, Inc., has demolished the four-gate temporary facility and started the construction of the new, five-gate, 30,000 SF Terminal addition.

In support of large capital projects, the Airport utilizes professional Engineering Services. These services are needed to ensure that the Airport manages the project in accordance with project specifications, and to ensure compliance with federal and state grant requirements. Specifically, Special Inspections performed as required by and in accordance with the 2018 International Building Codes (IBC) Chapter 17 for structural components associated with buildings and Fireproofing Inspection is also required.

In 2022, a Request for Qualifications, 2023-016-RFQ for Structural Special Inspection and Fire Proofing Special Inspection Services was issued. Crosspoint was selected as the most qualified firm. In accordance with the terms of our Contract, 20230155, Crosspoint worked with Airport staff to refine a Scope of Work to perform inspection and testing of structural steel welding at the fabrication shop and in the field; along with inspections and testing that will include, but are not limited to, the following: Fabrication Welding, Field Welding, Visual Verification of Moment Frame, High Strength Bolts, Verification of Spray Applied Fireproofing and Firestop Verification.

Fiscal Impact

The funds for these Inspection Services are included in the Terminal Modernization Project, which is included in the FY23 Capital Budget under CIP1201.

Attachment(s): Authorization of Services

RESOLUTION NO. 23-04

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to approve an Authorization of Services (AOS) with Crosspoint Testing and Inspection Services, LLC (Crosspoint) to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project in an amount not to exceed $114,150 under CIP1201;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby approves an Authorization of Services (AOS) with Crosspoint Testing and Inspection Services, LLC (Crosspoint) to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project in an amount not to exceed $114,150 under CIP1201. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of February, 2023.

_____
Brigette Peterson, Chair

ATTEST:

_____
Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

_____
Jill Casson Owen, Attorney

AUTHORIZATION OF SERVICES
Crosspoint Testing and Inspection Services, LLC, AOS 20230155-2301

The signing of this Authorization (Agreement) by Phoenix-Mesa Gateway Airport Authority (PMGAA) and Crosspoint Testing and Inspection Services, LLC, 7931 Pecos Road, Suite 203, Mesa, AZ 85212 ("Crosspoint"), authorizes Crosspoint to carry-out and complete the services described below in consideration of the mutual covenants set forth below:

1. **PROJECT**: Structural Engineering and Fire Proofing Inspection Services for the Terminal Modernization Project under CIP 1201.

2. **SCOPE OF WORK**: To Provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization Project. This project will include, but will not be limited to, the following: Fabrication Welding, Field Welding, Visual Verification of Moment Frame, Verification of Spray Applied Fireproofing and Firestop Verification.

3. **FEE FOR SERVICES**: The fee for services shall be based upon the attached scope of work, not to exceed One hundred fourteen thousand, one hundred fifty dollars and zero cents ($114,150), under CIP 1201, without the express written approval of PMGAA.

4. **AVAILABILITY OF PROJECT FUNDING:** The approval and continuation of this contract is subject to the availability of funds provided to, made available to, or appropriated by PMGAA for this purpose. In the event that funds are not available or appropriated for PMGAA's payment requirements under this contract for the goods and/or services to be provided hereunder, PMGAA may terminate this contract by providing notice to the consultant of the lack of the availability of funds. The consultant acknowledges and agrees that one source of funding for this contract may be funds made available from the Federal Aviation Administration and/or Arizona Department of Transportation, PFC funds, Non-Grant funds and that this contract, its approval and continuation, may contingent on the availability of those funds being made to PMGAA.

5. **INCORPORATED:** The following documents are hereby incorporated with this Authorization of Services and made part thereof:

   ☑ PMGAA Agreement 20230155 dated January 2023.

6. **ATTACHED:** The following documents are attached to this Agreement and are incorporated herein by this reference made part thereof:

☑ Scope and Fee Proposal dated January 8, 2023.

PMGAA and Crosspoint acknowledge that they are in agreement with the terms and conditions as set forth in this Authorization.

APPROVED FOR PMGAA:

By:_____

Print: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date:_____

ACCEPTED FOR Crosspoint:

By: Brent A Couch

Print: Brent A Couch

Title: Managing Member

Date: 01/10/2030

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-05

To: Board of Directors
From: Shea Joachim, CEcD, Business Development Director
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: Allegiant Air, LLC, Facility Lease Agreement – 6250 S Taxiway Circle
Date: February 21, 2023

Proposed Motion

To authorize a facility lease agreement with Allegiant Air, LLC for the property located at 6250 S. Taxiway Circle, Mesa AZ 85212. The lease term is five years commencing on March 1, 2023.

Narrative

The facility located at 6250 S Taxiway Circle is currently vacant. Allegiant Air, LLC ("Allegiant") seeks to lease the entire facility which is approximately 61,798 SF. Allegiant intends to utilize the facility for aircraft maintenance and other functions to support their operation at the Airport.

Agreement Term and Rate

The term of this facility lease agreement is five (5) years.

The Base Rent is $679,795.32 annually or $56,649.61 per month. The Base Rent will increase by three percent (3%) on every twelve-month anniversary of the Effective Date.

Allegiant will also pay a Fire Suppression System Maintenance Fee of $1,970.83 per month.

Attachment(s)

Facility Lease Agreement

RESOLUTION NO. 23-05

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a facility lease agreement with Allegiant Air, LLC for the property located at 6250 S. Taxiway Circle, Mesa AZ 85212. The lease term is five years commencing on March 1, 2023;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a facility lease agreement with Allegiant Air, LLC for the property located at 6250 S. Taxiway Circle, Mesa AZ 85212. The lease term is five years commencing on March 1, 2023. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of February, 2023.

_____
Brigette Peterson, Chair

ATTEST:

_____
Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

_____
Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority

FACILITY LEASE

with

Allegiant Air, LLC

Effective Date: **March 1, 2023**

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Phoenix-Mesa Gateway Airport Authority
FACILITY LEASE

This Facility Lease (the "**Lease**") is executed to be effective the FIRST (1ST) day of MARCH 2023 ("**Effective Date**") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **ALLEGIANT AIR, LLC** a Nevada Limited Liability Company authorized to do business in the State of Arizona ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

WITNESSETH:

WHEREAS, Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona ("**Airport**"); and

WHEREAS, Lessor has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Lease in respect thereof; and

WHEREAS, Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport located at 6250 S. Taxiway Circle, Mesa, AZ 85212 and described as building 1084, consisting of approximately SIXTY-ONE THOUSAND, SEVEN HUNDRED NINETY-EIGHT (61,798) square feet, and situated on a portion of Lot 50E, as set forth in **EXHIBIT A** attached hereto ("**Premises**"); and

WHEREAS, Lessor desires to lease the Premises to Lessee on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. LEASE

Lessor hereby leases the Premises to Lessee, subject to all easements and rights of way that may encumber the Premises, and further subject to all operational and use restrictions and other terms and conditions set forth in this Lease.

1.1 Right to Use Premises. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor and those claiming through Lessor. Lessee specifically acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed, except for representations and warranties contained in this Lease. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense. Lessor agrees to cooperate with Lessee, at no or nominal cost to Lessor, in connection with such activities and undertakings.

1.2 Substitution of Premises. In addition to Lessor's other rights set forth in this Lease, Lessor reserves the right, upon no less than Ninety (90) calendar days prior written notice to Lessee, to substitute

Comparable Areas for all or any portion of the Premises, including any additions, alternations or improvements thereon, should Lessor, in its reasonable discretion, determine that taking of the Premises, any portion thereof or any improvement thereon, is required for other Airport purposes, and there exists no appropriate alternative. In the event Lessor makes the determination to exercise its rights to substitute, all title, right and interest to the portion of the Premises taken shall immediately vest in Lessor on the date that is Ninety (90) calendar days following receipt of Lessor's notice, or such later date as specified therein. Furthermore, Lessor may require Lessee to vacate any portion or all of the Premises taken. For the purposes of this Section 1.2, the term "Comparable Areas" is defined to mean other facilities at the Airport, or any additions or extensions thereof, similar in size to the Premises, brought to the same level of improvement as the Premises and having the same or similar usefulness to Lessee as the portion taken. Lessor shall bear all expenses of bringing the substituted area to the same level of improvement as the Premises, and of moving Lessee's improvements, equipment, furniture and fixtures to the substituted area. If any of Lessee's improvements, equipment, furniture or fixtures cannot be relocated, Lessor shall replace, at Lessor's expense, such non-relocatable improvements and other property with comparable property in the Premises, and Lessor shall be deemed the owner of the non-relocated improvements and other property, free and clear of all claims of any interest or title therein by Lessee, or any other third party whomsoever. It is the specific intent of this Section 1.2 that Lessee be placed, to the extent possible, in the same position it would have been, had Lessor not substituted new premises for the Premises; provided, however, that Lessor shall not be obligated to reimburse Lessee for any damages, including lost profits or revenues, due to such substitution. Notwithstanding the foregoing, Lessor shall use reasonable efforts to avoid disruption to Lessee's business.

1.3 Access. Lessee is granted the right of reasonable access to and from the Premises via such portions of the Airport as are or may be necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport. Lessor reserves the right to designate the location of such access and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 Permitted Uses. Subject to the provisions of SECTION 1.5, Lessee may use the Premises for aircraft maintenance, parts storage, administrative offices, commissary, and other ancillary aeronautical uses. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules and regulations of any governmental authority, including Lessor, and to Lessee's compliance with applicable provisions of the *Airport Rules and Regulations* and *Airport Minimum Standards*.

1.5 Prohibited Activities. Lessee shall not use or permit its agents, employees, contractors, invitees, licensees or customers to use the Premises or the Airport for any use that is in violation of the *Airport Rules and Regulations*, the *Airport Minimum Standards*, any matters of record, or applicable laws, rules, regulations and operating policies of any governmental authority, including Lessor, or for any other activity or operation not specified in SECTION 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director.

1.6 On-Site Manager. Upon commencement of business operations at and on the Premises and the Airport, Lessee shall designate an on-site manager for the term of this Lease who shall be available to Lessor and Lessee's customers, if any, during normal business hours, and otherwise as required by the *Airport Minimum Standards*, as applicable.

1.7 Lessee Acknowledgement. Lessee acknowledges and agrees that its obligations to pay Base Rent and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Lessor or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the

Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

1.8 Vehicle Parking. Lessee shall be permitted to use FIFTY (50), unassigned, vehicular parking spaces for Lessee's employees, customers, and/or contractors. The location of Lessee's vehicular parking spaces are depicted in **Exhibit C**.

2. TERM

2.1 Initial Term. The initial term of this Lease shall be for a period of FIVE (5) years, commencing on the Effective Date and terminating on FEBRUARY 29, 2028 thereafter ("**Term**").

2.2 Renewal Term(s). Provided Lessee is not then in default of this Lease and subject to written approval of Lessor, the Parties shall have the option of extending the Term for TWO (2) additional periods of ONE (1) year each (each, individually, "**Extension**"). Lessee may initiate an Extension by giving written notice to Lessor of its desire to do so no later than NINETY (90) calendar days prior to the expiration of the Term, as set forth in SECTION 2.1 herein. If Lessee has properly notified Lessor of its desire to exercise an Extension and Lessor approves such in writing, then Lessee's Extension of the Term of this Lease shall become effective and all references herein to "Term" shall mean the initial term as extended.

2.3 Cessation of Commercial Service. Lessee is a signatory air carrier at the Airport. If Lessee ceases its commercial passenger service operation at the Airport, Lessee shall have the right to terminate this Lease by providing Lessor with 30-days advanced written notice.

3. NONEXCLUSIVE RIGHTS

Lessee shall have the exclusive right to occupy and use the Premises while in compliance with the terms and conditions of this Lease, subject to Section 27 below. All other rights granted to Lessee under this Lease are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport that Lessor deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with Lessee's use of the Premises.

4. RENT

4.1 Base Rent. Subject to the increases provided Section 4.3 and 4.4 below, Lessee agrees to pay Lessor annual rental for the use of the Premises in the amount of SIX HUNDRED SEVENTY-NINE THOUSAND EIGHT HUINDRED DOLLARS ($679,795.32), payable in equal monthly installments of FIFTY-SIX THOUSAND SIX HUNDRED FORTY-NINE AND 61/100 DOLLARS ($56,649.61) ("**Base Rent**").

The Base Rent shall be payable in advance, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer.

4.1 Rent Commencement. Base Rent and the Monthly Fire Suppression Maintenance Fee shall become due and payable on APRIL 1, 2023 (the "Rent Commencement Date").

4.2 Rent Increases. The annual Base Rent paid by Lessee shall be increased (but never decreased) on every Twelve (12) month anniversary of the Effective Date of this Lease by THREE PERCENT (3%)

4.3 Monthly Fire Suppression System Maintenance Fee. In addition to the Base Rent and any other fees owed Lessor hereunder, Lessee shall pay Lessor monthly, in advance, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever, a monthly fire suppression system maintenance fee (the "Fire Suppression System Maintenance Fee") in the amount of ONE THOUSAND

NINE HUNDRED SEVENTY AND 83/100 (1,970.83), or the applicable fee specified in the Lessor's *Airport Rates and Charges Schedule*, for Lessor's maintenance of the fire suppression system serving the Premises.

4.4 Airport Rates and Charges Schedule. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* and *Airport Fees, Services and Rental Rates Schedule* are included as **EXHIBIT B** and are subject to change without prior notice to or approval of Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at any time at Lessor's sole discretion. No fee shall apply to the use of the Premises or access to the Premises.

4.5 Payment.

4.6.1 Unless otherwise specified herein, the first payment of Base Rent and the Monthly Fire Suppression Maintenance Fee shall be paid to Lessor upon the delivery of this Lease, for the period from the Rent Commencement Date until the end of the calendar month in which the Rent Commencement Date occurs, prorated on the basis of the number of such days to the total number of days in said month. Thereafter, all Base Rent and Monthly Fire Suppression Maintenance Fee payments shall be paid in monthly installments, in advance, on the first day of each calendar month.

4.6.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.6.3 All payments (and reports, if any) required by this SECTION 4.5 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by Lessor to Lessee.

4.6 Finance Charges and Late Fees. If Lessee fails to pay any installment of Base Rent or any other charge due and owing to Lessor in full on or before the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (but not to exceed the maximum interest rate permissible by law), from the due date until payment in full is made. In addition, in the event any installment of Base Rent or other charge owing to Lessor is paid more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent Base Rent installment or other charge shall be due and payable in addition thereto.

4.7 Taxes. Lessee shall pay, prior to delinquency, any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax or assessment imposed during the Term against the Premises or as the result of Lessee's occupancy of Premises or conduct of any activity at the Airport under authority of this Lease, including any such tax assessable on Lessor. Lessee shall pay such taxes and assessments directly to the taxing authority charged with collecting such taxes and assessments, provided that in the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor and to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business, Lessee shall pay such amounts to Lessor in the manner set forth in Section 4.7. Such taxes to be paid directly to Lessor include, without limitation, payment of all rent taxes, i.e. taxes imposed specifically on the gross receipts in the form of rent received by Lessor.

4.8 Survival. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

5. PERFORMANCE GUARANTEE

5.1 Security Deposit.

5.1.1 On or before the Effective Date, Lessee shall pay to Lessor an amount equivalent to FIFTY-SIX THOUSAND SIX HUNDRED FIFTY DOLLARS ($56,650.00), as a security deposit ("Security Deposit") to insure the faithful performance of all of Lessee's obligations hereunder.

5.1.2 The Security Deposit, at the election of Lessor, may be applied in reduction of any loss and/or damage sustained by Lessor by reason of the occurrence of any breach, nonperformance or default by Lessee under this Lease without the waiver of any other right or remedy available to Lessor at law, in equity or under the terms of this Lease. If any portion of the Security Deposit is so used or applied, Lessee shall, within FIVE (5) business days after written notice from Lessor, deposit with Lessor immediately available funds in an amount sufficient to restore the Security Deposit to its original amount. In the event of a sale or other transfer of the Premises by Lessor, Lessor shall transfer the remaining balance (if any) of the Security Deposit to Lessor's successor in interest, whereupon the transferor Lessor shall be released from liability to Lessee for the return of such Security Deposit. Unless this Lease is terminated as a result of Lessee's default whereupon Lessee shall immediately forfeit its Security Deposit to Lessor, upon termination, Lessor shall return to Lessee all portions of the Security Deposit which were not otherwise applied by Lessor as permitted above. Lessor shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

5.2 Construction Payment and Performance Guarantees.

5.2.1 Payment Guarantee. Notwithstanding and in addition to the Security Deposit, Lessee shall protect claimants supplying labor and materials in connection with any construction on the Premises, by providing, at Lessee's sole cost and expense and prior to commencement of construction of any improvements on the Premises, one of the following instruments, chosen at Lessee's discretion:

(a) Payment Bond. Lessee shall require the contractor to provide a labor and materials payment bond in the full contract amount to protect claimants supplying labor and materials in connection with the construction. The bond shall comply in all respects with the requirements of A.R.S. § 33-1003 as it may be amended or renumbered from time to time. The parties agree that Lessee is not a public body, and the improvements to be constructed under this Lease by Lessee at Lessee's sole cost are not public buildings, public works or public improvements. The bond shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety. The bond and a copy of the contract shall be recorded in the office of the Maricopa County Recorder as required under A.R.S. § 33-1003, and a copy of the bond shall be provided to Lessor; or

(b) Letter of Credit. Such instrument ("**Letter of Credit**") shall be irrevocable, in an amount equal to the total amount of the construction contract(s) for the construction of the Improvements (as defined in Section 7 below) plus TEN PERCENT (10%) of such amount ("**Improvement Costs**") and be issued to Lessee by a financial institution ("**Bank**") reasonably acceptable to Lessor. The Letter of Credit shall have a term extending from the date of commencement of construction until the date which is TWENTY-FOUR (24) months thereafter, after which date it shall be renewed on a year-to-year basis until construction of the Improvements are completed, and final and unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Should Lessee utilize the Letter of Credit option hereunder, and should Lessee fail to pay any sum owing to contractors supplying labor and materials in connection with the construction then, in addition to any other remedies set forth in this Lease, Lessor shall be entitled to apply to the Bank, following a period of THIRTY (30) calendar days prior written notice to Lessee (which notice shall include a reasonably-detailed description of Lessee's failure to pay any sum owing), for release to Lessor (in accordance with the terms of the Letter of Credit) from the Letter of

Credit of a dollar amount sufficient to pay amounts owing to contractors supplying labor and materials in connection with the construction and obtain final, unconditional lien waivers in connection therewith. Lessor's application shall contain evidence of the failure of payment and the estimated dollar amount needed to satisfy payment obligations. The terms of the Letter of Credit shall require prompt payment to Lessor for the amount set forth in Lessor's application upon satisfaction of the conditions set forth in the Letter of Credit. Upon and following any partial payment to Lessor, the Letter of Credit shall remain in full force for the remaining undisbursed amount of the Letter of Credit to accommodate further applications, if any, and shall not be subject to cancellation or revocation until fully drawn or otherwise released or satisfied upon completion of construction of the Improvements and final, unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Lessor must approve the form and content of any Letter of Credit in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.

5.2.2 Performance Guarantee. In addition to the Security Deposit, Lessee's obligation to timely complete the Improvements shall be secured, at Lessee's sole cost and expense and prior to commencement of construction of said Improvements, by any one of the following instruments, chosen at Lessee's discretion:

(a) Performance Bond. Lessee shall require the contractor to provide a performance bond in the full contract amount conditioned upon the faithful performance of the contract in accordance with plans, specifications and conditions thereof. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.; or

(b) Completion Bond. Lessee shall deliver to Lessor a completion bond in form and substance reasonably acceptable to Lessor pursuant to which Lessor shall have the unconditional, direct and unilateral right to draw upon or use such bond for completion of construction of the Improvements under Section 7.1 of this Lease if an Event of Default occurs and is continuing under Section 7.2. of this Lease. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.

6. AIRPORT OPERATING AGREEMENT

If and to the extent that Lessee, including its subtenants, contractors, and agents, operates aircraft at or on the Airport, Lessee shall enter, or shall cause its subtenants, contractor or agent to enter, into an operating agreement with Lessor covering such operations prior to the commencement of any such operations. If any of Lessee's subtenants, subcontractors or agents have not entered into its own *Airport Operating Agreement* and is operating under Lessee's *Airport Operating Agreement*, Lessee shall be responsible for such subtenant's contractors or agents compliance with Lessee's *Airport Operating Agreement*. Lessee shall be responsible for compliance by its subtenants, contractors and agents with the *Airport Rules and Regulations* and *Airport Minimum Standards*.

7. IMPROVEMENTS

7.1 Reserved.

7.2 Reserved.

7.3 No Alterations. Lessee shall make no material improvements or alterations to the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld or delayed and, if and to the extent applicable, without the approval by Lessor's Design Review Committee. Lessee shall provide Lessor with electronic as-built drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 Title to Alterations and Improvements. Title to all improvements and alterations on the Premises (but not personal property or trade fixtures) shall automatically vest in Lessor upon the expiration or termination of this Lease, and Lessee agrees to execute and deliver to Lessor, within TEN (10) business days after Lessor's request therefor, a quitclaim deed or other instrument satisfactory to Lessor confirming that title to such improvements and alterations is vested in Lessor. This Section 7.4 shall survive the termination of this Lease.

7.5 Mechanics' Liens. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within THIRTY (30) calendar days of notice thereof.

7.6 Permit Required. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa ("**City**") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment or use. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and the associated plans and specifications.

7.7 Damage or Destruction. Lessee shall maintain insurance on all of Lessee's Improvements to the Premises, including any subsequent alterations and improvements thereto. In the event that all or any portion of Lessee's Improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall replace, repair, restore, modify or improve said Improvements, subject to the provisions of SECTION 7.6, using available insurance proceeds together with any additional funds from other available sources, or, alternatively, Lessee shall pay the replacement cost of the Improvements to Lessor.

8. MAINTENANCE

8.1 *Lessee*. Lessee shall, at its sole cost and expense, keep the Premises and all improvements therein in a neat and clean condition and in good order, condition and repair throughout the Term. In doing so, Lessee shall prepare, maintain and follow a preventative maintenance schedule for all mechanical, electrical, plumbing, drain, piping and air conditioning systems on the Premises, and, upon request, provide a copy of such schedule to Lessor and, if required by Lessor, a list of the dates on which such maintenance was actually done. Lessee's maintenance of the Premises shall include, without limitation, the inspection, servicing and repair of all systems and improvements, including the boilers, interior roof and structures, hangar doors, electrical, plumbing, heating and cooling, pavements, pest control, landscaping and grounds maintenance.

8.2 *Lessor*. Lessor shall, at its sole cost and expense, sustain and maintain the structural integrity of the Premises, including the exterior roof, fire suppression system and all utility connections where they enter the Premises throughout the Term.

8.3 Damage to Lessor Property. Any real or personal property of Lessor damaged or destroyed by Lessee as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the satisfaction of Lessor. In lieu of such repair or replacement, where required by Lessor, Lessee shall pay to Lessor an amount sufficient to compensate for the loss sustained by Lessor.

8.4 Trash Removal. Lessee shall at all times keep the Premises in a neat, clean, safe, sanitary and orderly condition and shall keep such area free of all trash and debris. Lessee shall, at Lessee's expense, be responsible for all trash removal from the Premises. Such trash removal shall be performed on a not less than weekly basis, and all trash shall be disposed of off the Airport. Prior to its removal from the Airport, Lessee shall deposit all trash and debris only at collection stations located on the Premises, in accordance with City code.

8.5 Emergency Repairs. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as they occur.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS

9.1 Any Transfer of Lease Interest Requires Lessor Advance Written Approval. In the event Lessee desires to transfer, assign, encumber, pledge or hypothecate any portion of its interest in this Lease or any right or interest hereunder (including, but not limited to as part of a mortgagor deed of trust or an assignment by means of a foreclosure or trustee's sale thereunder)(individually and collectively, "**Transfer**"), Lessee must obtain the prior written consent of Lessor, with such consent to be the in sole and absolute discretion of Lessor without exception. In connection with Lessee's request for Lessor's approval of a Transfer, Lessee and or the proposed transferee shall provide to Lessor written financial assurances, including, but not limited to financial statements, business plans and other information related to the financial condition and plans of any proposed transferee. Notwithstanding a Transfer, unless released in writing by Lessor in its sole and absolute discretion, Lessee shall remain liable at law and at equity, as well as financially liable, under the Lease, regardless of whether the assignee expressly assumes in writing all of Lessee's obligations under this Lease or in the case of a sublease. Lessee understands and agrees to these terms and conditions regarding any proposed Transfer, and that any violation of this Section 9, may irreparably harm Lessor as the requirements set forth herein are directly related to Lessor's (and any Lessee's) legal and financial obligations to the Federal Aviation Administration. This Section 9 shall remain valid and enforceable even in the event of amendment to or repeal of FAA regulations, so long as this Section 9 does not directly conflict therewith.

9.2 Lessee's Required Advance Notice to Lessor of Proposed Transfer. In order for Lessor to consider approval of a Transfer, Lessee must: (i) notify Lessor in writing at least Forty-five (45) days prior to such proposed transfer; (ii) deliver to Lessor, at the time of Lessee's notice, current financial statements of Lessee and the proposed transferee (along with transferee's business plans) that are reasonably acceptable to Lessor; and (iii) the transferee assumes and agrees in writing to perform Lessee's obligations under this Lease. However, nothing herein shall be construed as Lessor providing its consent to any Transfer or relieving Lessee of any legal, financial or other obligation under the Lease, regardless of Lessor's acceptance or refusal to accept such proposed transfer of Lease.

9.3 Deemed Transfers. For the purposes of this Lease, a Transfer shall be deemed to include the following: (i) if Lessee is a corporation, partnership, limited liability company or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Lessee. For purposes of this Lease, "control" shall mean possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of a majority of the voting securities of the entity.

9.4 Subletting. Lessee shall not sublease the Premises or any portion thereof at any time during the Term of this Lease.

10. IDENTIFICATION SIGNS

Lessee may install on the building in which the Premises is located, a sign or signs identifying its business on the exterior of the Premises; provided, however, that the general type, size, and location of such sign(s) shall conform to Lessor's Comprehensive Sign Plan, be approved in writing by Lessor in advance of installation and be subject to any signage rules, codes and/or regulations of any governmental authority.

11. DEFAULT; TERMINATION BY LESSOR

11.1 Events of Default. Each of the following shall constitute a material default of this Lease by Lessee ("**Event of Default**"):

11.1.1 Failure to pay any installment of Base Rent or other amount due from Lessee hereunder, or required by any other agreement between the Parties, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 Failure to perform any of its other obligations under this Lease, provided that Lessee does not cure such failure within THIRTY (30) calendar days after delivery by Lessor of a written notice of such default; and further provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued, not to exceed ONE HUNDRED TWENTY (120) days.

11.1.3 The filing of any mechanic's, materialmen's or other lien of any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Lessee.

11.1.4 The Transfer or attempted transfer of any interest in the Lease to any transferee without Lessor's advance written authorization, which Lessor may withhold in its sole and absolute discretion.

11.2 Lessor's Remedies. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, but subject to the provisions of SECTIONS 9.2 and 23 herein, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Base Rent, re-entry for condition broken, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

11.3 No Implied Termination. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and shall save Lessor harmless from all losses, costs or damages occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 Lessor's Current Damages. Upon the occurrence and during the continuance of an Event of Default, Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the reasonable costs and expenses incurred in respect of such repairs, redecorating, refurbishments and improvements shall be paid by Lessee to Lessor within TEN (10) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the amount of the Base Rent and all other payments which would be payable under this Lease by Lessee for the remainder of the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's reasonable expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs, redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence ("**Deficiency**"), in monthly installments on the days on which the Base Rent would have been payable under this Lease as if this Lease were still in effect.

11.5 Lessor's Final Damages. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover (without duplication) from Lessee, and Lessee shall pay to Lessor, promptly on demand, as Lessor's final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount of SIX PERCENT (6%) per annum) of (i) the aggregate of the Base Rent and all other amounts to be paid by Lessee hereunder for the unexpired portion of the Term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of Rent and any losses that could have been reasonably avoided, plus (b) reasonable repossession costs, reasonable Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), reasonable attorneys' fees, reasonable legal expenses, and all other damages incurred by Lessor as a result of such Event of Default. In determining the amount of loss that could reasonably be provided, rents to be paid by subtenants pursuant to Section 9.4, if applicable, and other reasonably projected rental income from leasing the Premises shall be taken into account.

11.6 No Waiver by Lessor. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 Content of Default Notice. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it is reasonably calculated to put Lessee on inquiry as to the nature and extent of such default, and is made in accordance with SECTION 19 herein.

11.8 Limitation on Exercise of Termination Remedy by Lessor. Notwithstanding anything to the contrary in SECTION 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay Base Rent or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Other remedies that are available to Lessor include self-help and recovery of damages, and nothing in this SECTION 11 shall limit the exercise of any such other remedy.

11.9 Subordination of Landlord's Lien. Lessor hereby agrees from time to time to subordinate to one or more Leasehold Mortgagees all statutory or common law landlord's lien rights with respect to property or assets of Lessee located on the Premises, including, without limitation, Lessor's rights under Arizona Revised Statutes Sections 33-361 and 362 and other similar laws. Upon written request from Lessee, Lessor agrees to promptly execute and deliver such commercially reasonable landlord subordination agreement and access agreement that any Leasehold Mortgagee may request of Lessor. Lessee shall reimburse Lessor for reasonable third-party costs, including reasonable attorneys' fees, incurred by Lessor in connection with the review and negotiation of any such agreement within THIRTY (30) days after receipt of an invoice from Lessor.

12. RESERVED

13. INDEMNIFICATION

To the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this Section 13 for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term; (ii) any negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessee" for purposes of this Section 13.1) on the Premises or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor; and/or

(iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors or agents.

14. ENVIRONMENTAL PROTECTION

14.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this SECTION 14.1 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 *Environmental Laws*. The term "Environmental Laws" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 USC Section 9601 et seq.; the *Solid Waste Disposal Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; A.R.S. Title 49; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient (including indoor and outdoor) air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

14.1.2 *Hazardous Material*. The term "Hazardous Material" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Laws, per- and polyfluoroalkyl substances, and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils). For purposes of this definition, per- and polyfluoroalkyl substances shall include aqueous film-forming foams

14.2 Environmental Compliance.

14.2.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting Lessee's activities on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.2.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Laws. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Laws.

14.2.3 RESERVED

14.3 Indemnification. To the fullest extent permitted by law, Lessee shall indemnify, defend (with counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment, the presence of Hazardous Material on the Premises, Airport or neighboring properties, or violation of any Environmental Laws or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this SECTION 14.3 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity. This SECTION 14.3 explicitly excludes Lessee's duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is caused by or exacerbated by Lessee or unknown contamination is caused by or exacerbated by Lessee's negligence.

14.4 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Laws, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this SECTION 14.4, Lessor is not responsible for directing or managing any remediation action. The term "Release" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. This SECTION 14.4 also applies to Lessee's remediation of any contamination of any kind existing on the Premises or Airport prior to the Effective Date, including any such contamination that may be first discovered after the Effective Date but not caused by Lessee.

14.5 Governmental Submittals. Lessee shall, at Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any Release of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.6 Information Sharing.

14.6.1 Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a violation of Environmental Laws, and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the

Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Premises, to the extent that such investigations or claims are related to Lessee's activities thereon.

14.6.2 Reserved.

14.7 Reserved.

14.8 Actions of Lessee. The activities or actions of Lessee under this SECTION 14 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors, invitees and successors.

14.9 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.10 Reserved.

14.11 Protective Devices and Plans. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge, and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.12 Right to Enter Premises. In addition to the rights afforded to Lessor in SECTION 18, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency ("**EPA**"), ADEQ, Lessor, and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.13 U.S. Air Force Use and Remedial Action.

14.13.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use

of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this SECTION 14.13, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release.

14.13.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Lessor or Lessee is a potentially responsible party with respect to any portion of the Premises or the Airport.

14.14 Cleanup Requirements. Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have no claim against Lessor or the United States or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by Governmental Authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.15 Spill Protection Plan. In the event Lessee undertakes any type of manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Lessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements, and shall be approved by all agencies that are obligated by law to approve such plan. Such plan shall be independent of Lessor's spill prevention and response plans, if any. Lessee shall not rely on use of Lessor or Lessor personnel or Lessor equipment in execution of its plan. Lessee shall file a copy of the plan and amendments thereto with Lessor's Environmental and Safety Coordinator within THIRTY (30) calendar days of receipt of a CofO from the City. Notwithstanding the foregoing, should Lessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Lessee, or because Lessee was not, in the opinion of Lessor, conducting firefighting, containment or timely cleanup actions, Lessee agrees to reimburse Lessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Lessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Lessor or its employees, agents or contractors..

14.16 Wells. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor.

14.17 Surface Disturbances. After construction of Lessee's Improvements on the Premises as provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of

the surface other than what is usual and customary for the anticipated uses without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned or delayed.

15. PROTECTION OF WETLANDS

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises. Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the United States Army Corps of Engineers and obtain a permit or waivers under Section 404 of the Clean Water Act(or if such regulatory authority has been delegated to ADEQ, shall obtain the equivalent permit or waivers from ADEQ). For purposes of this SECTION 15, the term, "new construction," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. INSURANCE

16.1 Coverage Required. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

16.1.1 *Aircraft Liability* insurance in the amount of $5,000,000 per occurrence covering third party bodily injury and property damage, as well as passenger and contractual liabilities for claims arising in connection with aircraft movements on the Airport and insuring against third party liabilities arising from War Risk peril (e.g. acts of terrorism).

16.1.2 *Airport Premises Liability* insurance in the amount of $10,000,000 per occurrence, covering third party bodily injury and property damage, and including coverage for "premises/operations," "products and completed operations," "professional," "host liquor" and "blanket contractual liabilities."

16.1.3 *Business Interruption* insurance in an amount equal to 12-months' loss of Lessee income for operations/activities occurring on or at the Airport due to fire or other catastrophe; optional Extra Expense coverage also is recommended (but not required) to facilitate covering expenses beyond normal operating expenses that might otherwise preclude the business from shutting won during post disaster restoration.

16.1.4 *Comprehensive/Commercial Automobile Liability* insurance in the amount of $5,000,000 per occurrence, covering all owned, non-owned and hire vehicles operated on the Airport that are assigned to or used in the performance of "commercial" activities, or are operated within the AOA; an MSC 90 Endorsement also is required due to the Lessee's aircraft fuel service activities

16.1.5 *Environmental Impairment Liability* (or Pollution Legal Liability) insurance in the amount of $2,000,000 per occurrence, covering third party bodily injury and property damage associated with hazardous material storage facilities, tanks, piping, ancillary equipment and containment systems or structures that are used, controlled, constructed or maintained on the Airport, and including expenses for defense, release mitigation and off and on site remediation.

16.1.6 *Hangarkeeper's Liability* insurance in the amount of $5,000,000 (or the value of the largest aircraft that may be in the custody and/or control of the Lessee, if greater) per occurrence, covering aircraft and related damage to owned and non-owned aircraft stored by or otherwise in the care, custody or exclusive control of the Lessee on the Airport; coverage may be "ground" (if no test flying or other related airborne/aircraft powered operations (e.g., ferrying, ground taxiing) are conducted) or "air," and is required anytime aircraft are "moved" by the insured, irrespective of whether or not a physical hangar facility is involved.

16.1.7 *Property* insurance in an amount equal to the full insurable value of the Lessee's essential personal property and all improvements made to buildings or facilities on the Lessee's premises, including all replacements and/or additions thereto, on an All Risks, replacement-cost basis. Such shall require an ISO Special Causes of Loss Form or equivalent.

16.1.8 *Workers' Compensation and Employer's Liability* insurance, the former in amounts specified by-law and the latter in the amount of $1,000,000 per occurrence, covering work-related injuries to the Lessee's employees and others permitted to conduct commercial aeronautical activities on the Lessee's premises.

16.2 Form. Each insurance policy obtained pursuant to this SECTION, except for Worker's Compensation and Employer's Liability policies, shall: (i) name Lessor as a certificate holder and additional named insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

16.3 Certificates of Insurance. Lessee shall deliver a certificate of insurance for each policy required along with an endorsement naming Phoenix-Mesa Gateway Airport Authority as additional insured, herein to Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the term of this Lease.

16.4 Additional Insurance. At any time during the term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this SECTION 16 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

16.5 Blanket Insurance. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

16.6 Insurance by Lessor. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this SECTION. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within TEN (10) business days after Lessor advises Lessee of the cost thereof.

17. SURRENDER OF POSSESSION

17.1 Condition of Property.

17.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear. All trade fixtures, equipment, and other personal property installed or placed by Lessee on the Premises which are not permanently affixed thereto shall remain the property of Lessee, and Lessee shall have the right at any time during the term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall be deemed abandoned, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

17.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required by Lessor, be permanently removed from the Premises by Lessee, at Lessee's expense, within FIVE (5) business days of Lease termination. Should Lessee fail to remove such trade fixtures, equipment or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other

property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

17.2 Holding Over. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Base Rent and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee.

18. INSPECTION BY LESSOR

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, in which event Lessor may enter immediately and shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee on the Premises.

19. NOTICES

19.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses or at such address as either Party may advise the other from time to time:

TO LESSOR: Phoenix-Mesa Gateway Airport Authority
Attn: Business Development Department
5835 South Sossaman Road
Mesa, Arizona 85212

TO LESSEE: Allegiant Air, LLC
Attn: Thayne Klinger, Director - Airports
1201 N. Town Center Drive
Las Vegas, NV 89144

19.2 Any notice shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service.

20. SEVERABILITY

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

21. APPROVALS, CONSENTS AND NOTICES

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

22. LIENS AND MORTGAGES

22.1 Fee Mortgagees. Lessor may mortgage its fee interest in the Premises.

22.2 Reserved.

23. GOVERNING LAW; ATTORNEY'S FEES

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

24. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act*), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall at all times comply with the *Airport Minimum Standards* and *Airport Rules and Regulations*, as the same may be amended from time to time. Copies of the current *Airport Minimum Standards* and *Airport Rules and Regulations* are attached hereto as **EXHIBIT D**. Lessee acknowledges and agrees that Lessor may amend the *Airport Minimum Standards* and *Airport Rules and Regulations* at any time in Lessor's sole discretion. Lessee shall be responsible for controlling and preventing disruptive pedestrian and vehicle traffic associated with its activities on the Premises and at the Airport. Lessee also shall display to Lessor any permits, licenses, or other evidence of compliance with laws upon request.

25. CORPORATE AUTHORIZATION

In executing this Agreement, Lessee represents and warrants to Lessor that if Lessee is a corporation, Lessee has obtained and been granted the full right, power and authority to enter into this Lease.

26. UTILITY LINES AND SERVICE CHARGES

26.1.1 Connections and Services. Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested in advance to do so by Lessee, Lessor will grant reasonable rights-of-way on or across the Airport to suppliers of public utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to designate the lands along which such rights-of-way shall be granted so as to cause the least inconvenience in the operation of the Airport and other Airport tenants.

26.1.2 Payment. Lessee shall pay for all utilities, including trash collection, used in its operations at the Airport and the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

26.1.3 Continued Use and Repair. Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises and the right to repair the same when necessary in Lessor's sole discretion, including but not limited to, any utility easements on the Premises. Lessor shall conduct such repairs in such a manner and at such times as to not unreasonably interfere with Lessee's activities thereon.

27. RESERVATIONS TO LESSOR

The Premises are accepted "as is, where is" by Lessee, subject to any and all existing easements or other encumbrances. Lessor reserves the right to grant reasonable easements, rights-of-way, and permits, over,

on, or across any portions of the Premises for commercially reasonable purposes; provided, that Lessor and the grantee, as applicable, shall not exercise such rights so as to unreasonably interfere with or disrupt Lessee's activities on the Premises, including the development of the Premises, to be determined in the reasonable judgment of Lessor and Lessee, and all such interference shall be minimized. Lessor shall provide Lessee reasonable notice of any plan to undertake the activities contemplated under this Section and shall coordinate with Lessee regarding the execution of such plans to minimize any interference with Lessee's or any subtenant's activities on the Premises. All work shall be in compliance with all applicable laws, including Environmental Laws, and the surface of the Premises shall be restored to its original condition, including any necessary remediation in accordance with Environmental Laws of any contamination associated with any Hazardous Material disturbed during any construction, at no cost to Lessee, upon the completion of any construction. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions obligating such parties to, at a minimum, the same conditions applicable to Lessor under this Section 27, including but not limited to that the surface of the Premises and any Improvements shall be promptly restored to their original condition, at no cost to Lessee, promptly upon the completion of any construction.

28. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

28.1 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, *Nondiscrimination in Federally Assisted Programs of the Department of Transportation,* as it may be amended.

28.2 Lessee agrees that: (a) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, creed, disability, age, sex or national origin in the use of the Premises; (b) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (c) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as it may be amended.

28.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age or handicap, be excluded from participating in any activity.

28.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom.

28.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

28.6 This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation or maintenance of the Airport.

28.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

28.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

28.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto, or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

28.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

28.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning 49 U.S.C. §40103(e) and 47107 (a)(4).

28.12 This Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

28.13 To the extent that Lessee conducts or engages in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users and charge reasonable and not unjustly discriminatory prices for each unit or service; except, however, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

28.14 Lessee shall conform to Lessor and FAA safety and security rules and regulations regarding use of the Airport air operations area including runways, taxiways, taxilanes and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; complete and pass an airfield safe driving instruction program when offered or required by Lessor; and be subject to penalties as prescribed by Lessor for violations of Airport safety and security requirements.

29. TITLE VI

29.1 Lessee agrees to comply with pertinent statues, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color or national origin, sex, age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee understands and acknowledges that the FAA requires inclusion of and adherence to the terms and conditions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) ("**Title VI**") in all airport/aviation lease agreements where Lessor receives federal funding, including the Lease in this instance.

29.2 During the Term, Lessee, for itself, its assignees, and successors in interest agrees as follows:

29.2.1 Compliance with Regulations. Lessee will comply with the Title VI List of Pertinent Non-Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

29.2.2 Non-discrimination. Lessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

29.2.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Lessee of Lessee's obligations under this Lease and the Non-discrimination Acts and Authorities on the grounds of race, color, or national origin.

29.2.4 Information and Reports. Lessee will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to the sponsor or the FAA as appropriate, and will set forth what efforts it has made to obtain the information.

29.2.5 Sanctions for Noncompliance. In the event of Lessee's noncompliance with the Nondiscrimination provisions of this Lease, Lessor will impose such default remedies as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Lessee under the Lease until Lessee complies; and/or
(b) cancelling, terminating, or suspending the Lease, in whole or in part.

29.2.6. Incorporation of Provisions. Lessee will include the provisions subsections 29.2.1 through 29.2.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

29.3 The Lessee for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (a) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (b) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (c) that Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Non-Discrimination Acts and Authorities.

29.4 During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following (which Lessor is required to disclose and include in such Lease and other agreements, pursuant to FAA regulation):

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 Stat. 252) (prohibits

discrimination on the basis of race, color, national origin);

- 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The FAA's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et *seq.*).

29.5 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

30. FEDERAL FAIR LABOR STANDARDS ACT

This Lease incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. Lessee has full responsibility to monitor compliance to the referenced statue or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

31. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This Lease incorporates by reference the provisions of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

32. INCORPORATION OF QUITCLAIM DEED

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government (the "**Deed**"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

32.1 That this Lease is subject to all terms and conditions of the Deed; and

32.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

33. REQUIRED PROVISIONS OF QUITCLAIM DEED

33.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

33.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

33.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

33.2 If the Premises are within any of the archaeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

33.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

34. AIRPORT SECURITY

34.1 Airport Security Plan.

34.1.1 Lessor's Operations Department maintains an approved Airport Security Plan ("**Security Plan**") pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Lessee shall at all times comply with Lessor's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

34.1.2 Lessee is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Lessor's Operations Department.

34.1.3 Lessee shall promptly upon written request from Lessor correct physical or procedural deficiencies caused by Lessee that are located on the Premises which are contrary to Lessor's Operations Department, security directives, security bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Lessor notifying Lessee of any deficiency, Lessor shall provide Lessee with a reasonably-detailed explanation of the deficiencies. Lessee shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

34.1.4 Lessee shall, to the fullest extent permitted by law, indemnify, defend and hold Lessor harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-lessees or independent contractors of Lessee.

34.1.5 Lessee shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("**TSA**") or Lessor's Operations Department and make such audits available for inspection.

34.1.6 Lessee shall designate a primary security coordinator to receive security related briefings, bulletins and sensitive security information.

34.1.7 Lessor reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Lessor's Operations Department shall notify the Lessee security coordinator regarding modifications that effect Lessee.

34.2 Airport Security Badge.

34.2.1 Lessee's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Lessor's Operations Department, TSA or other entity having security jurisdiction at the Airport. Lessee, Lessee's employees, and contractors will surrender security badges upon request by Lessor's Operations Department; physical security media (badges and keys) remain the property of Lessor. Within SEVENTY-TWO (72) hours of Lessor's confiscation of any security badges, Lessor shall provide Lessee with a reasonably-detailed explanation of the violations that caused Lessor to confiscate the security badges.

34.2.2 Lessee and Lessee's employees and contractors shall comply with all security related audits, inspections, and screenings conducted by Lessor's Operations Department.

34.2.3 Lessee will promptly return badges to Lessor's badging office when badge holders employment is terminated, the badge is no longer needed or the employee/contractor is on extended leave.

34.2.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining of badge holders, and/or suspension or revocation of one or all misused badges.

35. DEFAULT BY LESSOR

In the event of any alleged breach by Lessor of its covenants contained in this Lease, Lessee shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Lease; provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Base Rent, or any other payments to be made by Lessee hereunder.

36. BROKERS

Lessor and Lessee each represents and warrants to the other Party that it has not had any dealings with any real estate brokers, finders or agents in connection with this Lease. Lessor and Lessee each agrees to indemnify, defend (with counsel selected by the other) and hold the other Party and other Party's nominees, successors and assigns harmless from any and all claims, costs, commissions, fees or damages arising from a breach of such Party's representation and warranty in this Section.

37. SALE BY LESSOR

Lessee agrees to look solely to Lessor's interest in the Premises for the recovery of any judgment from Lessor, it being agreed that neither Lessor nor the holders of the equity interests of Lessor, nor the members, partners, officers, directors or shareholders of Lessor shall be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

38. ESTOPPEL CERTIFICATE

Lessee shall, without charge, at any time and from time to time hereafter, within TEN (10) business days after written request of Lessor to do so, certify, by written instrument duly executed and acknowledged by Lessee and certified to Lessor and to any prospective lender or purchaser: (a) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (b) as to the existence of any default hereunder to the best of Lessee's knowledge; (c) as to the date on which Lessee was obligated to commence paying Base Rent and all other charges hereunder and the expiration date of the Term; (d) as to whether the Lessee has assigned or transferred its interests or any portion thereof in this Lease; and (e) as to any other matters as may be reasonably requested. Lessor and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

39. UNAVOIDABLE DELAY

In the event either Party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Lease to be performed by such Party ("**Required Act**"), and such delay or hindrance is due to Unavoidable Delay (as defined below), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of Unavoidable Delay. For purposes of this Lease, "Unavoidable Delay" shall mean, with respect to either Party, an unavoidable delay in the performance by such Party of any non-monetary conditions or obligations under this Lease due including but not limited to: (a) construction delay to the extent caused by the other Party, (b) legal proceeding brought by a non-Party with respect to the Improvements or any provision or requirement of this Lease which by its

nature prohibits the Improvements from being commenced, continued and/or completed, (c) a Party not receiving a governmental permit, license, approval or inspection in time to meet a contractual time period imposed hereunder provided that Party, in good faith, was diligent in the application or request for and prosecution of the process to obtain that permit, license, approval or inspection, (d) flood, (e) epidemic, (f) quarantine restriction, (g) unusually severe weather not reasonably anticipated, (h) strike, (i) walkout, (j) lock-out, (k) war, (l) national emergency, (m) fire, (n) act of God, (o) act of terrorism, (p) natural disaster, (q) explosion, (r) default by the other Party hereunder in the performance of its obligations hereunder, (s) delay caused by the discovery, presences or actions necessary to investigate or remediate Hazardous Material under SECTION 14 (but excluding Hazardous Material attributable to the Party claiming Unavoidable Delay), or (t) other causes beyond such Party's control; provided that no Unavoidable Delay shall exist unless the Party claiming such Unavoidable Delay shall give written notice to the other Party of the occurrence of the Unavoidable Delay not later than FORTY-FIVE (45) days after the commencement of such Unavoidable Delay.

40. MISCELLANEOUS

40.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

40.2 No Waiver. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

40.3 Non-Waiver of Rights. No waiver or default by Lessor of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Lessee, and Lessor shall not be restricted from later enforcing any of the terms and conditions of this Lease.

40.4 Amendment. This Lease contains all agreements of the Parties as of the date hereof with respect to any matter mentioned herein. No prior agreement, correspondence, or understanding pertaining to any such matter shall be effective to interpret or modify the terms hereof. Oral commitments or promises are not enforceable and shall not be binding or made part of this Lease. Any revisions or modifications to this Lease must be in writing and mutually accepted by persons with full and complete authority to bind the party.

40.5 Litigation Expenses. In the event of litigation between Lessor and Lessee in connection with this Lease, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

40.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

40.7 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

41. INCORPORATION OF RECITALS

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

EXECUTED to be effective on the date specified above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

STATE OF ARIZONA
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____ by J. Brian O'Neill, A.A.E, as Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
NOTARY PUBLIC

My Commission Expires:

_____

LESSEE:

Allegiant Air, LLC a Nevada Limited Liability Company

By: Thayne Klinger, Director - Airports

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ by _____, as _____ of _____, a(n) _____, on behalf of the company.

_____
NOTARY PUBLIC

My Commission Expires:

_____

EXHIBIT A

DEPICTION OF THE PREMISES

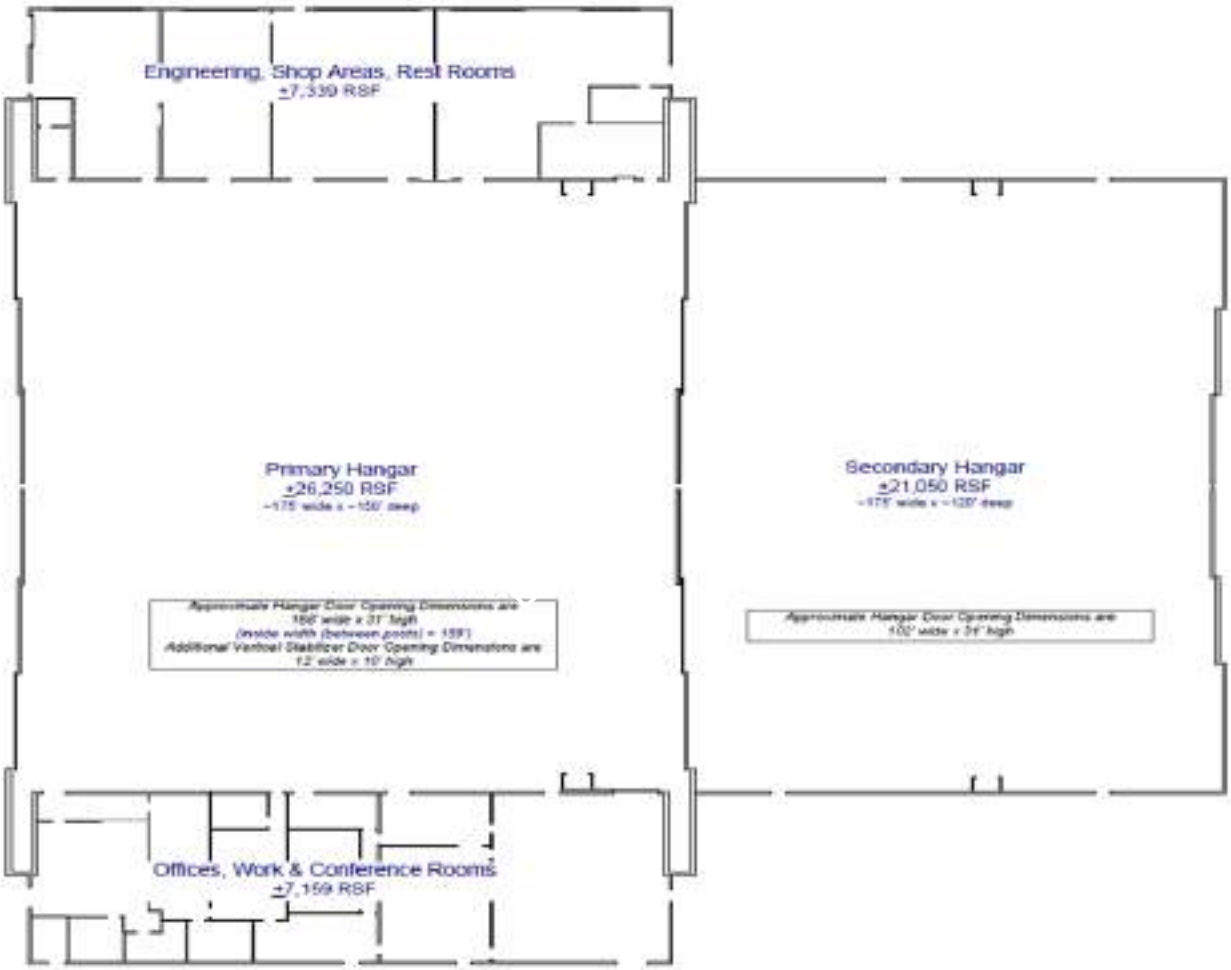
Engineering, Shop Areas, Rest Rooms
±7,339 RSF
Primary Hangar
±26,250 RSF
~175' wide x ~150' deep
Approximate Hangar Door Opening Dimensions are
156' wide x 31' high
(inside width (between posts) = 159')
Additional Vertical Stabilizer Door Opening Dimensions are
12' wide x 10' high
Secondary Hangar
±21,050 RSF
~175' wide x ~120' deep
Approximate Hangar Door Opening Dimensions are
102' wide x 31' high
Offices, Work & Conference Rooms
±7,159 RSF

EXHIBIT B

AIRPORT RATES & CHARGES SCHEDULE

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Airport%20Rates%20and%20Charges/Airport%20Rates%20ad%20Charges%20effective%202022.08.01.pdf?Uniqueifier=ybnFZgaAmQ

&

AIRPORT FEES, SERVICES AND RENTAL RATES SCHEDULE

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/ExecDirSect/Signed%20Airport%20Fees,%20Services%20and%20Rental%20Rates%20Effective%202-1-22.pdf?Uniqueifier=61DfdRV4Lj

EXHIBIT C

VEHICLE PARKING

EXHIBIT D

AIRPORT MINIMUM STANDARDS

(*Link*)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Airport%20Minimum%20Standards.pdf?Uniqueifier=XNy34gw4Q4

&

AIRPORT RULES AND REGULATIONS

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Airport%20Rules%20and%20Regulations_21-49.pdf?Uniqueifier=XNy34gw4Q4

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-06

To: Board of Directors
From: Shea Joachim, CEcD, Business Development Director
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: DSV Air & Sea Inc. – Facility Lease Agreement & Airport Operating Agreement
Date: February 21, 2023

Proposed Motion
To authorize a Facility Lease and Airport Operating Agreement with DSV Air & Sea Inc. for the properties located at 6203 and 6211 S. Sossaman Road, Mesa, AZ 85212 with an Effective Date of March 1st, 2023. The Term for both agreements is thirty-nine months, terminating on May 31st, 2026, with two (2), three (3) year options to renew.

Narrative
DSV Air & Sea Inc. will lease the facilities located at 6203 and 6211 S. Sossaman Road, Mesa, AZ 85212 and be permitted to use the Airport for the operation of a freight forwarding business and movement of cargo.

Agreement Term and Rate
The initial term of the Facility Lease Agreement & Airport Operating Agreement is thirty-nine (39) months, with two (2), three (3) year options to renew.

The Base Rent in Facility Lease Agreement is $330,062.16 (RS1) and $35,852.52 (RS2), totaling $365,914.68 annually.

The fees assessed within the Airport Operating Agreement are pursuant to the current published Airport Rates & Charges schedule.

The Base Rent of the Facility Lease Agreement will increase on every one (1) year anniversary of the Effective Date by the greater of THREE (3) percent or CPI (not to exceed 4% per annum).

Attachment(s)
Facility Lease Agreement
Airport Operating Agreement

RESOLUTION NO. 23-06

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Facility Lease and Airport Operating Agreement with DSV Air & Sea Inc. for the properties located at 6203 and 6211 S. Sossaman Road, Mesa, AZ 85212 with an Effective Date of March 1, 2023. The Term for both agreements is thirty-nine months, terminating on May 31, 2026, with two (2), three (3) year options to renew;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Facility Lease and Airport Operating Agreement with DSV Air & Sea Inc. for the properties located at 6203 and 6211 S. Sossaman Road, Mesa, AZ 85212 with an Effective Date of March 1, 2023. The Term for both agreements is thirty-nine months, terminating on May 31, 2026, with two (2), three (3) year options to renew. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of February, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority

FACILITY LEASE

with

DSV Air & Sea Inc.

Effective Date: **March 1st, 2023**

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EXHIBIT C (Intentionally Deleted)
EXHIBIT D Airport Minimum Standards and Airport Rules and Regulations
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EXHIBIT F Intentionally Deleted)
EXHIBIT G (Intentionally Deleted)
EXHIBIT H (Intentionally Deleted)

Phoenix-Mesa Gateway Airport Authority
FACILITY LEASE

This Facility Lease (the "**Lease**") is executed to be effective the FIRST (1st) day of March 2023 ("**Effective Date**") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **DSV AIR & SEA INC**, a Delaware corporation authorized to do business in the State of Arizona ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

WITNESSETH:

WHEREAS, Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona ("**Airport**"); and

WHEREAS, Lessor has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Lease in respect thereof; and

WHEREAS, Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport located at 6203 South Sossaman Road, Mesa, Arizona 85212, and described as Hangar 31, consisting of approximately TWENTY-TWO THOUSAND, SEVEN HUNDRED AND EIGHTY FIVE (22,785) square feet and 6211 South Sossaman Road, Mesa, Arizona 85212 and described as Building 1362 consisting of approximately SEVEN HUNDRED NINETY-ONE (791) square feet, situated on Lot 35B, consisting of approximately SEVENTY-EIGHT THOUSAND, FIVE HUNDRED TWENTY-FOUR (78,524) square feet (collectively, "RS1"), and existing airside apron consisting of approximately FORTY-THREE THOUSAND, TWO HUNDRED (43,200) square feet (individually, "RS2"). Collectively, RS1 and RS2 shall be referred to herein as the "**Premises**" as set forth in **Exhibit A** attached hereto; and

WHEREAS, Lessor desires to lease the Premises to Lessee on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. LEASE

Lessor hereby leases the Premises to Lessee, subject to all easements and rights of way that may encumber the Premises, and further subject to all operational and use restrictions and other terms and conditions set forth in this Lease.

1.1 Right to Use Premises. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor and those claiming through Lessor. Lessee specifically acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed, except for representations and warranties contained in this Lease. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense. Lessor agrees to cooperate with Lessee, at no or nominal cost to Lessor, in connection with such activities and undertakings.

1.2 Substitution of Premises. In addition to Lessor's other rights set forth in this Lease, Lessor reserves the right, upon no less than Ninety (90) calendar days prior written notice to Lessee, to substitute Comparable Areas for all or any portion of the Premises, including any additions, alternations or improvements thereon, should Lessor, in its reasonable discretion, determine that taking of the Premises, any portion thereof or any improvement thereon, is required for other Airport purposes, and there exists no appropriate alternative. In the event Lessor makes the determination to exercise its rights to substitute, all title, right and interest to the portion of the Premises taken shall immediately vest in Lessor on the date that is Ninety (90) calendar days following receipt of Lessor's notice, or such later date as specified therein. Furthermore, Lessor may require Lessee to vacate any portion or all of the Premises taken. For the purposes of this Section 1.2, the term "Comparable Areas" is defined to mean other facilities at the Airport, or any additions or extensions thereof, similar in size to the Premises, brought to the same level of improvement as the Premises and having at least the same or similar usefulness to Lessee as the portion taken, as determined by Lessee in its reasonable discretion. Lessor shall bear all expenses of bringing the substituted area to the same level of improvement as the Premises, and of moving Lessee's improvements, equipment, furniture and fixtures to the substituted area. If any of Lessee's improvements, equipment, furniture or fixtures cannot be relocated, Lessor shall replace, at Lessor's expense, such non-relocatable improvements and other property with comparable property in the Premises, and Lessor shall be deemed the owner of the non-relocated improvements and other property, free and clear of all claims of any interest or title therein by Lessee, or any other third party whomsoever. It is the specific intent of this Section 1.2 that Lessee be placed, to the extent possible, in the same position it would have been, had Lessor not substituted new premises for the Premises; provided, however, that Lessor shall not be obligated to reimburse Lessee for any damages, including lost profits or revenues, due to such substitution. Notwithstanding the foregoing, Lessor shall use reasonable efforts to avoid disruption to Lessee's business.

1.3 Access. Lessee is granted the right of reasonable access to and from the Premises via such portions of the Airport as are or may be necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport. Lessor reserves the right to designate the location of such access and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 Permitted Uses. Subject to the provisions of SECTION 1.5, Lessee may use the Premises for general office, warehouse, distribution, and administrative uses; aircraft repair and maintenance, aircraft loading, unloading re-loading, and offloading, aircraft cargo screening, storge of aircraft cargo, tools, parts, and equipment, aircraft parking, employee and business invitee automobile parking, and any other uses reasonably related to charter aircraft cargo operations, and for no other use. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules and regulations of any governmental authority, including Lessor, and to Lessee's compliance with applicable provisions of the *Airport Rules and Regulations* and *Airport Minimum Standards*.

1.5 Prohibited Activities. Lessee shall not use or permit its agents, employees, contractors, invitees, licensees or customers to use the Premises or the Airport for any use that is in violation of the *Airport Rules and Regulations*, the *Airport Minimum Standards*, any matters of record, or applicable laws, rules, regulations and operating policies of any governmental authority, including Lessor, or for any other activity or operation not specified in SECTION 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director.

1.6 On-Site Manager. Upon commencement of business operations at and on the Premises and the Airport, Lessee shall designate an on-site manager for the term of this Lease who shall be available to Lessor and Lessee's customers, if any, during normal business hours, and otherwise as required by the *Airport Minimum Standards*, as applicable.

1.7 Lessee Acknowledgement. Lessee acknowledges and agrees that its obligations to pay Base Rent and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim,

recoupment, defense or other right which Lessee may have against Lessor or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

1.8 Lessee Termination.

1.8.1 Lessee Relocation. At any time following the Rent Commencement Date, should Lessee choose to relocate within the boundaries of the Airport to a facility of equal to or greater in size and comparable condition, Lessee shall then have the right to terminate this Lease in its entirety by providing NINETY (90) days' written notice of Lessee's intent to do so.

1.8.2 Termination of Operating Agreement. Notwithstanding anything contrary to this SECTION 1.8, should Lessee's Operating Agreement be terminated for any reason, Lessee shall have the right (but not the obligation) to terminate this Lease in its entirety.

2. TERM

2.1 Initial Term. The initial term of this Lease shall be for a period of THIRTY-NINE (39) months, commencing on the Effective Date and terminating on MAY 31ST, 2026 thereafter ("**Term**").

2.2 Renewal Term(s). Provided Lessee is not then in default of this Lease and subject to written approval of Lessor, the Parties shall have the option of extending the Term for TWO (2) additional period(s) of THREE (3) years each (each, individually, an "**Extension**"). Lessee may initiate an Extension by giving written notice to Lessor of its desire to do so no later than NINETY (90) calendar days prior to the expiration of the Term, as set forth in SECTION 2.1 herein. If Lessee has properly notified Lessor of its desire to exercise an Extension and Lessor approves such in writing, then Lessee's Extension of the Term of this Lease shall become effective and all references herein to "Term" shall mean the initial term as extended.

3. NONEXCLUSIVE RIGHTS

Lessee shall have the exclusive right to occupy and use the Premises while in compliance with the terms and conditions of this Lease, subject to Section 27 below. All other rights granted to Lessee under this Lease are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport that Lessor deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with Lessee's use of the Premises.

4. RENT

4.1 Base Rent. Beginning on the Rent Commencement Date (as defined in Section 4.3 herein), Lessee agrees to pay Lessor annual rental for the use of RS1 in the amount of THREE HUNDRED THIRTY THOUSAND, SIXTY-TWO 16/100 DOLLARS ($330,062.16), payable in equal monthly installments of TWENTY-SEVEN THOUSAND, FIVE HUNDRED AND FIVE 18/100 DOLLARS ($27,505.18) (the "RS1 Base Rent"). Lessee Agrees to pay Lessor annual rental for the use of RS2 in the amount of THIRTY-FIVE THOUSAND, EIGHT HUNDRED FIFTY-TWO 52/100 DOLLARS ($35,852.52), payable in monthly installments of TWO THOUSAND, NINE HUNDRED EIGHTY-SEVEN 71/100 DOLLARS ($2,987.71) (the "RS2 Base Rent"). Collectively, the RS1 Base Rent and RS2 Base Rent shall be referred to herein as the "Base Rent." The Base Rent shall be payable in advance, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer.

4.2 Rent Commencement. Base Rent shall become due and payable on June 1st, 2023 (the "Rent Commencement Date").

4.3 Rent Increases. The annual Base Rent paid by Lessee shall be increased (but never decreased) on every ONE (1) year anniversary of the Effective Date of this Lease by the greater of either THREE percent (3%) or a percentage equal to the percentage that the Consumer Price Index (CPI) (as defined below) increased during the immediately preceding TWELVE (12) month period ending Ninety (90) days prior to the end of the adjustment period, however by not more than FOUR percent (4%) p.a. For purposes of this Lease, CPI means the United States Department of Labor, Bureau of Statistics Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average (1982-1984=100). If at any time CPI ceases to exist, Lessor may substitute any official index published by the Bureau of Labor Statistics or by a successor or similar government agency as may then exist and which in Lessor's reasonable business judgment shall be most nearly equivalent to the CPI.

4.4 Reserved.

4.5 Reserved.

4.6 Airport Rates and Charges Schedule. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* and *Airport Fees, Services and Rental Rates Schedule* are included as **EXHIBIT B** and are subject to change without prior notice to, or approval of Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at any time at Lessor's sole discretion. No fee shall apply to the use of the Premises or access to the Premises.

4.7 Payment.

4.7.1 Unless otherwise specified herein, the first payment of Base Rent shall be paid to Lessor upon the delivery of this Lease, for the period from the Effective Date until the end of the calendar month in which the Effective Date occurs, prorated on the basis of the number of such days to the total number of days in said month. Thereafter, all Base Rent payments shall be paid in monthly installments, in advance, on the first day of each calendar month ("**Base Rent Due Date**"). On each such date, Lessee shall pay the full Base Rent payment, provided, however, Lessee shall not be in default if such payment is made within FOUR (4) calendar days following the Base Rent Due Date.

4.7.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.7.3 All payments (and reports, if any) required by this SECTION 4.5 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by Lessor to Lessee.

4.8 Finance Charges and Late Fees. If Lessee fails to pay any installment of Base Rent or any other charge due and owing to Lessor in full on or before the fourth calendar day following the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (but not to exceed the maximum interest rate permissible by law), from the due date until payment in full is made. In addition, in the event any installment of Base Rent or other charge owing to Lessor

is paid more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent Base Rent installment or other charge shall be due and payable in addition thereto.

4.9 Taxes. Lessee shall pay, prior to delinquency, any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax or assessment imposed during the Term against the Premises or as the result of Lessee's occupancy of Premises or conduct of any activity at the Airport under authority of this Lease, including any such tax assessable on Lessor. Lessee shall pay such taxes and assessments directly to the taxing authority charged with collecting such taxes and assessments, provided that in the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor and to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business, Lessee shall pay such amounts to Lessor in the manner set forth in Section 4.7. Such taxes to be paid directly to Lessor include, without limitation, payment of all rent taxes, i.e., taxes imposed specifically on the gross receipts in the form of rent received by Lessor.

4.10 Survival. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

5. RESERVED

6. AIRPORT OPERATING AGREEMENT

Lessee shall enter into an Operating Agreement with Lessor covering its cargo aircraft operations simultaneous with this Lease and prior to the commencement of any such operations. If any of Lessee's subtenants, subcontractors or agents have not entered into its own *Airport Operating Agreement* and is operating under Lessee's *Airport Operating Agreement*, Lessee shall be responsible for such subtenant's contractors or agents, compliance with Lessee's *Airport Operating Agreement*. Lessee shall be responsible for compliance by its subtenants, contractors and agents with the *Airport Rules and Regulations* and *Airport Minimum Standards*.

7. IMPROVEMENTS

7.1 Reserved.

7.2 Reserved.

7.3 No Alterations. Lessee shall make no material improvements or alterations to the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld or delayed and, if and to the extent applicable, without the approval by Lessor's Design Review Committee. Lessee shall provide Lessor with electronic As-built Drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 Title to Alterations and Improvements. Title to all improvements and alterations on the Premises (but not personal property or trade fixtures) shall automatically vest in Lessor upon the expiration or termination of this Lease, and Lessee agrees to execute and deliver to Lessor, within TEN (10) business days after Lessor's request therefor, a quitclaim deed or other instrument satisfactory to Lessor confirming that title to such improvements and alterations is vested in Lessor. This Section 7.4 shall survive the termination of this Lease.

7.5 Mechanics' Liens. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within THIRTY (30) calendar days of notice thereof.

7.6 Permit Required. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa ("**City**") construction and technical codes. No such work shall be commenced without first

submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment or use. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and the associated plans and specifications.

7.7 Damage or Destruction. Lessee shall maintain insurance on all of Lessee's Improvements to the Premises, including any subsequent alterations and improvements thereto. In the event that all or any portion of Lessee's Improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall replace, repair, restore, modify or improve said Improvements, subject to the provisions of SECTION 7.6, using available insurance proceeds together with any additional funds from other available sources, or, alternatively, Lessee shall pay the replacement cost of the Improvements to Lessor.

8. MAINTENANCE

8.1 Lessee. Lessee shall, at its sole cost and expense, keep the Premises and all improvements therein in a neat and clean condition and in good order, condition, and repair throughout the Term. In doing so, Lessee shall prepare, maintain, and follow a preventative maintenance schedule for all mechanical, electrical, plumbing, drain, piping and air conditioning systems on the Premises, and, upon request, provide a copy of such schedule to Lessor and, if required by Lessor, a list of the dates on which such maintenance was actually done. Lessee's maintenance of the Premises shall include, without limitation, the inspection, servicing and repair of all systems and improvements, including the boilers, hangar doors & related systems, interior roof and structures, electrical, plumbing, heating and cooling, pavements, pest control, landscaping and grounds maintenance.

8.2 Lessor. Lessor shall, at its sole cost and expense, sustain and maintain the structural integrity of the Premises, including the exterior roof, structural walls, structural footings, beams, fire suppression system, and all utility connections where they enter the Premises throughout the Term.

8.3 Damage to Lessor Property. Any real or personal property of Lessor damaged or destroyed by Lessee as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the satisfaction of Lessor. In lieu of such repair or replacement, where required by Lessor, Lessee shall pay to Lessor an amount sufficient to compensate for the loss sustained by Lessor.

8.4 Trash Removal. Lessee shall at all times keep the Premises in a neat, clean, safe, sanitary and orderly condition and shall keep such area free of all trash and debris. Lessee shall, at Lessee's expense, be responsible for all trash removal from the Premises. Such trash removal shall be performed on a not less than weekly basis, and all trash shall be disposed of off the Airport. Prior to its removal from the Airport, Lessee shall deposit all trash and debris only at collection stations located on the Premises, in accordance with City code.

8.5 Emergency Repairs. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as they occur.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS

9.1 Any Transfer of Lease Interest Requires Lessor Advance Written Approval. In the event Lessee desires to transfer, assign, encumber, pledge or hypothecate any portion of its interest in this Lease or any right or interest hereunder (including, but not limited to as part of a mortgagor deed of trust or an assignment by means of a foreclosure or trustee's sale thereunder)(individually and collectively, "**Transfer**"), or sublet the Premises or any part thereof, Lessee must obtain the prior written consent of Lessor, with such consent not to be unreasonably withheld or rejected. In connection with Lessee's request for Lessor's approval of a Transfer, Lessee and or the proposed transferee shall provide to Lessor written financial assurances, including, but not limited to financial statements, business plans and other information related to the financial condition and plans of any proposed transferee. Notwithstanding a Transfer, unless released in writing by Lessor in its sole and absolute discretion Lessee shall remain liable at law and at equity, as well as financially liable, under the Lease, regardless of whether the assignee expressly assumes in writing all of Lessee's obligations

under this Lease or in the case of a sublease. Lessee understands and agrees to these terms and conditions regarding any proposed Transfer, and that any violation of this Section 9, may irreparably harm Lessor as the requirements set forth herein are directly related to Lessor's (and any Lessee's) legal and financial obligations to the Federal Aviation Administration. This Section 9 shall remain valid and enforceable even in the event of amendment to or repeal of FAA regulations, so long as this Section 9 does not directly conflict therewith.

9.2 Lessee's Required Advance Notice to Lessor of Proposed Transfer. In order for Lessor to consider approval of a Transfer, Lessee must: (i) notify Lessor in writing at least Forty-five (45) days prior to such proposed transfer; (ii) deliver to Lessor, at the time of Lessee's notice, current financial statements of Lessee and the proposed transferee (along with transferee's business plans) that are reasonably acceptable to Lessor; and (iii) the transferee assumes and agrees in writing to perform Lessee's obligations under this Lease. However, nothing herein shall be construed as Lessor providing its consent to any Transfer or relieving Lessee of any legal, financial or other obligation under the Lease, regardless of Lessor's acceptance or refusal to accept such proposed transfer of Lease.

9.3 Deemed Transfers. For the purposes of this Lease, a Transfer shall be deemed to include the following: (i) if Lessee is a corporation, partnership, limited liability company or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee or Lessee's parent company is a corporation whose stock is traded on a nationally or internationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Lessee. For purposes of this Lease, "control" shall mean possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of, a majority of, the voting securities of the entity.

9.4 Subletting.

9.4.1 Lessee may sublease all or portions of the Premises if the following conditions are met:

a. The sublease (including any amendments or modifications thereto) is substantially in the form attached hereto as **Exhibit E**, or in any other form that is approved in advance and in writing by Lessor (except for changes that do not materially impact Lessor's rights and interests).

b. Rent for subleased premises shall not be less than fair market value

c. The sublease(s) and sublessee(s) shall at all times be subject to the terms and conditions of this Lease.

d. The permitted and prohibited uses of the Premises under any sublease shall be the same as that permitted and prohibited under this Lease. Sublessees shall agree in the sublease not to engage in any prohibited use.

e. The term of any sublease shall not extend beyond the stated expiration of this Lease.

f. Except for the payment of a security deposit, the sublessee under such sublease shall not pay rent more than ONE (1) month in advance of its due date under the sublease.

9.4.2 Upon request from Lessee and any sublessee, Lessor shall enter into a Non-Disturbance and Attornment Agreement (in form and substance reasonably acceptable to Lessor, Lessee, sublessee and any applicable Leasehold Mortgagee (as defined in Section 22.2) so long as (i) the conditions of SECTION 9.4.1 have been met; (ii) the sublessee is not then in default beyond an applicable notice and cure period under the sublease and there is no existing Event of Default under this Lease; and (iii) the sublessee

does not have a history of five (5) or more documented events of noncompliance with the *Airport Rules and Regulations* or *Airport Minimum Standards*. All legal fees incurred by Lessor in connection with any reasonably necessary legal counsel review and approval of a Non-Disturbance and Attornment Agreement shall be reimbursed in advance by Lessee.

9.4.3 Lessee shall not permit any sublessee unescorted access to the secured areas of the Airport unless and until the sublessee has obtained its own valid Airport security clearance and media from Lessor. Lessee acknowledges that it may take THIRTY (30) calendar days or more to process sublessee for security clearance and media.

9.4.4 Lessee shall submit a copy of each fully executed sublease to Lessor as soon as possible, but no later than FIVE (5) business days after execution.

10. IDENTIFICATION SIGNS

Lessee may install on the building in which the Premises is located, a sign or signs identifying its business on the exterior of the Premises; provided, however, that the general type, size, and location of such sign(s) shall conform to Lessor's Comprehensive Sign Plan, be approved in writing by Lessor in advance of installation and be subject to any signage rules, codes and/or regulations of any governmental authority.

11. DEFAULT; TERMINATION BY LESSOR

11.1 Events of Default. Each of the following shall constitute a material default of this Lease by Lessee ("**Event of Default**"):

11.1.1 Failure to pay any installment of Base Rent or other amount due from Lessee hereunder, or required by any other agreement between the Parties, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 Failure to perform any of its other obligations under this Lease, provided that Lessee does not cure such failure within THIRTY (30) calendar days after delivery by Lessor of a written notice of such default; and further provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued, not to exceed ONE HUNDRED TWENTY (120) days.

11.1.3 The filing of any mechanic's, materialmen's or other lien of any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Lessee.

11.1.4 The Transfer or attempted transfer of any interest in the Lease to any transferee without Lessor's advance written authorization, which Lessor may withhold in its sole and absolute discretion.

11.2 Lessor's Remedies. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, but subject to the provisions of SECTIONS 9.2 and 23 herein, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Base Rent, re-entry for condition broken, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

11.3 No Implied Termination. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and shall save Lessor harmless from all losses, costs or damages occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 Lessor's Current Damages. Upon the occurrence and during the continuance of an Event of Default, Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the reasonable costs and expenses incurred in respect of such repairs, redecorating, refurbishments and improvements shall be paid by Lessee to Lessor within TEN (10) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the amount of the Base Rent and all other payments which would be payable under this Lease by Lessee for the remainder of the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's reasonable expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs, redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence ("**Deficiency**"), in monthly installments on the days on which the Base Rent would have been payable under this Lease as if this Lease were still in effect.

11.5 Lessor's Final Damages. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover (without duplication) from Lessee, and Lessee shall pay to Lessor, promptly on demand, as Lessor's final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount of SIX PERCENT [6%] per annum) of (i) the aggregate of the Base Rent and all other amounts to be paid by Lessee hereunder for the unexpired portion of the Term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of Rent and any losses that could have been reasonably avoided, plus (b) reasonable repossession costs, reasonable Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), reasonable attorneys' fees, reasonable legal expenses, and all other damages incurred by Lessor as a result of such Event of Default. In determining the amount of loss that could reasonably be provided, rents to be paid by subtenants pursuant to Section 9.4, if applicable, and other reasonably projected rental income from leasing the Premises shall be taken into account.

11.6 No Waiver by Lessor. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 Content of Default Notice. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it is reasonably calculated to put Lessee on inquiry as to the nature and extent of such default and is made in accordance with SECTION 19 herein.

11.8 Limitation on Exercise of Termination Remedy by Lessor. Notwithstanding anything to the contrary in SECTION 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay Base Rent or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Other remedies that are available to Lessor include self-help and recovery of damages, and nothing in this SECTION 11 shall limit the exercise of any such other remedy.

11.9 Subordination of Landlord's Lien. Lessor hereby agrees from time to time to subordinate to one or more Leasehold Mortgagees all statutory or common law landlord's lien rights with respect to property

or assets of Lessee located on the Premises, including, without limitation, Lessor's rights under Arizona Revised Statutes Sections 33-361 and 33-362 and other similar laws. Upon written request from Lessee, Lessor agrees to promptly execute and deliver such commercially reasonable landlord subordination agreement and access agreement that any Leasehold Mortgagee may request of Lessor. Lessee shall reimburse Lessor for reasonable third-party costs, including reasonable attorneys' fees, incurred by Lessor in connection with the review and negotiation of any such agreement within THIRTY (30) days after receipt of an invoice from Lessor.

12. RESERVED

13. INDEMNIFICATION AND CONSEQUENTIAL LOSS EXCLUSION

To the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this Section 13 for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term; (ii) any negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessee" for purposes of this Section 13.1) on the Premises or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor; and/or (iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors or agents.

Neither party shall be liable to the other for any indirect or consequential loss, damage, costs or expenses of any nature whatsoever incurred or suffered by the other party; or for any loss of actual or anticipated profits, loss of revenue, loss of goodwill and/or business, loss of savings or any other pure economic loss whether direct or indirect. For the avoidance of doubt the foregoing shall not apply to the Lessor's loss of rental income under this Lease.

14. ENVIRONMENTAL PROTECTION

14.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this SECTION 14.1 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 *Environmental Laws.* The term "Environmental Laws" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 USC Section 9601 et seq.; the *Solid Waste Disposal Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; A.R.S. Title 49; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient (including indoor and outdoor) air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

14.1.2 *Hazardous Material.* The term "Hazardous Material" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Laws, per- and polyfluoroalkyl substances, and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons

derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils). For purposes of this definition, per- and polyfluoroalkyl substances shall include aqueous film-forming foams

14.2 Environmental Compliance.

14.2.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting Lessee's activities on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.2.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Laws. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Laws.

14.3 Indemnification. To the fullest extent permitted by law, Lessee shall indemnify, defend (with counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment, the presence of Hazardous Material on the Premises, Airport or neighboring properties, or violation of any Environmental Laws or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this SECTION 14.3 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity. This SECTION 14.3 explicitly excludes Lessee's duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is caused by or exacerbated by Lessee or unknown contamination is caused by or exacerbated by Lessee's negligence.

14.4 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Laws, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions

would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this SECTION 14.4, Lessor is not responsible for directing or managing any remediation action. The term "Release" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. This SECTION 14.4 also applies to Lessee's remediation of any contamination of any kind existing on the Premises or Airport prior to the Effective Date, including any such contamination that may be first discovered after the Effective Date but not caused by Lessee.

14.5 Governmental Submittals. Lessee shall, at Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any Release of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.6 Information Sharing.

Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a violation of Environmental Laws, and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Premises, to the extent that such investigations or claims are related to Lessee's activities thereon.

14.7 Sublease. Lessee shall insert provisions substantially identical to the provisions of this SECTION 14 in any sublease agreement or contract by which it grants a right or privilege to any person, firm, corporation or other entity under this Lease.

14.8 Actions of Lessee. The activities or actions of Lessee under this SECTION 14 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors, invitees and successors.

14.9 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.10 Reserved.

14.11 Protective Devices and Plans. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to

the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge, and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.12 Right to Enter Premises. In addition to the rights afforded to Lessor in SECTION 18, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency ("**EPA**"), ADEQ, Lessor, and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.13 U.S. Air Force Use and Remedial Action.

14.13.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this SECTION 14.13, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release.

14.13.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Lessor or Lessee is a potentially responsible party with respect to any portion of the Premises or the Airport.

14.14 Cleanup Requirements. Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have no claim against Lessor or the United States or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any

inspection, survey, investigation, or other response or remedial action conducted by Governmental Authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.15 Spill Protection Plan. In the event Lessee undertakes any type of manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Lessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements, and shall be approved by all agencies that are obligated by law to approve such plan. Such plan shall be independent of Lessor's spill prevention and response plans, if any. Lessee shall not rely on use of Lessor or Lessor personnel or Lessor equipment in execution of its plan. Lessee shall file a copy of the plan and amendments thereto with Lessor's Environmental and Safety Coordinator within THIRTY (30) calendar days of receipt of a CofO from the City. Notwithstanding the foregoing, should Lessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Lessee, or because Lessee was not, in the opinion of Lessor, conducting firefighting, containment or timely cleanup actions, Lessee agrees to reimburse Lessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Lessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Lessor or its employees, agents or contractors.

14.16 Wells. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor.

14.17 Surface Disturbances. After construction of Lessee's Improvements on the Premises as provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface other than what is usual and customary for the anticipated uses without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned or delayed.

15. PROTECTION OF WETLANDS

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises. Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the United States Army Corps of Engineers and obtain a permit or waivers under Section 404 of the Clean Water Act(or if such regulatory authority has been delegated to ADEQ, shall obtain the equivalent permit or waivers from ADEQ). For purposes of this SECTION 15, the term, "new construction," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. INSURANCE

16.1 Coverage Required. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

16.1.1 *Aircraft Liability* ($5,000,000 per occurrence) insurance covering third party bodily injury and property damage, as well as passenger and contractual liabilities for claims arising in connection with aircraft movements by charter aircraft operators from whom DSV has procured freight capacity ("Chartered Aircraft Operators") on the Airport, and including third party liabilities arising from War Risk perils. This insurance may be procured and maintained directly by Lessee or by Lessee's subcontracted groundhandler.

16.1.2 *Airport Premises Liability* ($5,000,000 per occurrence) insurance covering third party bodily injury and property damage occurring on the Premises or arising out of Lessee's use of and activities at the Airport, and including coverage for "premises/operations," "products and completed operations," "professional," "host liquor" and "blanket contractual liabilities."

16.1.3 *Commercial Automobile Liability* ($5,000,000 per occurrence) insurance covering all owned, non-owned and hire vehicles operated by Lessee on the Airport that are assigned to or used in the performance of commercial activities, or that are operated within the AOA. If any hazardous materials are transported within Airport boundaries in conjunction with the operator's business activities, an MSC-90 Endorsement is required.

16.1.4 *Environmental Impairment Liability* ($2,000,000 per occurrence) insurance covering third party bodily injury and property damage associated with hazardous material storage facilities, tanks, piping, ancillary equipment and containment structures, or structures that are used, controlled, constructed or maintained on the Airport by Lessee, and including expenses for defense, release mitigation and off- and on-site remediation.

16.1.5 *Property* (full value of essential personal property and improvements, if any, on an all risks, replacement cost basis) insurance covering all essential personal property of Lessee (property essential to Lessee's continued business operations) and all operator improvements made by Lessee to buildings or facilities on the Airport, including all replacements and/or additions thereto, for their full insurable value (All Risks) on a replacement cost basis, and requires an ISO Special Causes of Loss form.

16.1.6 *Hangar Keeper's Liability* ($3,000,000 per occurrence) covering aircraft and related damage to owned and non-owned aircraft stored by or otherwise in the care, custody or exclusive control of the operator at the Airport. Coverage may be "ground" (if no test flying or other related airborne/aircraft-powered operations are conducted) or "air" and is required anytime aircraft are moved by the operator, irrespective of whether or not a physical hangar is involved.

16.1.7 *Worker's Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000.00 covering work-related injuries to employees and others permitted to operate or otherwise conduct business on the Premises.

16.2 Form. Each insurance policy obtained pursuant to this SECTION, except for *Worker's Compensation* and *Employer's Liability* policies, shall: (i) name Lessor as a certificate holder and additional named insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

16.3 Certificates of Insurance. Lessee shall deliver a certificate of insurance for each policy required along with an endorsement naming Phoenix-Mesa Gateway Airport Authority as additional insured, herein to Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the term of this Lease.

16.4 Additional Insurance. At any time during the term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this SECTION 16 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

16.5 Blanket Insurance. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

16.6 Insurance by Lessor. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this SECTION. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within TEN (10) business days after Lessor advises Lessee of the cost thereof.

17. SURRENDER OF POSSESSION

17.1 Condition of Property.

17.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear. All trade fixtures, equipment, and other personal property installed or placed by Lessee on the Premises which are not permanently affixed thereto shall remain the property of Lessee, and Lessee shall have the right at any time during the term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall be deemed abandoned, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

17.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required by Lessor, be permanently removed from the Premises by Lessee, at Lessee's expense, within FIVE (5) business days of Lease termination. Should Lessee fail to remove such trade fixtures, equipment or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

17.2 Holding Over. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Base Rent and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee.

18. INSPECTION BY LESSOR

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, in which event Lessor may enter immediately and shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee on the Premises.

19. NOTICES

19.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses or at such address as either Party may advise the other from time to time:

TO LESSOR: Phoenix-Mesa Gateway Airport Authority

Attn: Business Development Department
5835 South Sossaman Road
Mesa, Arizona 85212

TO LESSEE: DSV Air & Sea Inc.
Attn.: Jesper Joergensen, VP Finance
Tina Larsen, Director of Project Management
200 Wood Avenue S., Suite 300
Iselin, New Jersey 08830
Phone: (732) 850-8000
With a copy to Email: Tina.Larsen@us.dsv.com

19.2 Any notice shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service.

20. SEVERABILITY

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

21. APPROVALS, CONSENTS AND NOTICES

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

22. RESERVED

23. GOVERNING LAW; ATTORNEY'S FEES

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

24. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act*), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall at all times comply with the *Airport Minimum Standards* and *Airport Rules and Regulations*, as the same may be amended from time to time. Copies of the current *Airport Minimum Standards* and *Airport Rules and Regulations* are attached hereto as **EXHIBIT D**. Lessee acknowledges and agrees that Lessor may amend the *Airport Minimum Standards* and *Airport Rules and Regulations* at any time in Lessor's sole discretion. Lessee shall be responsible for controlling and preventing disruptive pedestrian and vehicle traffic associated with its activities on the Premises and at the Airport. Lessee also shall display to Lessor any permits, licenses, or other evidence of compliance with laws upon request.

25. CORPORATE AUTHORIZATION

In executing this Agreement, Lessee represents and warrants to Lessor that if Lessee is a corporation, Lessee has obtained and been granted the full right, power and authority to enter into this Lease.

26. UTILITY LINES AND SERVICE CHARGES

26.1.1 Connections and Services. Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection

with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested in advance to do so by Lessee, Lessor will grant reasonable rights-of-way on or across the Airport to suppliers of public utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to designate the lands along which such rights-of-way shall be granted so as to cause the least inconvenience in the operation of the Airport and other Airport tenants.

26.1.2 Payment. Lessee shall pay for all utilities, including trash collection, used in its operations at the Airport and the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

26.1.3 Continued Use and Repair. Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises and the right to repair the same, when necessary, in Lessor's sole discretion, including but not limited to, any utility easements on the Premises. Lessor shall conduct such repairs in such a manner and at such times as to not unreasonably interfere with Lessee's activities thereon.

27. RESERVATIONS TO LESSOR

The Premises are accepted "as is, where is" by Lessee, subject to any and all existing easements or other encumbrances. Lessor reserves the right to grant reasonable easements, rights-of-way, and permits, over, on, or across any portions of the Premises for commercially reasonable purposes; provided, that Lessor and the grantee, as applicable, shall not exercise such rights so as to unreasonably interfere with or disrupt Lessee's activities on the Premises, including the development of the Premises, to be determined in the reasonable judgment of Lessor and Lessee, and all such interference shall be minimized. Lessor shall provide Lessee reasonable notice of any plan to undertake the activities contemplated under this Section and shall coordinate with Lessee regarding the execution of such plans to minimize any interference with Lessee's or any subtenant's activities on the Premises. All work shall be in compliance with all applicable laws, including Environmental Laws, and the surface of the Premises shall be restored to its original condition, including any necessary remediation in accordance with Environmental Laws of any contamination associated with any Hazardous Material disturbed during any construction, at no cost to Lessee, upon the completion of any construction. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions obligating such parties to, at a minimum, the same conditions applicable to Lessor under this Section 27, including but not limited to that the surface of the Premises and any Improvements shall be promptly restored to their original condition, at no cost to Lessee, promptly upon the completion of any construction.

28. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

28.1 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, *Nondiscrimination in Federally Assisted Programs of the Department of Transportation,* as it may be amended.

28.2 Lessee agrees that: (a) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, creed, disability, age, sex or national origin in the use of the Premises; (b) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (c) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as it may be amended.

28.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age or handicap, be excluded from participating in any activity.

28.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom.

28.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

28.6 This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation, or maintenance of the Airport.

28.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

28.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

28.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto, or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

28.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

28.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning 49 U.S.C. §40103(e) and 47107 (a)(4).

28.12 This Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

28.13 To the extent that Lessee conducts or engages in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users and charge reasonable and not unjustly discriminatory prices for each unit or service; except, however, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

28.14 Lessee shall conform to Lessor and FAA safety and security rules and regulations regarding use of the Airport air operations area including runways, taxiways, taxilanes and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; complete and pass an airfield safe driving instruction program when offered or required by Lessor; and be subject to penalties as prescribed by Lessor for violations of Airport safety and security requirements.

29. TITLE VI

29.1 Lessee agrees to comply with pertinent statues, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color or national origin, sex, age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee understands and acknowledges that the FAA requires inclusion of and adherence to the terms and conditions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) ("**Title VI**") in all airport/aviation lease agreements where Lessor receives federal funding, including the Lease in this instance.

29.2 During the Term, Lessee, for itself, its assignees, and successors in interest agrees as follows:

29.2.1 Compliance with Regulations. Lessee will comply with the Title VI List of Pertinent Non-Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

29.2.2 Non-discrimination. Lessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

29.2.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Lessee of Lessee's obligations under this Lease and the Non-discrimination Acts And Authorities on the grounds of race, color, or national origin.

29.2.4 Information and Reports. Lessee will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to the sponsor or the Federal Aviation Administration as appropriate, and will set forth what efforts it has made to obtain the information.

29.2.5 Sanctions for Noncompliance. In the event of Lessee's noncompliance with the Nondiscrimination provisions of this Lease, Lessor will impose such default remedies as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Lessee under the Lease until Lessee complies; and/or
(b) cancelling, terminating, or suspending the Lease, in whole or in part.

29.2.6. Incorporation of Provisions. Lessee will include the provisions subsections 29.2.1 through 29.2.6 in every subcontract, including procurements of materials and leases of equipment, unless

exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

29.3 The Lessee for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (a) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (b) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (c) that Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Non-Discrimination Acts and Authorities.

29.4 During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following (which Lessor is required to disclose and include in such Lease and other agreements, pursuant to FAA regulation):

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 Stat. 252) (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation

regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et *seq.*).

29.5 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

30. FEDERAL FAIR LABOR STANDARDS ACT

This Lease incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. Lessee has full responsibility to monitor compliance to the referenced statue or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

31. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This Lease incorporates by reference the provisions of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

32. INCORPORATION OF QUITCLAIM DEED

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government (the "**Deed**"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

32.1 That this Lease is subject to all terms and conditions of the Deed; and

32.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

33. REQUIRED PROVISIONS OF QUITCLAIM DEED

33.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

33.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

33.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

33.2 If the Premises are within any of the archaeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

33.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

34. AIRPORT SECURITY

34.1 Airport Security Plan.

34.1.1 Lessor's Operations Department maintains an approved Airport Security Plan ("**Security Plan**") pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Lessee shall at all times comply with Lessor's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

34.1.2 Lessee is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Lessor's Operations Department.

34.1.3 Lessee shall promptly upon written request from Lessor correct physical or procedural deficiencies caused by Lessee that are located on the Premises which are contrary to Lessor's Operations Department, security directives, security bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Lessor notifying Lessee of any deficiency, Lessor shall provide Lessee with a reasonably-detailed explanation of the deficiencies. Lessee shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

34.1.4 Lessee shall, to the fullest extent permitted by law, indemnify, defend and hold Lessor harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-lessees or independent contractors of Lessee.

34.1.5 Lessee shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("**TSA**") or Lessor's Operations Department and make such audits available for inspection.

34.1.6 Lessee shall designate a primary security coordinator to receive security related briefings, bulletins and sensitive security information.

34.1.7 Lessor reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Lessor's Operations Department shall notify the Lessee security coordinator regarding modifications that effect Lessee.

34.2 Airport Security Badge.

34.2.1 Lessee's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Lessor's Operations Department, TSA or other entity having security jurisdiction at the Airport. Lessee, Lessee's employees, and contractors will surrender security badges upon request by Lessor's Operations Department; physical security media (badges and keys) remain the property of Lessor. Within SEVENTY-TWO (72) hours of Lessor's confiscation of any security badges, Lessor shall provide Lessee with a reasonably-detailed explanation of the violations that caused Lessor to confiscate the security badges.

34.2.2 Lessee and Lessee's employees and contractors shall comply with all security related audits, inspections, and screenings conducted by Lessor's Operations Department.

34.2.3 Lessee will promptly return badges to Lessor's badging office when badge holders' employment is terminated, the badge is no longer needed, or the employee/contractor is on extended leave.

34.2.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining of badge holders, and/or suspension or revocation of one or all misused badges.

35. DEFAULT BY LESSOR

In the event of any alleged breach by Lessor of its covenants contained in this Lease, Lessee shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Lease; provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Base Rent, or any other payments to be made by Lessee hereunder.

36. BROKERS

Per Lessor's Commercial Real Estate Brokers and Agents Commission Policy (Resolution # 15-04), Lessor shall pay a commission of SIXTY-FIVE THOUSAND, EIGHT HUNDRED SIXTY-FIVE 59/100 DOLLARS ($65,865.59) to the brokerage of Lee & Associates (acting through Brian Payne) within thirty (30) calendar days following the Rent Commencement Date (as defined in Section 4.3 herein). The Parties acknowledge that Lee & Associates (acting through Brian Payne), is the exclusive representing broker for Lessee and there are no other acting brokers as part of this Lease. Lessor shall send the commission payment to:

Lee & Associates Arizona
3200 East Camelback Road, Suite 100
Phoenix, Arizona 85018

37. SALE BY LESSOR

Lessee agrees to look solely to Lessor's interest in the Premises for the recovery of any judgment from Lessor, it being agreed that neither Lessor nor the holders of the equity interests of Lessor, nor the members,

partners, officers, directors, or shareholders of Lessor shall be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

38. ESTOPPEL CERTIFICATE

Lessee shall, without charge, at any time and from time to time hereafter, within TEN (10) business days after written request of Lessor to do so, certify, by written instrument duly executed and acknowledged by Lessee and certified to Lessor and to any prospective lender or purchaser: (a) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (b) as to the existence of any default hereunder to the best of Lessee's knowledge; (c) as to the date on which Lessee was obligated to commence paying Base Rent and all other charges hereunder and the expiration date of the Term; (d) as to whether the Lessee has assigned or transferred its interests or any portion thereof in this Lease; and (e) as to any other matters as may be reasonably requested. Lessor and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

39. UNAVOIDABLE DELAY

In the event either Party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Lease to be performed by such Party ("**Required Act**"), and such delay or hindrance is due to Unavoidable Delay (as defined below), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of Unavoidable Delay. For purposes of this Lease, "Unavoidable Delay" shall mean, with respect to either Party, an unavoidable delay in the performance by such Party of any non-monetary conditions or obligations under this Lease due including but not limited to: (a) construction delay to the extent caused by the other Party, (b) legal proceeding brought by a non-Party with respect to the Improvements or any provision or requirement of this Lease which by its nature prohibits the Improvements from being commenced, continued and/or completed, (c) a Party not receiving a governmental permit, license, approval or inspection in time to meet a contractual time period imposed hereunder provided that Party, in good faith, was diligent in the application or request for and prosecution of the process to obtain that permit, license, approval or inspection, (d) flood, (e) epidemic, (f) quarantine restriction, (g) unusually severe weather not reasonably anticipated, (h) strike, (i) walkout, (j) lock-out, (k) war, (l) national emergency, (m) fire, (n) act of God, (o) act of terrorism, (p) natural disaster, (q) explosion, (r) default by the other Party hereunder in the performance of its obligations hereunder, (s) delay caused by the discovery, presences or actions necessary to investigate or remediate Hazardous Material under SECTION 14 (but excluding Hazardous Material attributable to the Party claiming Unavoidable Delay), or (t) other causes beyond such Party's control; provided that no Unavoidable Delay shall exist unless the Party claiming such Unavoidable Delay shall give written notice to the other Party of the occurrence of the Unavoidable Delay not later than FORTY-FIVE (45) days after the commencement of such Unavoidable Delay.

40. MISCELLANEOUS

40.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

40.2 No Waiver. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

40.3 Non-Waiver of Rights. No waiver or default by Lessor of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Lessee, and Lessor shall not be restricted from later enforcing any of the terms and conditions of this Lease.

40.4 Amendment. This Lease contains all agreements of the Parties as of the date hereof with respect to any matter mentioned herein. No prior agreement, correspondence, or understanding pertaining to any such matter shall be effective to interpret or modify the terms hereof. Oral commitments or promises are not enforceable and shall not be binding or made part of this Lease. Any revisions or modifications to this Lease must be in writing and mutually accepted by persons with full and complete authority to bind the party.

40.5 Litigation Expenses. In the event of litigation between Lessor and Lessee in connection with this Lease, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

40.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

40.7 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters. Notwithstanding the foregoing, this Lease shall be read and interpreted in conjunction with the Operating Agreement.

41. INCORPORATION OF RECITALS

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

EXECUTED to be effective on the date specified above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

STATE OF ARIZONA

) ss.

COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____ by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____

NOTARY PUBLIC

My Commission Expires:

_____

LESSEE:

DSV AIR & SEA INC., a Delaware corporation authorized to do business in the State of Arizona

By:
Carsten Trolle, Chairman of the Board
Date: _____

By: ____
Niels Larsen, President
Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

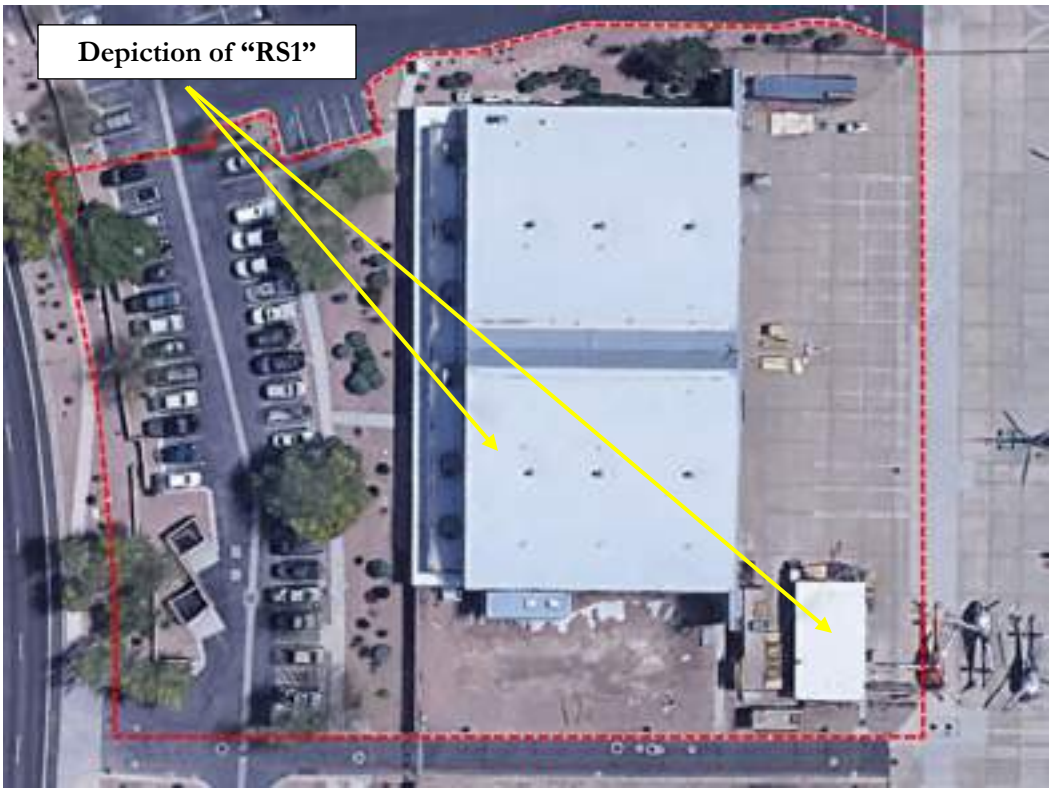
This instrument was acknowledged before me on _____ by _____, as _____ of _____, a(n) _____, on behalf of the company.

_____
NOTARY PUBLIC

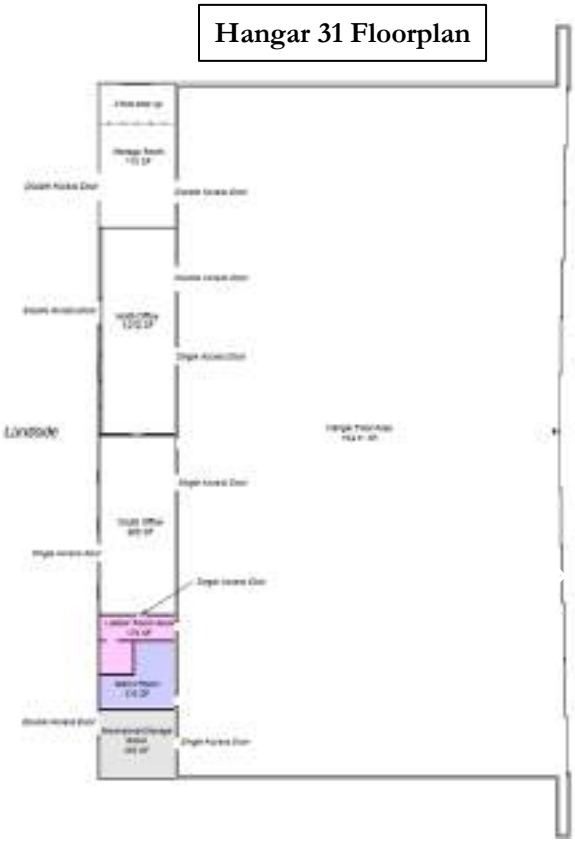
My Commission Expires:
_____

EXHIBIT A

DEPICTION OF THE PREMISES (RS1)



Hangar 31 Floorplan



Building 1362 Floorplan

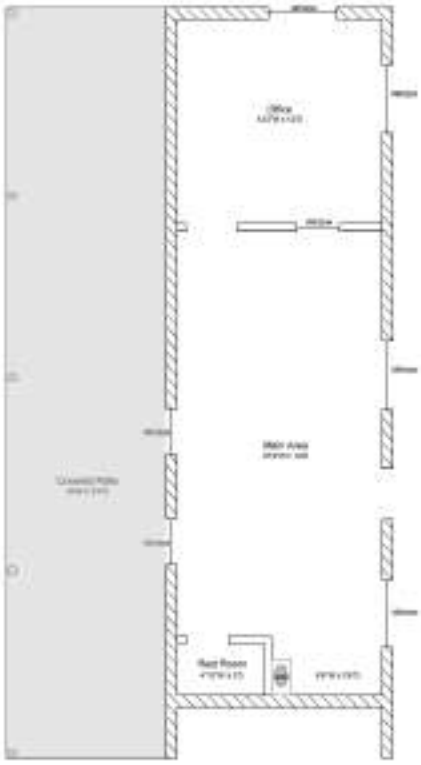


EXHIBIT A

DEPICTION OF THE PREMISES (RS2)

EXHIBIT B

AIRPORT RATES & CHARGES SCHEDULE

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Approved_AirportRatesandCharges_effective6.1.19.pdf?Uniqueifier=vm2pw2DmuS

&

AIRPORT FEES, SERVICES AND RENTAL RATES SCHEDULE

(Link)

https://www.gatewayairport.com/documents/documentlibrary/execdirsect/airport%20fees,%20services%20and%20rental%20rates2019.pdf?Uniqueifier=ucXwLL0j4a

EXHIBIT C

INTENTIONALLY DELETED

EXHIBIT D

AIRPORT MINIMUM STANDARDS

(*Link*)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Airport%20Minimum%20Standards.pdf?Uniqueifier=vm2pw2DmuS

&

AIRPORT RULES AND REGULATIONS

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Rules%20and%20Regulations_19-20.pdf?Uniqueifier=vm2pw2DmuS

EXHIBIT E

INTENTIONALLY DELETED

EXHIBIT F

INTENTIONALLY DELETED

EXHIBIT G

INTENTIONALLY DELETED

EXHIBIT H

INTENTIONALLY DELETED

Phoenix-Mesa Gateway Airport Authority

AIRPORT OPERATING AGREEMENT

with

DSV Air & Sea Inc.

Effective Date: **March 1st, 2023**

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Phoenix-Mesa Gateway Airport Authority

AIRPORT OPERATING AGREEMENT

This Operating Agreement (the "Agreement") is executed to be effective the FIRST (1st) day of MARCH 2023 (the "Effective Date") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized under the laws of the State of Arizona ("PMGAA"), and **DSV AIR & SEA, INC.**, a Delaware corporation ("DSV"). PMGAA and DSV may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

WITNESSETH:

WHEREAS, PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "Airport"); and

WHEREAS, PMGAA has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, DSV arranges charter aircraft flights with charter aircraft operators from whom DSV has procured freight capacity ("Chartered Aircraft Operators") and provides, with respect to DSV Operations as defined in Section 1.1 below and desires to use the Airport facilities for such operations including, but not limited to: towing and maneuvering such chartered aircraft on Airport runways, taxiways, ramps and aprons; and

WHEREAS, simultaneous with this Agreement DSV is entering into a facility lease ("Lease") of certain real property at the Airport located at 6203 South Sossaman Road, Mesa, Arizona 85212, and described as Hangar 31, consisting of approximately TWENTY-TWO THOUSAND, SEVEN HUNDRED AND EIGHTY FIVE (22,785) square feet and 6211 South Sossaman Road, Mesa, Arizona 85212 and described as Building 1362 consisting of approximately SEVEN HUNDRED NINETY-ONE (791) square feet, situated on Lot 35B, consisting of approximately SEVENTY-EIGHT THOUSAND, FIVE HUNDRED TWENTY-FOUR (78,524) square feet (collectively, "RS1"), and existing airside apron consisting of approximately FORTY-THREE THOUSAND, TWO HUNDRED (43,200) square feet (individually, "RS2"). Collectively, RS1 and RS2 shall be referred to herein as the "**Premises**;" and

WHEREAS, DSV desires to obtain certain rights, services and privileges in connection with the use of the Airport and its facilities, and PMGAA is willing to grant the same to DSV upon the terms and conditions hereinafter stated; and

WHEREAS, the Parties agree to enter into this Agreement, specifying the rights and obligations of the Parties with respect to the operation of the Airport by PMGAA and the use and/or occupancy of the Airport by DSV;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, the Parties hereby agree as follows:

1. PERMITTED ACTIVITIES AND CONDITIONS OF AIRPORT USE.

1.1 DSV shall have the right to use, in common with others, the taxiways, ramps, and aprons for the purpose of conducting its cargo operations, to perform cargo offload, re-load, and distribution, groundhandling services, and other activities related to the foregoing ("DSV Operations"), provided, however, such activities and services are performed in strict accordance with applicable PMGAA Airport Minimum Standards, Airport Rules and Regulations, the DSV Operating Procedures (as set forth in **Exhibit C** herein), and upon the terms and conditions as herein provided.

1.2 DSV shall not engage in any other commercial or revenue producing activity at the Airport without first applying for and receiving approval for such activity from PMGAA. In the event any other commercial or revenue producing activity is engaged in by DSV prior to obtaining such approval, without waiver or limitation of any other remedies available to PMGAA at law or equity, DSV hereby agrees to remit to PMGAA the sum equal to TEN PERCENT (10%) of gross billings for such unauthorized activity, plus any expenses incurred by PMGAA in the course of any audit conducted for all of DSV's activities.

1.3 In connection with the DSV Operations, DSV's Chartered Aircraft Operators shall have the right to use, in common with others, the taxiways, runways, and air navigational aids of the Airport for the purposes of the DSV Operations provided, however, such activities and services are performed in strict accordance with applicable PMGAA Airport Minimum Standards, Airport Rules & Regulations, and DSV Operating Procedures (as set forth in **Exhibit C** herein). DSV shall arrange flights in and out of the Airport only with Chartered Aircraft Operators that maintain the insurance coverage described in Section 4.6, below. DSV shall provide certificates of insurance evidencing such coverage for regularly scheduled flights on an annual basis. For *ad hoc* flights, DSV shall provide such certificates of insurance on a flight-by-flight basis.

2. TERM.

2.1 This Agreement shall commence at 12:01 A.M. on the Effective Date and terminate at 11:59 P.M. THIRTY-NINE (39) months thereafter on MAY 31ST, 2026 (the "Term"), subject to options to extend the Term as herein provided. This Agreement may be renewed by mutual consent of the Parties for up to TWO (2) additional THREE (3) year terms (each, individually, an "Extension"), under the terms and conditions stated herein. DSV must notify PMGAA in writing of its desire to exercise an Extension to this Agreement by requesting such not less than SIXTY (60) days prior to expiration of the then current term or extended term. If DSV has properly notified PMGAA of its desire to exercise the Extension and PMGAA approves such in writing, then DSV's Extension of the Term of this Agreement shall become effective and all references herein to the "Term" shall mean the initial term as extended.

2.2 Notwithstanding anything contrary contained herein, should DSV's Lease be terminated for any reason, DSV shall have the right (but not the obligation) to terminate this Agreement in its entirety.

3. FEES AND CHARGES.

3.1 DSV shall pay PMGAA fees and charges as outlined below:

3.1.1 *Landing Fees*. DSV shall pay a landing fee, at a rate equal to the amount reflected on the most current Airport Rates & Charges Schedule and Airport Services, Fees, and Rental Rates Schedule at the time of the aircraft operation, for each flight arranged by DSV that is subject to a landing fee. The weight used to determine the landing fee for any particular aircraft shall be its maximum certificated gross landing weight (MGLW), as certified by the Federal Aviation Administration. The amount to be paid to PMGAA by DSV monthly for each preceding calendar month of aircraft landings shall be reported, due and payable to PMGAA no later than the TWENTIETH (20th) day of the month succeeding the calendar month in which the aircraft landings took place.

3.1.2 *Aircraft Ramp Space and Services*. DSV shall pay PMGAA monthly for any overnight aircraft ramp parking not within the Premises, aircraft line services, out-of-station Aircraft Rescue and Firefighting (ARFF) services, operations safety officers, use of PMGAA's ground service equipment, fuel spill

response teams, and use of any other space not provided for in the Lease or service requirements of DSV provided by PMGAA as specified in the Airport Rates & Charges Schedule or, if not so specified in that Schedule, as determined by PMGAA. DSV shall remit all payments due PMGAA within THIRTY (30) days of DSV's receipt of PMGAA's invoice therefor.

3.2 With regard to the fees and charges specified in SECTION 3.1 above, the following conditions and considerations shall apply:

3.2.1 *Airport Rates & Charges Schedule*. The Airport Rates & Charges Schedule referred to in this Agreement may be revised from time to time. DSV shall pay the most current fee(s) at the time of the event or service, as applicable, unless specifically outlined in this Agreement. The current Airport Rates & Charges Schedule is attached as **Exhibit A** and is subject to change without prior notice or approval of DSV.

3.2.2 *Finance Charges and Late Fees*. If DSV fails to pay any charge due and owing to PMGAA in full on or before the applicable due date, DSV shall be responsible for interest on the unpaid fee or charge at the rate of EIGHTEEN PERCENT (18%) per annum from the due date until payment in full is made. In addition, in the event any payment is received more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent amount shall be due and payable in addition thereto.

3.2.3 *Reporting*. DSV shall file with PMGAA written reports for the items specified below no later than the TENTH (10th) day of the calendar month following the month in which the specified activities occurred. Such reports shall cover all of DSV's Airport activities during said month, and include activity handled by DSV for other Air Transportation Companies not having an agreement with PMGAA providing for its own submission of activity data to PMGAA.

A. A complete listing of all of DSV's Chartered Aircraft Operators' actual aircraft landings at the Airport, including aircraft type and MGLW; and a listing, by destinations, of the number of flights that qualify under applicable waiver agreements for any landing fee waivers;

b. A complete listing, by date and flight number, of DSV's commercial cargo including tonnage, loaded and off loaded.

c. PMGAA shall have the right to rely on said activity reports in determining rentals and other charges due hereunder; provided, however, DSV shall have full responsibility for the accuracy of said reports. Payment deficiencies due to incomplete or inaccurate activity reports shall be subject to interest charges as set forth in SECTION 3.2.2 herein.

3.3 *Books and Records*. DSV shall at all times maintain and keep books, ledgers, accounts or other records wherein are accurately kept all entries reflecting the activity statistics to be reported pursuant to SECTION 3. Such records shall be retained by DSV for a period of THREE (3) years subsequent to the activities reported therein, or such other retention period as set forth in 14 CFR Part 249.7, and made available at Mesa, Arizona for audit and/or examination by PMGAA or its duly authorized representative during all normal business hours. Any such audit or examination shall be subject to restrictions based on compliance with TSA regulations and programs applicable to DSV, based on DSV's Customs Trade Partnership Against Terrorism obligations, and based on DSV's reasonable safety guidelines, and shall not include access to (i) personnel records; (ii) attorney-client or work product privileged materials; (iii) tax records; and (v) non-publicly available financial statements. DSV shall produce such books and records (in electronic format or as otherwise mutually agreed) at Mesa, Arizona within THIRTY (30) calendar days of PMGAA's written notice to do so or pay all reasonable expenses, including but not limited to, transportation, food, lodging and other related expenses, necessary for an auditor selected by PMGAA to audit said books and records.

3.3.1 The cost of audit, with the exception of the aforementioned expenses, shall be borne by PMGAA; provided, however, the total cost of said audit shall be borne by DSV up to a maximum cap of $10,000.00 if either or both of the following conditions exist:

3.3.1.1 The audit reveals an under-reporting or underpayment of more than TWO PERCENT (2%) of rentals, fees and charges due hereunder, as determined by said audit; and/or

3.3.1.2 DSV has failed to maintain materially true and complete books, records, accounts and supportive source documents in accordance with SECTION 3.

4. INSURANCE.

4.1 General. So long as the requirements below are met, these requirements may be satisfied by one or more of the same policies procured and maintained in connection with the Premises under the Lease. DSV shall procure and maintain the following types and amounts of insurance for its operations at the Airport throughout the Term of this Agreement and any Extension thereto:

4.1.1 *Aircraft Liability* insurance covering third party bodily injury and property damage, and passenger and contractual liabilities arising in connection with movement of aircraft operated by DSV Chartered Aircraft Operators' on the Airport in amounts as are customarily carried by a carrier of like kind and size, but in no event less than $100,000,000.00 per occurrence. Such insurance shall also insure against third party liabilities arising from War Risk perils.

4.1.2 *Airport Premises Liability* insurance covering third party bodily injury and property damage occurring on the Leased Property or arising out of DSV's use of and activities at the Airport, including coverage for "premises/operations," "products and completed operations," "host liquor" and "blanket contractual" liabilities in an amount not less than $5,000,000.00 per occurrence.

4.1.3 *Commercial Automobile Liability* insurance ($5,000,000.00 combined single limit) covering all owned, non-owned and hire vehicles operated by DSV on the Airport that are assigned to or used in the performance of commercial activities, or that are operated within the Air Operations Area. If any hazardous materials are transported within Airport boundaries in conjunction with the operator's business activities, an MSC-90 Endorsement is required.

4.1.4 *Environmental Impairment Liability* insurance ($1,000,000.00 per occurrence, $2,000,000.00 aggregate) covering third party bodily injury and property damage associated with hazardous material storage facilities, tanks, piping, ancillary equipment and containment structures, or structures that are used, controlled, constructed or maintained on the Airport by DSV, and including expenses for defense, release mitigation and off- and on-site remediation.

4.1.5 *Workers' Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000.00.

4.2 Form. Each insurance policy obtained pursuant to this SECTION, except for Worker's Compensation and Employer's Liability policies, shall: (i) name PMGAA as an additional named insured; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to PMGAA not less than THIRTY (30) days before such cancellation or modification takes effect (TEN [10] days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of PMGAA. DSV shall not permit any insurance policy to be canceled or modified without PMGAA's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A - VII or higher from the A.M. Best Company, or an equivalent rating and approved by PMGAA.

4.3 Additional Insurance. At any time during the Term of this Agreement, including any Extension thereto, PMGAA may, if in its reasonable determination the insurance coverage required by this SECTION 4 is no longer adequate, require DSV to increase its coverage to commercially reasonable amounts.

4.4 Blanket Insurance. DSV's insurance obligations under this Agreement may be satisfied by means of the general corporate "blanket" policies carried by it and evidenced by the insurance carrier's standard certificates thereof.

4.5 Use of Proceeds. Proceeds of any liability and property damage insurance required under this SECTION 4 shall be applied toward extinguishing, satisfying or remedying the liability, loss or damage with respect to which such proceeds may be paid.

4.6 Chartered Aircraft Operator Insurance. All Charter Aircraft Operators whose flights are arranged by DSV shall maintain Aircraft Liability insurance covering third party bodily injury and property damage, and passenger and contractual liabilities arising in connection with movement of aircraft on the Airport in amounts as described in Section 4.1.1 (exclusive of the requirement for coverage against third party liabilities arising from War Risk perils).

5. INDEMNITY.

5.1 To the fullest extent permitted by law, DSV hereby agrees to defend, indemnify and hold harmless PMGAA and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "PMGAA" for purposes of this SECTION 5) for, from and against any and all claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever ("Claims") brought by a third party and which arise out of or in connection with (i) any accident, injury or damages occurring at or on the Airport as a result of DSV activities, (ii) any negligent act or omission of DSV or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "DSV" for purposes of this SECTION 5) in connection with DSV's operations hereunder and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property, or (iii) the failure of DSV to comply with any provisions of this Agreement. This indemnification shall exclude responsibility for any claims to the extent arising by reason of the negligent or wrongful act of PMGAA or its employees, contractors or agents. For purposes of this Agreement, DSV's Chartered Aircraft Operators shall not be considered "contractors" or "subcontractors" of DSV.

5.2 To the fullest extent permitted by law, DSV hereby further agrees to defend, indemnify and hold harmless PMGAA for all Claims (including those brought by a third party) which arise out of or in connection with any accident, injury or damages occurring at or on the Airport to the extent caused or contributed to by the act or omission of DSV or DSV's Chartered Aircraft Operators in connection with DSV's Operations hereunder and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property. This indemnity obligation shall exclude responsibility for any claims to the extent arising by reason of the negligent or wrongful act of PMGAA. The parties agree that DSV's aggregate liability under this Section 5.2 shall be limited to the amount of the coverage limits described under Section 4.1.1 ($100,000,000).In addition to the foregoing, DSV agrees to pursue Claims under this Section against Chartered Aircraft Operators and their insurers.

6. DISABLED OR ABANDONED AIRCRAFT.

6.1 Removal of Disabled Aircraft. Should any aircraft owned or operated by DSV's Chartered Aircraft Operators, through accident or for any other reason, become disabled or be abandoned in any area which could interfere with the continuous, normal operations of any of the runways, taxiways and airfield facilities at the Airport, DSV shall:

6.1.1 Immediately remove said aircraft to the Premises or such location as may be designated by PMGAA, unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agency or agencies of the federal government; and

6.1.2 In the event of any accident where federal investigation in place is required, immediately upon receiving clearance to do so from the appropriate federal agency, remove said aircraft and any wreckage or debris resulting therefrom to the area(s) designated by said federal agency authorizing such removal; otherwise, such aircraft wreckage and debris shall be immediately removed from the Airport or stored at a location approved by PMGAA.

6.2 Failure to Remove Disabled Aircraft. Should DSV fail to proceed immediately to remove disabled aircraft, or should aircraft owned or operated by DSV's Chartered Aircraft Operators be abandoned on the Airport, PMGAA shall have the right to remove such aircraft by any means PMGAA deems necessary under the circumstances, and DSV shall, to the fullest extent permitted by law, indemnify, defend, keep and hold PMGAA, its members, board of directors, officers, agents, officials, servants, employees and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense (including costs of suit and attorneys' fees and expenses) incurred by PMGAA or claimed by anyone by reason of removal of said aircraft, injury to persons or property or damages to such aircraft caused by such removal, as well as storage costs therefor. DSV shall reimburse PMGAA for any costs incurred by PMGAA in removing and storing any aircraft, any property damage to the airport caused by such aircraft or removal within TEN (10) days of demand therefor.

7. MAINTENANCE.

7.1 Compliance. DSV shall, at DSV's sole cost and expense, ensure strict adherence to the provisions of PMGAA's Airport Minimum Standards, as they now exist or may be subsequently revised at PMGAA's sole discretion, and as provided herein in performing authorized maintenance on its aircraft on the Airport.

7.2 Sound and Noise Suppression. DSV shall comply fully with PMGAA rules and requirements when performing high-speed engine test operations at the Airport, if any, to mitigate excessive ambient sound and/or noise that may be generated incident thereto and that have or may have an adverse effect on other Airport tenant operations and the surrounding community. DSV acknowledges and agrees that said rules and requirements for such test operations may change from time to time at PMGAA's sole and absolute discretion. DSV also agrees that any costs associated with compliance with PMGAA's rules and requirements for sound or noise suppression or mitigation shall be borne solely by DSV.

8. ENVIRONMENTAL COMPLIANCE.

DSV shall at all times during the existence of this Agreement promptly observe and comply with applicable Federal, State, and local laws, regulations, rules and standards concerning the environment (collectively, the "Environmental Laws"). DSV shall be responsible for collecting, storing, recycling and/or disposing of its hazardous or toxic waste, if any, in compliance with the Environmental Laws governing the storage and disposal of hazardous or toxic waste. DSV shall ensure its employees and agents are aware that domestic drains, storm drains, or industrial waste drains shall not be used to dispose of gasoline, hydraulic fluid, solvents, concentrated cleaning agents or any other hazardous or toxic materials. Where so required, PMGAA may act on behalf of DSV, as and if appropriate, to dispose of DSV's waste, sign manifests on behalf of DSV and assign such disposal to DSV's EPA identification (ID) number. DSV shall repay PMGAA the costs and fees for doing so within TEN (10) days of demand therefor. DSV shall, to the fullest extent permitted by law, indemnify, defend and hold PMGAA, its members, board of directors, officers, agents, officials, employees, and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense including, but not limited to, the costs of suit and reasonable attorneys' fees and expenses of any nature whatsoever arising out of or related to DSV's failure to comply with the Environmental Laws.

9. TAXES AND RELATED IMPOSITIONS.

In the event any governmental authority shall impose a tax or imposition based upon this Agreement, upon DSV or its Charter Aircraft Operators' aircraft, or upon payments to be made hereunder, DSV shall pay such amounts either to PMGAA or the appropriate governmental authority on or before any delinquency date. Specifically, DSV shall be responsible for any transaction privilege, sales, excise or other similar tax except income taxes as a result of this Agreement. DSV shall also pay all licensing or permitting fees necessary or required by law for the conduct of its operations hereunder, or any other matters hereunder. DSV shall be responsible for any property interests created hereunder, which may constitute or be deemed to be a possessory interest for purposes of taxation.

10. AIRPORT RULES AND REGULATIONS, AND AIRPORT MINIMUM STANDARDS.

10.1 DSV shall at all times comply with all federal, State and local laws and ordinances, rules and regulations, which are applicable to its operations, or the operation, management, maintenance, or administration of the Airport, including but not limited to the Americans with Disabilities Act, and all laws, ordinances, rules and regulations adopted after the Effective Date. DSV shall at all times comply with all rules and regulations, and minimum standards established by PMGAA regarding operation and maintenance of the Airport, copies of which are attached as **Exhibit B** and are incorporated herein. DSV will be responsible for controlling and preventing disruptive pedestrian and vehicle traffic, if any, associated with its activities on the Airport. DSV also shall display or provide copies to PMGAA of any permits, licenses, or other evidence of compliance with laws upon request.

10.2 PMGAA shall operate the Airport in compliance with all applicable Federal state and local laws, ordinances, rules and regulations, and shall enforce the Airport Rules and Regulations established by it to ensure the effective and orderly operation of the Airport, and to prevent any disruption caused by DSV's operations at and on the Airport.

10.3 DSV acknowledges receipt of PMGAA's *Fly Friendly* noise abatement procedures and will provide such information to flight crews and/or students, post the information in DSV's flight planning area, and use the procedures to the extent possible when consistent with safety and air traffic control directives.

11. DEFAULT: TERMINATION.

11.1 General Grounds. This Agreement may be terminated upon the occurrence of any of the following events:

11.1.1 Failure of DSV to perform any of its obligations under this Agreement, which failure shall not be cured within THIRTY (30) business days after delivery by PMGAA to DSV of a written notice of such failure.

11.1.2 The filing of any lien against the Airport because of any act or omission of DSV which is not discharged within THIRTY (30) business days of receipt of actual notice of such lien by DSV.

11.2 Failure to Pay Fees. PMGAA may declare DSV in default of this Agreement by giving DSV FIFTEEN (15) business days written notice of DSV's failure to timely pay any undisputed fees or payments due pursuant to this Agreement. If DSV fails to cure such payment default within said FIFTEEN (15) business day period, PMGAA may, in its sole discretion, elect to do any one or more than one of the following:

11.2.1 Institute action(s) to enforce this Agreement; or

11.2.2 Terminate this Agreement automatically without further notice to DSV; or

11.2.3 Exercise any other remedy allowed by law or equity.

11.3 Failure to Provide Insurance. In the event DSV at any time fails to maintain all insurance coverage required by this Agreement, PMGAA shall have the right, upon written notice to DSV, immediately terminate this Agreement or secure the required insurance at DSV's expense.

11.4 No Waiver by PMGAA. No waiver by PMGAA of any default by DSV in the performance of its obligations under section 11.3 of this Agreement shall be deemed to be a waiver of any subsequent default by DSV in the performance of any such obligations.

11.5 Operational Restriction. In the event that either party deems aircraft operation unsafe at the Airport, this agreement may be terminated by either Party by delivering THIRTY (30) days' written notice to the other Party of the notifying Party's intent to do so.

12. GOVERNING LAW; ATTORNEY'S FEES.

The laws of the State of Arizona shall govern the matters set forth in this Agreement. Venue of any action brought under this Agreement shall, at the option of PMGAA, lie in Maricopa County, Arizona. In the event of any litigation or arbitration between PMGAA and DSV arising under this Agreement, the successful party shall be entitled to recover its attorney's fees, expert witness fees and other costs incurred in connection with such litigation or arbitration.

13. NONWAIVER.

Any election by either party to not enforce any provision of this Agreement, or any failure by such party to exercise any of the remedies allowed it under this Agreement, shall not operate as a waiver by such party of any of its right hereunder.

14. ASSIGNMENT.

Neither party shall assign or transfer any right or interest in this Agreement except with the written consent of the other party, not to be unreasonably withheld.

15. OTHER RESTRICTIONS.

DSV shall comply with all rules, laws, ordinances, and statues of any governmental authority having jurisdiction over the Airport or the matters provided in this Agreement.

16. AIRPORT SECURITY.

PMGAA maintains an approved Airport Security Plan (the "Security Plan") pursuant to 49 CFR Parts 1540 and 1542. DSV shall at all times comply with the Security Plan and the written and verbal directives issued by PMGAA supporting the Security Plan.

16.1 DSV shall immediately correct physical or procedural deficiencies which are contrary to the Security Plan, security directives, security bulletins, or verbal notifications existing now or in the future. DSV is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards of the Security Plan.

16.2 DSV shall, to the fullest extent permitted by law, indemnify, defend, and hold PMGAA harmless for, from, and against any violations of the Security Plan committed by any agents, employees, invitees, subcontractors, or independent contractors of DSV.

16.3 DSV shall conduct and document all self-audits and self-inspections as required by the TSA or PMGAA and make such audits available for inspection.

16.4 DSV shall designate a primary security coordinator to receive security -related briefings, bulletins, and sensitive security information ("SSI").

16.5 PMGAA reserves the right to modify the Security Plan from time-to-time, as necessary, or as directed by the TSA.

17. AIRPORT SECURITY BADGE

17.1 DSV employees/contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by PMGAA, TSA, or other entities having jurisdiction at PMGAA.

17.2 DSV and employees/contractors shall comply with all security-related audits, inspection, and screenings conducted by PMGAA.

17.3 DSV will immediately notify PMGAA and promptly return badges to the Airport Badging Office when badge holders terminate employment, the badge is no longer needed, or the employee/contractor is on extended leave.

17.4 Misuse of a badge or security procedures will bring about punitive action including suspension or revocation of one or all badges.

18. NOTICE.

18.1 All notices required or permitted under this Agreement shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses:

TO PMGAA:	Phoenix-Mesa Gateway Airport Authority Attn.: Business Development Department 5835 S. Sossaman Road Mesa, Arizona 85212-0614
TO DSV:	DSV Air & Sea Inc. Attn.: Tina Larsen, Director of Project Management 200 Wood Avenue S., Suite 300 Iselin, New Jersey 08830 Telephone: (732) 850-8000 With a copy to email: tina.larsen@us.dsv.com

18.2 Notices shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service. Any Party may designate in writing a different address for notice purposes pursuant to this SECTION.

19. PRIOR AGREEMENTS AND PERMITS.

Upon execution hereof, this Agreement shall supersede and cancel any prior agreements between PMGAA and DSV with respect to the business activities governed hereby. DSV shall not construe PMGAA's execution of this Agreement as a waiver of any prior indebtedness or obligation to PMGAA under any prior agreement or license, nor does PMGAA waive any claim or cause of action arising therefrom. This Agreement shall be read and interpreted in conjunction with the Lease.

20. CORPORATE AUTHORIZATION.

In executing this Agreement, DSV represents and warrants to PMGAA that if DSV is a corporation, DSV has obtained and been granted the full right, power and authority to enter into this Agreement.

21. MISCELLANEOUS.

21.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

21.2 No Waiver. No provision of this Agreement may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

21.3 Non-Waiver of Rights. No waiver or default by PMGAA of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by DSV shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by DSV, and PMGAA shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

21.4 Amendment. Only a written instrument executed by the Parties may amend this Agreement.

21.5 Invalid Provisions. Should any provision of this Agreement or any application thereof be held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

21.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

21.7 Entire Agreement. This Agreement, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

21.8 General Civil Rights Provisions. In all its activities within the scope of its airport program, DSV agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

21.9 Transfers. If DSV transfers its obligation to another, the transferee is obligated in the same manner as the contractor.

22. INCORPORATION OF RECITALS.

The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

23. CONSEQUENTIAL LOSS EXCLUSION

23.1 Neither party shall be liable to the other for any loss of actual or anticipated profits, loss of revenue, loss of goodwill and/or business or contract, loss of savings, reputational harm, lost opportunity or market share, loss of use, business interruption, loss of data, fines, penalties or liquidated damages, costs of replacement goods or services or any other pure economic loss whether direct or indirect and whether incurred or suffered by a party or by a third party.

24. TITLE VI

24.1 List of Pertinent Nondiscrimination Acts & Authorities. During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

24.2 Compliance with Nondiscrimination Requirements. During the performance of this Agreement, DSV, for itself, its assignees, and successors in interest, agrees as follows:

24.2.1 **Compliance with Regulations:** DSV (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

24.2.2 **Nondiscrimination:** DSV, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. DSV will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and

Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

24.2.3 **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by DSV for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by DSV of DSV's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

24.2.4 **Information and Reports:** DSV will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of DSV is in the exclusive possession of another who fails or refuses to furnish the information, DSV will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

24.2.5 **Sanctions for Noncompliance:** In the event of DSV's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to DSV under the Agreement until DSV complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

24.2.6 **Incorporation of Provisions:** DSV will include the provisions of paragraphs 24.2.1 through 24.2.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. DSV will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if DSV becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, DSV may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, DSV may request the United States to enter into the litigation to protect the interests of the United States.

24.3 Construction, Use, or Access to Real Property. The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by DSV pursuant to the provisions of the Airport Improvement Program grant assurances.

- DSV and its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.
- With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, PMGAA will have the right to terminate this Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

- With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, PMGAA will there upon revert to and vest in and become the absolute property of PMGAA and its assigns.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective on the Effective Date specified above.

FOR PMGAA:

_____
(Signature)

By: J. Brian O'Neill, A.A.E.
(Printed Name)

Its: Executive Director/CEO
(Title)

Date Signed: _____

FOR DSV:

_____
(Signature)

By: _____
(Printed Name)

Its: _____
(Title)

Date Signed: _____

EXHIBIT A

Airport Rates & Charges Schedule

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Airport%20Rates%20and%20Charges/Airport%20Rates%20ad%20Charges%20effective%202022.08.01.pdf?Uniqueifier=l0UjQGLICo

&

Airport Fees, Services, & Rental Rates

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/ExecDirSect/Signed%20Airport%20Fees,%20Services%20and%20Rental%20Rates%20Effective%202-1-22.pdf?Uniqueifier=Cea21GY5Qp

EXHIBIT B

Airport Rules and Regulations

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Airport%20Rules%20and%20Regulations_21-49.pdf?Uniqueifier=5mHG2N6X8x

&

Airport Minimum Standards

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Airport%20Minimum%20Standards.pdf?Uniqueifier=5mHG2N6X8x

EXHIBIT C

DSV Operating Procedures

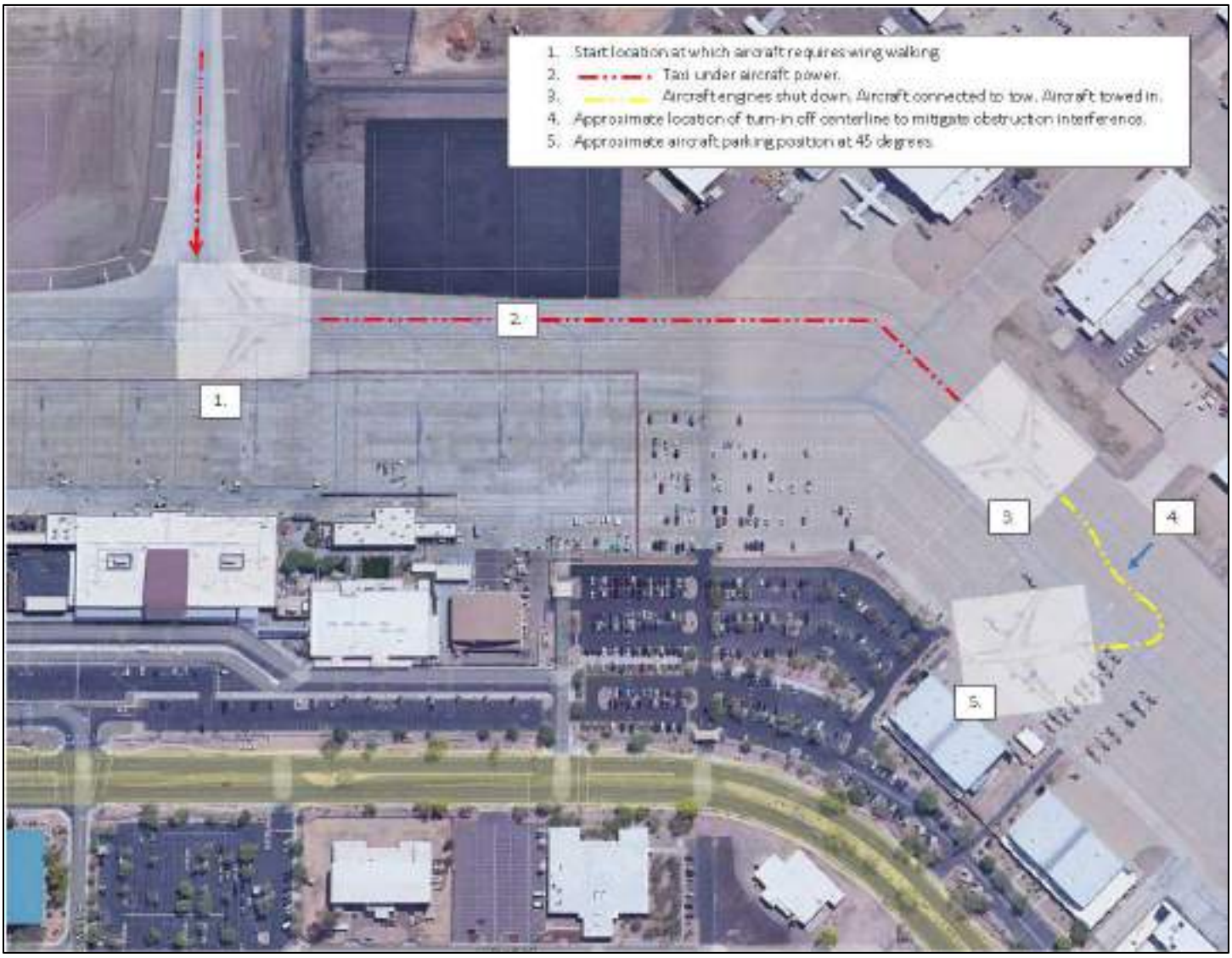


EXHIBIT C

DSV Operating Procedures (continued)

EXHIBIT C

DSV Operating Procedures (continued)

EXHIBIT C

DSV Operating Procedures (continued)

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-07

To: Board of Directors
From: Shea Joachim, CEcD, Business Development Director
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: USDA-FS CSA Southwest 4, Lease Agreement – Alpha Apron
Date: February 21, 2023

Proposed Motion

To authorize a lease agreement with USDA-FS CSA Southwest 4 for the exclusive use of 286,500 SF of Airport-owned apron. The lease term commences on February 21, 2023 and terminates on September 30, 2023.

Narrative

The U.S. Forrest Service ("USFS") base at the Airport initiates training activity in February in anticipation of the fire season. To accommodate the increase in aircraft and personnel USFS has requested to lease 286,500 SF of apron space adjacent to their facility located at 6335 S. Downwind Circle.

Agreement Term and Rate

The term of this lease agreement commences on February 21, 2023 and terminates on September 30, 2023.

The Base Rent is $20,055 per month or $145,757 for the term of the agreement.

Attachment(s)

Lease Agreement

RESOLUTION NO. 23-07

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a lease agreement with USDA-FS CSA Southwest 4 for the exclusive use of 286,500 SF of Airport-owned apron. The lease term commences on February 21, 2023 and terminates on September 30, 2023;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a lease agreement with USDA-FS CSA Southwest 4 for the exclusive use of 286,500 SF of Airport-owned apron. The lease term commences on February 21, 2023 and terminates on September 30, 2023. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of February, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

1. REQUISITION NUMBER: 1086549

PAGE 1 OF 14

2. CONTRACT NO.

3. AWARD/ EFFECTIVE DATE

4. ORDER NUMBER: 127EAU23P0009

5. SOLICITATION NUMBER

6. SOLICITATION ISSUE DATE

7. FOR SOLICITATION INFORMATION CALL:

a. NAME: KELLI RICHARDS

b. TELEPHONE NUMBER (No collect calls): 480-261-4197

8. OFFER DUE DATE/LOCAL TIME

9. ISSUED BY — CODE 7EAU

USDA-FS CSA SOUTHWEST 4
333 BROADWAY BLVD SE
ALBUQUERQUE NM 87102-3498

10. THIS ACQUISITION IS ☒ UNRESTRICTED OR ☐ SET ASIDE: % FOR:

☐ SMALL BUSINESS
☐ HUBZONE SMALL BUSINESS
☐ SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS
☐ WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM
☐ EDWOSB
☐ 8(A)

NAICS: 488119

SIZE STANDARD: $35.0

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
☒ SEE SCHEDULE

12. DISCOUNT TERMS

☐ 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING

14. METHOD OF SOLICITATION
☐ RFQ ☐ IFB ☐ RFP

15. DELIVER TO — CODE 8184

USDA FOREST SERVICE
MESA RANGER DISTRICT
5140 E INGRAM STREET
MESA AZ 85205

16. ADMINISTERED BY — CODE 8371

SOUTHWESTERN REGION
333 BROADWAY SE
ALBUQUERQUE NM 87102

17a. CONTRACTOR/ OFFEROR — CODE 1500036373# — FACILITY CODE

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
ATTN SHEA JOACHIM
5835 S SOSSAMAN RD
MESA AZ 85212-6014

TELEPHONE NO.

☐ 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18a. PAYMENT WILL BE MADE BY — CODE IPP

INVOICE PROCESSING PLATFORM IPP
ALL INVOICES MUST BE SUBMITTED
ELECTRONICALLY THROUGH THE
INVOICE PROCESSING PLATFORM IPP
VIA WWW IPP GOV

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED ☐ SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	Physical address of Phoenix Inter-agency Fire Center - 6355 S Downwind Mesa AZ 85212 Delivery: 02/21/2023 Accounting Info: FMMI Account: FS00.1325WFARM315 BOC: 8154 Period of Performance: 02/21/2023 to 09/30/2023				
0001	Aircraft parking on Alpha Apron 3 February 21st,2023 - September 30th 2023. Tonto NF requires access to the part of Phoenix-Mesa Continued ...				145,757.00

(Use Reverse and/or Attach Additional Sheets as Necessary)

25. ACCOUNTING AND APPROPRIATION DATA
See schedule

26. TOTAL AWARD AMOUNT *(For Govt. Use Only)*
$145,757.00

☐ 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED.
☐ 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED.

☐ 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED.

☐ 29. AWARD OF CONTRACT: _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR

31a. UNITED STATES OF AMERICA *(SIGNATURE OF CONTRACTING OFFICER)*

30b. NAME AND TITLE OF SIGNER *(Type or print)*

30c. DATE SIGNED

31b. NAME OF CONTRACTING OFFICER *(Type or print)*
KELLI S. RICHARDS

31c. DATE SIGNED

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	Gateway Airport (IWA) that is known as Alpha Apron, It is adjacent to the Mesa Gateway Airtanker Base. The land will be used for parking aircraft. A long term lease for use is not available until 11/23/2023. This agreement outside of the Leasing platform system is necessary so the facility can run throughout the year without disruption. CONTACT INFORMATION: ORDER INVOICE SOLICITATION KELLI RICHARDS CONTRACT OFFICER kelli.richards@usda.gov TECHNICAL INFORMATION STEPHANA MILLER CONTRACT OFFICER REPRESENTATIVE stephana.miller@usda.gov The total amount of award: $145,757.00. The obligation for this award is shown in box 26.				

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
☐ PARTIAL ☐ FINAL			☐ COMPLETE ☐ PARTIAL ☐ FINAL	

38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		42a. RECEIVED BY *(Print)*	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT *(Location)*	
		42c. DATE REC'D *(YY/MM/DD)*	42d. TOTAL CONTAINERS

PART I – THE SCHEDULE

SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS

ITEM NUMBER	DESCRIPTION	UNIT	EST. QTY	UNIT PRICE PER Sq Ft.	EXTENDED PRICE
	Land Use Agreement for Alpha Apron 3, February 21st, 2023 - September 30th 2023	SQ FT	286,500	$0.07	$20,055.00 per Mo.
001	FEBRUARY 21st -28th – 2023	SQ FT	286,500	$0.07	$5372.00
002	MARCH – 2023	SQ FT	286,500	$0.07	$20,055.00
003	APRIL – 2023	SQ FT	286,500	$0.07	$20,055.00
004	MAY – 2023	SQ FT	286,500	$0.07	$20,055.00
005	JUNE – 2023	SQ FT	286,500	$0.07	$20,055.00
006	JULY – 2023	SQ FT	286,500	$0.07	$20,055.00
007	AUGUST – 2023	SQ FT	286,500	$0.07	$20,055.00
008	SEPTEMBER - 2023	SQ FT	286,500	$0.07	$20,055.00
	Total				$145,757.00

Statement of work

Mesa/Gateway Airtanker Base Expansion Alpha Apron

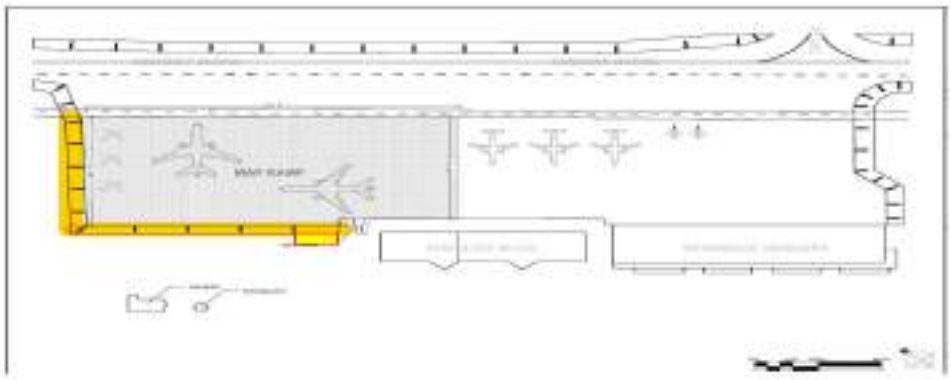
Executive Summary

For several years the Tonto National Forest has been investigating potential locations and options to expand the Airtanker base (ATB) capabilities and usability. The Phoenix Interagency Fire Center (PIFC), which consists of Mesa Gateway Airtanker Base and Phoenix Interagency Dispatch and, conducts operations utilizing facilities located at the Phoenix-Mesa Gateway Airport (IWA). Since 2000, IWA has served Central Arizona as an airtanker base. In 2010, a new facility was constructed and is being utilized by the Forest Service as a Dispatch, Airtanker Base and Mobilization center. The lease on the facilities used by the Forest Service is set to expire end of FY23.

Project Description

IWA is rapidly expanding around Mesa-Gateway ATB under the Sky-Bridge Project. This expansion is beginning to impact operations at the ATB. This Impact is expected to increase in the coming years as the project continues construction. Adjacent to the ATB is Alpha Apron. The FS had an agreement to lease the land in FY22 and seeks to do the same in FY23 until a long term lease can be secured in FY24. The lease will need to begin 2/14/23 and end 9/30/23.

INTENT: Provide additional parking space for aircraft on Alpha Apron.



- The cost for a one-year lease of Alpha Apron is $240,660 without any improvements based on prices from the airport in FY22. The estimated cost to lease lot 52 is $.84 per square foot annually on 286,500 square feet. This equates to $.07 per day per square foot.

DEFINITIONS

ORDINARY WEAR AND TEAR: Ordinary wear and tear is based on the customary use of the land/facilities, and not the use resulting from the Agency.

CONTRACT ADMINISTRATION

PAYMENT

All Payment Requests must be submitted via the Invoice Processing Platform (IPP) at www.ipp.gov.
The Phoenix-Mesa Gateway Airport Authority must use the IPP website to register access and use IPP for submitting requests for payment.
The Contractor's Government Business Point of Contact (as listed in SAM) will receive enrollment instructions via email from the Federal Reserve Bank of Boston (FRBB) within 3 – 5 business days of award or the system implementation date. Contractor assistance with enrollment can be obtained by contacting the IPP Production Helpdesk via email ippgroup@bos.frb.org or phone (866) 973-3131. All payment related questions and processing shall be directed towards Phoenix-Mesa Gateway Airport Authority

INVOICE

To constitute a proper invoice, the payment request must comply with the requirements identified in FAR clause 52.212-4 Contract Terms and Conditions – Commercial Items. The IPP website address is: https://www.ipp.gov.
Under this contract, the following documents are required to be submitted as an attachment to the IPP Invoice:

- Each invoice shall be submitted on the Vendor/Owners letterhead or Invoice Form with the following:
- Invoice date and Agreement Number.
- Billing period specified with beginning and ending dates. The beginning date must not be later than the completion date or within any previous billing dates.
- An accounting (bulleted list, for example) of charges claimed and amounts due.
- Total amount due for the billing period.

SPECIAL CONTRACT REQUIREMENTS

INSURANCE/ INDEMINIFCATION

The United States Federal Government is self-insured and does not have the authority to indemnify and hold harmless the Phoenix-Mesa Gateway Airport Authority, from all claims, liabilities, losses, damages, charges, etc. The Phoenix-Mesa Gateway Airport Authority does not have the authority to indemnify and hold harmless the United States Federal Government from all claims, liabilities, losses, damages, charges etc. The Phoenix-Mesa Gateway Airport Authority will be responsible for errors, omissions and negligence of its employees. The United States Federal Government will be responsible for errors, omissions, and negligence of its employees to the extent provided by Congress under the Federal Tort Claims Act [28 U.S.C. 1346(b), 2401(b), 2671-2680, as amended by P.L. 89-506, 80-Stat. 306].

LOSS, DAMAGE OR DESTRUCTION

The Government will assume liability for the loss, damage, or destruction of facilities furnished under this Agreement, provided that no reimbursement will be made for loss, damage, or destruction when due to (1) ordinary wear and tear, or (2) the fault or negligence of the owner, the owner's agent(s) or any loss, damage, or destruction occurring by means of a contractor or contracted resource.

DESIGNATION OF CONTRACTING OFFICER REPRESENTATIVE (COR)

The Contracting Officer designates the Contracting Officer's Representative (COR). The COR is responsible for administering the performance of work under this contract. In no event, however, will any understanding, agreement, modification, change order, or other matter deviating from the terms of this contract be effective or binding upon the Government unless formalized by proper contractual documents executed by the Contracting Officer prior to completion of the contract.

The Contracting Officer must be informed as soon as possible of any actions or inactions by the Contractor using the FS-6300-20/21 Daily Diary, ICS 213 General Message or comparable.

CONTRACT TERMS & CONDITIONS

FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of the clauses may be accessed electronically at these addresses: www.acquisition.gov/far
52.212-4 Contract Terms and Conditions – Commercial Products and Commercial Services (NOV 2021)
52.222-3 Convict Labor (June 2003)
52.232-1 Payments (APR 1984)
52.232-11 Extras (APR 1984)
52.232-17 Interest (MAY 2014)
52.232-25 Prompt Payment (JAN 2017)
52-233-1 Disputes (MAY 2014) ALT I (DEC 1991)
52.243-1 Changes—Fixed Price (AUG 1987) ALT I (APR 1984)
52.249-4 Termination for the Convenience of the Government (Services) (Short Form) (APR 1984)
52.249-8 Termination for Default (Fixed-Price Supply and Service) (APR 1984)

(End of Clause)

52.212-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Products and Commercial Services (May 2022)
The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or

Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015(Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

(3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations

(NOV 2015). (5) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(6) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004)(Public Laws 108-77 and 108-78 (19 U.S.C. 3805note)).

(b) The Contractor shall comply with the FAR clauses in this paragraph(b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

[*Contracting Officer Check as appropriate*.]

__(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (JUNE 2020), with *Alternate I* (NOV 2021) (41 U.S.C. 4704 and 10 U.S.C. 2402).

__ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509)).

__(3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.) (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009).

_X_ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109-282) (31 U.S.C. 6101 note). If contract is $30K or greater

__(5) [Reserved].

__(6) 52.204-14, Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C). If contract is $500K or greater

__ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub.
L. 111-117, section 743 of Div. C). If order/task is $500K or greater

__ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021) (31 U.S.C. 6101note). If contract is over $35K

__ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) (41 U.S.C. 2313). If contract is over $550K and offeror checked "has" in (b) of 52.209-7

__ (10) [Reserved].

__ (11) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (SEP 2021) (15 U.S.C. 657a).

__ (12) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (SEP 2021) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

__ (13) [Reserved]

__ (14) (I) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2020) (15 U.S.C.644). For Total Small Business Set Asides, including multiple awards.

__ (ii) Alternate I (MAR 2020) of 52.219-6. For above with Fixed Price Incentive (FPI)

__ (15) (I) 52.219-7, Notice of Partial Small Business Set-Aside (NOV 2020) (15 U.S.C. 644).

__ (ii) Alternate I (MAR 2020) of 52.219-7.

__ (16) 52.219-8, Utilization of Small Business Concerns (OCT 2018) (15 U.S.C. 637(d)(2) and(3)). If contract is over SAT

__ (17) (I) 52.219-9, Small Business Subcontracting Plan (NOV 2021) (15 U.S.C. 637(d)(4)). Doesn't apply to small businesses. For large business to show they will use smalls for subs.

__ (ii) Alternate I (NOV 2016) of 52.219-9.

__ (iii) Alternate II (NOV 2016) of 52.219-9.

__ (iv) Alternate III (JUN 2020) of 52.219-9.

__ (v) Alternate IV (SEP 2021) of 52.219-9.

__ (18) (I) 52.219-13, Notice of Set-Aside of Orders (MAR 2020) (15 U.S.C. 644(r)).

(ii) Alternate I (Mar 2020) of 52.219-13.

__(19) 52.219-14, Limitations on Subcontracting (SEP 2021) (15 U.S.C. 637s).If over $150,000

__ (20) 52.219-16, Liquidated Damages-Subcontracting Plan (SEP 2021) (15 U.S.C. 637(d)(4)(F)(I)).

__ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (SEP 2021) (15 U.S.C. 657f).

__ (22) (I) 52.219-28, Post Award Small Business Program Representation (SEP 2021) (15 U.S.C. 632(a)(2)). If over Micro-porch threshold and in USA

__ (ii) Alternate I(MAR 2020) of 52.219-28. IF MORE THAN ONE NAICS IS USED (AFTER OCT 1, 2022)

__ (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women- Owned Small Business Concerns (SEP 2021) (15 U.S.C. 637(m)).

__ (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Sep 2021) (15 U.S.C. 637(m)).

__ (25) 52.219-32, Orders Issued Directly Under Small Business Reserves (MAR 2020) (15 U.S.C. 644(r)). If TO under multi-award contract that was reserved for any sm./socio type.

__ (26) 52.219-33, Nonmanufacturer Rule (SEP 2021) (15 U.S.C. 637(a)(17)). If set-aside (full or partial) for any sm./socio type when manufacturing/supply NAICS is applicable.

__ (27) 52.222-3, Convict Labor (JUN 2003) (E.O.11755). If over micro purchase and not buying from FPI or State prisons; 8a for supplies has other regs, see subpart 22.6.

__ (28) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (JAN 2022) (E.O.13126). Supplies over micro purchase

__ (29) 52.222-21, Prohibition of Segregated Facilities (APR 2015). If 52.222-26 is included

__ (30) (I) 52.222-26, Equal Opportunity (SEP 2016) (E.O.11246). Always unless National Security or National Interest exemptions apply

__ (ii) Alternate I (FEB 1999) of 52.222-26.

__ (31) (I) 52.222-35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212). If over $150K

__ (ii) Alternate I (JUL 2014) of 52.222-35.

__ (32) (I) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C.793). If over $15K

__ (ii) Alternate I (JUL 2014) of 52.222-36.

__ (33) 52.222-37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212). If clause 52.222-35 is included

__ (34) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). If over SAT

_x_ (35) (I) 52.222-50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627). Always

__ (ii) Alternate I (MAR 2015) of 52.222-50(22 U.S.C. chapter78 and E.O. 13627). IF OUTSIDE USA

__ (36) 52.222-54, Employment Eligibility Verification (MAY 2022). (E.O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR 22.1803.) If over $150,000 and POP is over 120 days (Not applicable to COTS supplies or services that are part of purchase of COTS supplies and performed by COTS provider as prescribed in 22.1803.)

__ (37) (I) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.) over $150K contracts for, or specify the use of, EPA-designated items containing recovered materials

__ (ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(I)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

__ (38) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).

__ (39) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).

__ (40) (I) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).

__ (ii) Alternate I (OCT 2015) of 52.223-13.

__ (41) (I) 52.223-14, Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).

__ (ii) Alternate I (Jun 2014) of 52.223-14.

__ (42) 52.223-15, Energy Efficiency in Energy-Consuming Products (MAY 2020) (42 U.S.C. 8259b).

__ (43) (I) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).

__ (ii) Alternate I (JUN 2014) of 52.223-16.

_X_ (44) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513). Always, everything

__ (45) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).

__ (46) 52.223-21, Foams (Jun 2016) (E.O. 13693).

__ (47) (I) 52.224-3 Privacy Training (JAN 2017) (5 U.S.C. 552 a). If contractor has anything to do with records or PII; if we say they must do our training, use Alternate I

__ (ii) Alternate I (JAN 2017) of 52.224-3.

__ (48) 52.225-1, Buy American-Supplies (Nov 2021) (41 U.S.C. chapter 83).Over micro, but under $25K. Also, over $25K…UNLESS covered by any of 52.225-3 thru 52.225-6; EXCEPT if restricted to domestic end products yaw subpart 6.3, an exception applies (nonavailability, public interest, IT that is COTS) OR for use outside USA.

__ (49) (I) 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act (Nov 2021)(41 U.S.C.chapter83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note
, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42,
and 112-43. $25K or more, but under $180K…this clause/alternates do not apply to sm. bus set-asides, FPI, or Ability One

__ (ii) Alternate I (Jan 2021) of 52.225-3. $25K but under $50K

__ (iii) Alternate II (Jan 2021) of 52.225-3. $50K but under $80,317

__ (iv) Alternate III (Jan 2021) of 52.225-3.$80,317 but under $100K

__ (50) 52.225-5, Trade Agreements (OCT 2019) (19 U.S.C. 2501, *et seq*., 19 U.S.C. 3301 note).

__ (51) 52.225-13, Restrictions on Certain Foreign Purchases (FEB 2021)(E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

__ (52) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C.
2302 Note).

__ (53) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

__ (54) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

__ (55) 52.229-12, Tax on Certain Foreign Procurements (FEB 2021).

__ (56) 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services (Nov 2021) (41 U.S.C.4505, 10 U.S.C.2307(f)).

__ (57) 52.232-30, Installment Payments for Commercial Products and Commercial Services (Nov 2021) (41 U.S.C.4505, 10 U.S.C.2307(f)).

__ (58) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (Oct 2018) (31 U.S.C. 3332).

__ (59) 52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (31 U.S.C.3332).

__ (60) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C.3332). Credit card payments

__ (61) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a). IT Contracts

__ (62) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(13)). If 52.219-9 is included (sm. bus subcontracting plan)

__ (63) (I) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) (46 U.S.C. Appx. 55305 and 10 U.S.C. 2631).

__ (ii) Alternate I (Apr 2003) of 52.247-64.

__ (iii) Alternate II(May 2022) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

[*Contracting Officer Check as appropriate.*]

__ (1) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67). Basically, all services except those under 52.222-51 or -53

__ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67). Basically, all services except those under 52.222-51 or -53 (the paragraph and table below go with this clause)

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under

contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C.5341 or 5 332.

__ (3) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67). If multiple-year contract or option years

__ (4) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67). Service over SAT, not multiple year/options

__ (5) 52.222-51, Exemption from Application of the Service Contract Labor Standards to

Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).

__ (6) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) (41 U.S.C. chapter 67).

__ (7) 52.222-55, Minimum Wages Under Executive Order 13658 (Nov 2020). If 52.222-41 is included

__ (8) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706). Always if there's a wage determination

__ (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792).
Over $25K for provision, service, sale of food

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph(d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR 2.101, on the date of award of this contract, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs(a), (b), (c), and(d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph(e)(1) in a subcontract for commercial products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509).

(ii)52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section

1634 of Pub. L. 115-91).

(iv) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C.637(d)(2) and(3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(vi) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(vii) 52.222-26, Equal Opportunity (Sep 2015) (E.O.11246).

(viii) 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C.4212).

(ix) 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C.793).

(x) 52.222-37, Employment Reports on Veterans (Jun 2020) (38 U.S.C.4212).

(xi) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(xii) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C.

chapter 67). (xiii)

(A) 52.222-50, Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O 13627).

(B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O 13627).

(xiv) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).

(xv) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).

(xvi) 52.222-54, Employment Eligibility Verification (Nov 2021) (E.O. 12989).

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (Nov 2020).

(xviii) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2017)

(E.O. 13706). (xix)

(A) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).

(B) Alternate I (Jan 2017) of 52.224-3.

(xx) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xxi) 52.226-6 Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792) Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov

2021) (46 U.S.C. Appx. 55305 and 10 U.S.C.2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247- 64.

(2) While not required, the Contractor may include in its subcontracts for commercial products and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: December 2022 Financials
Date: February 21, 2023

Attached is the monthly Financials Report for December 2022.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
December, 2022

	Month of December 2022				Y-T-D as of December 2022			
	December FY22 Actual	December FY23 Actual	YOY Variance	B/(W)	YTD FY22 Actual	YTD FY23 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	16,539	21,592	5,053	31%	116,977	147,636	30,659	26%
Fuel Flowage Fees	55,672	53,888	(1,784)	-3%	280,469	330,064	49,595	18%
Landing Fees	129,164	132,385	3,221	2%	736,402	656,456	(79,946)	-11%
Lease Income Aero	255,493	220,528	(34,965)	-14%	1,612,324	1,563,718	(48,606)	-3%
Fuel Sales	342,991	604,252	261,261	76%	2,538,465	4,077,729	1,539,264	61%
Services Sold - Aero	446,202	426,606	(19,596)	-4%	2,184,856	2,419,744	234,888	11%
Sub-total Aero Operating Revenues	1,246,061	1,459,251	213,190	17%	7,469,493	9,195,347	1,725,854	23%
Non-Aeronautical Operating Revenues								
Concessions	118,328	166,814	48,486	41%	530,639	676,039	145,400	27%
Lease Income Non-Aero	121,082	107,322	(13,760)	-11%	717,969	651,539	(66,430)	-9%
Parking	387,289	414,367	27,078	7%	2,211,462	2,451,713	240,251	11%
Rental Car Fees	175,076	245,365	70,289	40%	876,093	1,075,497	199,404	23%
Svcs Sold - Non Aero	10,112	3,982	(6,130)	-61%	25,257	31,826	6,569	26%
Sub-total Non-Aero Operating Revenues	811,887	937,850	125,963	16%	4,361,420	4,886,614	525,194	12%
Total Operating Revenues	**2,057,948**	**2,397,101**	**339,153**	**16%**	**11,830,913**	**14,081,961**	**2,251,048**	**19%**
Operating Expenses								
Costs of Goods Sold	236,169	379,615	(143,446)	-61%	1,685,391	2,854,696	(1,169,305)	-69%
Personnel	1,030,086	923,698	106,388	10%	4,677,386	4,928,130	(250,744)	-5%
Comm & Utilities	51,256	57,044	(5,788)	-11%	494,320	516,342	(22,022)	-4%
Contractual Services	414,808	503,257	(88,449)	-21%	2,655,390	2,989,262	(333,872)	-13%
Insurance	51,566	68,038	(16,472)	-32%	285,926	343,748	(57,822)	-20%
Other	12,157	32,131	(19,974)	-164%	93,497	128,287	(34,790)	-37%
Repair & Maintenance	54,448	40,551	13,897	26%	293,918	369,758	(75,840)	-26%
Supplies & Materials	40,722	73,090	(32,368)	-79%	526,671	449,040	77,631	15%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,622,382]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**1,891,212**	**2,077,424**	**(186,212)**	-10%	**10,712,499**	**12,579,263**	**(1,866,764)**	-17%
Operating Income (Loss) Before Depreciation	**166,736**	**319,677**	**152,941**	92%	**1,118,414**	**1,502,698**	**384,284**	34%
	8.1%	13.3%			9.5%	10.7%		
Depreciation		1,424,747				4,300,687		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **February 21, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Request for Proposals	2023-013-RFP	Fire Pumps	February 2023
Request for Qualifications	2023-016-RFQ	Structural Special Inspection & Fire Proofing Special Inspection Services	February 2023
Request for Proposals	2023-017-RFP	Preconditioned Air Units & Ground Power Units	March 2023
Request for Proposals	2023-019-RFP	Remote Transmitter and Receiver (RTR) Relocation	April 2023
Request for Proposals	2023-023-RFP	Auditor Services	April 2023
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Proposals	2023-006-RFP	Car Rental Concessions	March 2023	September 2023
Request for Proposals	2023-020-RFP	ATM Services	April 2023	June 2023
Request for Proposals	2023-021-RFP	Vending Services	April 2023	June 2023
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	April 2023	June 2023

Equipment Disposals
Fiscal year totals from sales of decommissioned / nonworking equipment total $12,115.00.

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, March 21, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Brigette Peterson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Brigette Peterson, Chair)

3. **Pledge of Allegiance**

4. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

5. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

6. **Presentation: Gateway Tomorrow Introductory Overview** – Tony Bianchi, Planning Project Manager

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **February 21, 2023**.

   b) **Resolution No. 23-08 –** Authorizing the purchase of four (4) Aircraft Ground Power Units (GPU) and four (4) Preconditioned Air Units (PCAU) from **ITW GSE, Inc. (ITW)** in an amount not to exceed $617,852 under CIP 1240. The amount proposed includes an extended warranty.

   c) **Resolution No. 23-09 –** Authorizing an Amendment of the FY23 Capital Budget to provide $438,891 in funding for the Transportation Security Administration (TSA) In-Line Checked Baggage System Design under CIP 1265 subject to receipt of a **TSA Other Transaction Agreement (OTA) Grant**.

   d) **Resolution No. 23-10 –** Authorizing an Agreement with **Studdiford Technical Solutions, LLC (Studdiford)** for Professional Engineering Services, for the In-Line Checked Baggage System Design, in an amount not to exceed $438,891 under CIP 1265 subject to receipt of a TSA OTA grant.

   e) **Resolution No. 23-11 –** Authorizing a contract with **CliftonLarsonAllen, LLP** for auditor services in an amount not to exceed $218,225 for a period of five (5) years which includes (2) one year renewal options.

f) **Resolution No. 23-12 –** Authorizing Amendment 1 of the Development Lease Agreement with **SKYPLUS HOTELS, CORP**, an Arizona Corporation.

g) **Resolution No. 23-13 –** Authorizing the procurement of server equipment from **Dell Marketing, L.P. (Dell)** in an amount not to exceed $53,795.

Consideration and Approval of:

8. **Resolution No. 23-14** Adopting the proposed **Operating Budget, Capital Budget, Debt Service Budget**, and **Member Government Contributions** for the fiscal year ending June 30, 2024**.**

9. **Board Member Comments/Announcements**

10. **Next Meeting: Tuesday, April 18, 2023 at 9:00 a.m.**

11. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- PMGAA Welcomes Queen Creek Mayor Julia Wheatley to Board of Directors
- Gateway Executive Airpark/Virgin Galactic Making Progress
- PMGAA Welcomes 100+ Executive Jets During Phoenix Open/Super Bowl LVII
- SkyBridge Arizona Breaks Ground on 250,000 Sq. Ft. Industrial Building
- Gateway Tomorrow Terminal Planning Initiative Gets Underway
- DSV Air & Sea, a Global Transport and Logistics Leader, Starts Gateway Airport Operation

Executive Director's Report

March 2023

Financial Snapshot

OPERATING INCOME	January		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY22	FY23	
Revenues	$2,224,549	$2,681,245	**$456,696**	$14,059,596	$16,763,206	**$2,703,610**
Less Expenses	$1,854,751	$2,118,600	**$263,849**	$12,567,305	$14,698,263	**$2,130,958**
Operating Income *(Before Depreciation)*	**$369,798**	**$562,645**	**$192,847**	**$1,492,291**	**$2,064,943**	**$572,652**

Investment Fund Balances: As of January 2023, the Local Governmental Investment Pool (LGIP) 700 = $12,083,545; Wells Fargo; Collateralized Money Market = $12,328,301 and Brokered CD's = $38,052,694; Total $62,464,540.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) reported a net operating income of $562,645 for January 2023, an increase of $192,847 compared to January 2022. Consistent with other months during the first half of fiscal year 2023 (FY23), aeronautical and non-aeronautical revenues were driven by record-setting commercial passenger activity levels increasing fuel sales, parking revenue, rental car fees, and concession revenue. Monthly concession sales reflect not only an increase in total sales, but also an increase in concession revenue per enplaned passenger. New food & beverage concessions Macayo's Mexican Food and Infusion Coffee and Tea Crafters are proving popular with air travelers.

Operating expenditures for January 2023 increased by 14%, reflecting inflationary pressures on the price of aviation fuel, personnel costs, contractual services, facility and infrastructure repairs and maintenance.

Fiscal year-to-date 2023 (FYTD23) total operating revenues have improved by 19% and operating expenditures have increased by 17%. Total operating expenditures are 2% under the FY23 PMGAA Board-approved operating budget.

The PMGAA Board will be asked to consider and approve an FY24 Operating and Capital Budget of $128,388,095 at their March meeting.

PMGAA Solicitations

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Request for Proposals	2023-017-RFP	Preconditioned Air Units and Ground Power Units	March 2023
Request for Proposals	2023-019-RFP	Remote Transmitter and Receiver (RTR) Relocation	April 2023
Request for Proposals	2023-023-RFP	Auditor Services	April 2023
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Proposals	2023-006-RFP	Car Rental Concessions	March 2023
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	April 2023
Request for Proposals	2023-020-RFP	ATM Services	May 2023
Request for Proposals	2023-021-RFP	Vending Services	May 2023

Airport Operations

DSV Air & Sea, a Global Transport and Logistics Leader, Starts Gateway Airport Operation

DSV Air & Sea, a global transport and logistics leader, has signed a lease for a 22,000 sq. ft. hangar at Gateway Airport and plans to provide air shipping services for the semiconductor industry, electric car manufacturers, mining operations, alternative energy companies, and others.

The international company is planning a "test shipment" for March 9th to familiarize company employees and contractors with the Airport's airfield and ensure the large Boeing 747 aircraft can operate safely on Gateway Airport's taxiways and ramp area.

PASSENGER COUNTS		January		% Change	FYTD		% Change
		2022	2023		FY22	FY23	
Passengers	TOTAL	140,650	176,267	25%	957,769	1,068,703	12%
	Deplaned	73,387	91,522	25%	489,286	545,279	11%
	Enplaned	67,263	84,745	26%	468,483	523,424	12%
Allegiant	Scheduled	131,527	154,642	18%	927,505	1,011,345	9%
Swoop	Scheduled	2,802	7,877	181%	9,451	18,969	101%
Sun Country	Scheduled	3,791	5,363	41%	9,152	18,624	103%
WestJet	Scheduled	1,149	2,051	79%	2,724	5,679	108%
Flair	Scheduled	1,381	6,334	359%	2,642	13,692	418%
Elite/Swift	Charter	0	0	0%	1,422	394	-72%

OPERATIONS	January		% Change	FYTD		% Change
	2022	2023		FY22	FY23	
Air Carrier	1,248	1,079	-14%	7,748	6,883	-11%
Military	445	316	-29%	2,033	2,269	12%
General Aviation	17,016	20,128	18%	124,531	136,259	9%
TOTAL	**18,709**	**21,523**	**15%**	**134,312**	**145,411**	**8%**

Engineering and Planning

PMGAA Completes Two Taxiway Connectors for Gulfstream Project

Completed Taxiway Connectors for Gulfstream Project

As construction work continues on Gulfstream Aerospace Corporation's new 225,000 sq. ft. West Coast Service Center, PMGAA has recently completed construction of two connections from Gulfstream's expansive ramp in front of their facility to the south end of Taxiway Charlie. The two separate taxiway connections will allow for the efficient flow of aircraft and expedited access for Gulfstream's customers. PMGAA and Gulfstream are splitting the approximately $8MM total project cost.

Gateway Executive Airpark/Virgin Galactic Making Progress

Gateway Executive Airport is a private development project located at the north end of Gateway Airport's airfield between the Cessna and Embraer Service Centers. The three-hangar complex was designed for single and multiple-tenant uses.

In 2022, Virgin Galactic leased two of the three hangars to establish an Arizona manufacturing facility for their spacecraft. The plan is to manufacture up to six spacecraft each year and deliver them to New Mexico for eventual launch into space.

Virgin Galactic Completes Site Work Prior to Vertical Construction

Business Development

SkyBridge Arizona Breaks Ground on 250,000 Sq. Ft. Industrial Building

Officials Break Ground on SkyBridge Building

Lots of activity and more great news coming from SkyBridge Arizona! In late February, SkyBridge representatives, PMGAA Board members, other elected officials, and an assortment of VIP's were on-hand to participate in a groundbreaking ceremony for the first of two 250,000 sq. ft. industrial buildings being constructed in 2023. SkyBridge also currently has a 129-room hotel under construction and plans to start approximately $40MM in horizontal infrastructure later this fall.

Community Noise Report

CALLERS	January		FYTD	
	2022	2023	FY22	FY23
Total	14	11	86	85

AIRCRAFT TYPE	January		FYTD	
	2022	2023	FY22	FY23
	Callers	Callers	Callers	Callers
Commercial	5	5	55	50
GA Total	2	5	10	18
Helicopter	0	0	5	0
Military	7	1	16	17
Total	14	11	86	85

LOCATION	January		FYTD	
	2022	2023	FY22	FY23
Mesa	5	5	26	40
Gilbert	7	5	49	33
Gold Canyon	0	1	1	2
Queen Creek	2	0	6	6
Queen Valley	0	0	2	1
San Tan Valley	0	0	0	0
Apache Junction	0	0	1	3
Fountain Hills	0	0	1	0
TOTAL	14	11	86	85

PMGAA received communication from 11 individuals regarding aircraft noise issues during the month of January 2023, compared to the 14 PMGAA received last January. The relatively low number of noise calls during the winter months is due to cooler weather keeping windows closed at night and in the morning when Airport activity is fairly robust. The Airport is expecting a very busy winter/spring travel season.

PMGAA Team Member Spotlight

Employee Name: **Tobbie McMillan**
Employee Title: **Facilities Maintenance Manager**
PMGAA Department: **Engineering and Facilities**
Years with PMGAA: **4+**

What are your job responsibilities for PMGAA? I manage the maintenance and repair of the buildings and HVAC equipment on airport property. I oversee tenant improvement projects and work closely with other PMGAA teams on capital improvement projects.

What is your most memorable Gateway Airport moment? When I first got hired, I worked with Mitch and Ron for a couple days pulling wire next to a runway and the military was doing training with the Harriers. They would land and take off multiple times. Before the first one took off, I wasn't paying attention because I was pulling wire, but I noticed the wire was stuck and I look up in Mitch's direction to see if he was still pushing the wire. He was walking away from the runway toward the truck with his hands over his ears. Just then the Harrier took off right next to me. The sound and feeling were unexplainable, I laughed like a little kid. It was memorable.

What is something people may not know about you? When I was 14, I worked 2 jobs - One at a local newspaper in Lamar Co. boxing newspapers off the press. The 2nd was on one of the largest pig farms in the Midwest. One of my jobs was catching young pigs and getting their mom to chase me as I threw them inside a hut that looked like a large doghouse then sliding a door shut behind her. We had to do this to keep them safe at night from coyotes. Ask me sometime and I will share the best way to catch a small pig.

PMGAA Welcomes 100+ Executive Jets During Phoenix Open/Super Bowl LVII

Crowded Ramp at Gateway Airport During Super Bowl

Airports across greater Phoenix experienced increased traffic as hundreds of thousands of people from across the globe flooded the Valley to attend the Phoenix Open and/or Super Bowl LVII.

The hard-working and dedicated aviation professionals in PMGAA's Gateway Aviation Services Department and other PMGAA volunteers provided a "first-class" red carpet experience for each of the more than 100 executive jets landing at Gateway Airport during the week. Celebrities, foreign dignitaries, corporate icons, and golf/football enthusiasts chose the Airport for convenience, easy access, and exceptional customer service during their stay. The Airport was proud to receive reservations from several repeat customers who remembered their positive airport experience from when the Super Bowl was last played in Phoenix in 2015. Way to go PMGAA team, thank you all for your extra efforts!

PMGAA pumped more than 1.4MM gallons of aviation fuel during the month of January 2023, a 19% decrease compared to the over 1.7MM gallons dispensed during January 2022. Commercial Jet A fuel was down 18% during the month, a strong reminder of the on-going financial and operational impacts the national pilot shortage is having on airports across the country.

FUEL (Gallons)	January			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	32,918	40,346	23%	257,091	288,655	12%
Retail Jet A	41,904	67,238	60%	280,659	466,468	66%
Contract	381,263	255,712	-33%	1,996,060	2,090,717	5%
Commercial	1,281,942	1,047,804	18%	8,224,463	7,274,610	-12%
TOTAL	**1,738,027**	**1,411,100**	**-19%**	**10,758,273**	**10,120,450**	**-6%**

Community and Government Relations

Gateway Tomorrow Terminal Planning Initiative Gets Underway

PMGAA has launched a new east side terminal planning initiative called **Gateway Tomorrow**. This inclusive, long-range exercise will consider, refocus, and build upon past terminal planning efforts using recent data and updated information about the region, the Airport, the aviation industry, and current global economic conditions. The goal of **Gateway Tomorrow** is to reset and refine our shared vision for a future commercial passenger terminal campus, identify the most important elements to be included in Phase I, develop general cost estimates, and explore possible funding sources/creative funding mechanisms.

The **Gateway Tomorrow** Study Advisory Committee (SAC) includes members from Mesa, Gilbert, Queen Creek, Apache Junction, the Gila River Indian Community, and Phoenix. The SAC also includes representatives from Allegiant, the Federal Aviation Administration, PHX East Valley Partnership, and other stakeholders.

Gateway Tomorrow Study Advisory Committee	
Organization	**Representative**
City of Mesa	Lori Collins, Deputy Economic Development Director
Town of Gilbert	Kyle Mieras, Development Services Director
City of Phoenix	Jay DeWitt, Assistant Aviation Director/Chief Development Officer
Town of Queen Creek	Marissa Garnett, Economic Development Manager
City of Apache Junction	Rudy Esquivias, Development Services Director
Gila River Indian Community	Hon. Monica Antone, Lt. Governor Elizabeth Antone, GM, Wild Horse Pass Development Authority
Allegiant Air	Michael Graci, Manager Airport Affairs/Corporate Real Estate
Federal Aviation Administration	Kyler Erhard, Lead Program Manager
PHX East Valley Partnership	John Lewis, President
PMGAA	Shea Joachim, Director of Business Development
PMGAA	Margi EvanSon, Director of Operations, Security, and Maintenance
Representatives of the Phoenix-Mesa Gateway Airport Authority Board of Directors, Gateway Senior Staff, and Member Communities may participate in an advisory and oversight role. Other Phoenix-Mesa Gateway Airport Authority staff members, as well as representatives from terminal concessions, ground transportation, TSA, LEO, and ARFF may also be called upon to participate on an ad hoc basis.	

PMGAA Welcomes Queen Creek Mayor Julia Wheatley to the Board of Directors

Queen Creek has a new representative on the PMGAA Board of Directors. Julia Wheatley was elected Queen Creek's Mayor in August 2022. She previously served as Town Council Member, first elected in 2010 and re-elected in 2014 and 2018. In addition to the PMGAA Board of Directors, Mayor Wheatley also represents Queen Creek on the Maricopa Association of Governments Regional Council and Transportation Policy Committees and the Greater Phoenix Economic Council Mayors and Supervisors Council.

Mayor Wheatley holds a Bachelor of Science in Legal Studies with a minor in Criminal Justice. She is an Arizona native, and she and her husband Benjamin have four children and own a mortgage and real estate company. Welcome Mayor Wheatley!

MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | February 21, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA) was convened on Tuesday, February 21, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix*
Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community *(via audioconference)*
Mayor Julia Wheatley, Queen Creek
Mayor John Giles, Mesa*
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney

1. **Call to Order** at 9:00 a.m. (Mayor Peterson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - Fiscal Year-to-Date (FYTD) Net Operating Income is $1,502,698.
   - Record setting passenger activity in December 2022! (199,287 total passengers)
   - Record setting total commercial passengers for 2022! (1,890,684 total passengers)
   - The Authority's ongoing Airline Recruitment Program is designed to attract additional air service and new airlines to the Airport. In February PMGAA met with representatives from Sun Country Airlines, Avelo Airlines, Alaska Airlines, United Airlines and Breeze Airways at the annual Mead & Hunt Air Service Conference.
   - Super Bowl LVII and the WM Phoenix Open brought more than 125 private executive jets to Phoenix-Mesa Gateway Airport earlier in February. The Gateway Aviation Services Team created and executed a very successful plan to provide efficient operations and great customer service for all the customers.
   - Gulfstream Aerospace has established a base at the Airport and is leasing over 100,00 sq. ft. of hangar space while their new 225,000 sq. ft. West Coast Service Center is being constructed.
   - Virgin Galactic is leasing two of the three hangars in the Gateway Executive Airpark located at the north end of the airfield. Virgin galactic intends to use the hangars as a final assembly

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manufacturing facility for its spaceships. One challenge they've overcome is the inadequate facility height of Hangar B. In order to be able to use this hangar to house the "mothership", they've taken down all of the steel structure and added 20' to the sides of the building. Substantial completion of these hangars is expected by the end of 2023/beginning of 2024.

- SkyBridge Arizona is holding a groundbreaking event for the first of two 250,000 sq. ft. industrial buildings. The event will be held on February 21st at 10:00AM for elected officials and other invited guests. These two large buildings are being built to accommodate both single and multiple tenants.
- Gateway***East*** is a 300-acre, mixed use, non-aeronautical development opportunity located on the east side of the Airport. The Boyer Company is working with the city of Mesa and the Authority on the Master Plan and the permits for Phase I of the project (100 acres).
- The City of Mesa is working to construct roadway and utility infrastructure to allow for both the Gulfstream development and the first 100 acres of Gateway***East***'s development.
- Erik Amend, Acting FAA Regional Administrator, visited the Airport on February 9th for a tour and discussion about federal funding and air traffic control tower staffing.
- Gateway Tomorrow is a year-long planning initiative that will help develop an updated vision for a demand-driven commercial passenger terminal campus on the east side of the Airport.
- Construction of the underground utilities for the Airport's new 30,000 sq. ft. five-gate terminal addition is underway. Gone is the 10,000 sq. ft. portable four-gate facility that was rolled in for use in 2008. During construction a 6,000+ sq. ft. temporary terminal facility has been erected to serve as a hold room for three-gates. Once the terminal addition is complete, the temporary sprung structure facility will be disassembled and reassembled elsewhere on the Airport, possibly for reuse as a U.S. Customs and Border Protection Federal Inspection Services (FIS) Facility.
- Gateway Airport is continuing its expansion of the Alpha Apron. Phase IV is an additional 250,000 sq. ft. of concrete to increase parking for larger and heavier aircraft. Alpha Apron Phase III was completed last year. Phase IV expansion will be complete in April 2023.
- Center Runway Reconstruction began October 3, 2022 and is anticipated to be complete in April 2023. The runway is closed while the reconstruction takes place. The Airport has two other 10,000-foot runways and will maintain normal operations during the entire project. Funding for this project utilizes a combination of FAA entitlement, discretionary, and Bipartisan Infrastructure Law (BIL) grants.
- PMGAA is completing construction of two taxiway connectors from Gulfstream's ramp to Taxiway Charlie. This project will provide for the efficient flow of aircraft to and from Gulfstream's new facility.
- The Authority has purchased three new 50,000-gallon Jet-A fuel storage tanks that will be delivered in August. This additional fuel storage capacity will provide the Airport with approximately seven days of on-Airport fuel storage.

Mayor Wheatley thanked Executive Director O'Neill for the thorough report, congratulated the Authority on the record-breaking passenger activity, and is looking forward to celebrating 2,000,000 annual passengers in the near future.

6. Fiscal Year 2024 Budget Presentation – Chuck Odom, Chief Financial Officer

- Mr. Odom provided a presentation on PMGAA's proposed FY24 Operating and Capital Budget for the Board's review. The Board will be asked to consider the budget for approval at the March 21, 2023, PMGAA Board meeting.

Mayor Peterson thanked CFO Odom for the comprehensive report and thanked the Authority for being fiscally responsible.

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **December 20, 2022**.

   b) **Resolution No. 23-01 –** Authorizing annual changes to the **Airport Rules and Regulations**.

   c) **Resolution No. 23-02 –** Authorizing the purchase and installation of four (4) 1500GPM and one (1) 2500GPM Fire Pump Skids and four (4) three-hundred-gallon Fuel Tanks from **Cross Fire Protection LLC (Cross Fire)** in an amount not to exceed $499,921.59 under CIP1238.

   d) **Resolution No. 23-03 –** Authorizing a contract with **Crosspoint Testing and Inspection Services, LLC (Crosspoint)** to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project and future projects, on a per task basis, utilizing an Authorization of Services, under CIP1201.

   e) **Resolution No. 23-04 –** Approving an Authorization of Services (AOS) with **Crosspoint Testing and Inspection Services, LLC (Crosspoint)** to provide Structural Special Inspection and Fire Proofing Special Inspection Services for the Terminal Modernization project in an amount not to exceed $114,150 under CIP1201.

Mayor Chip Wilson moved to approve the Consent Agenda.
Mayor Julia Wheatley seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 23-05** Authorizing a facility lease agreement with **Allegiant Air, LLC** for the property located at 6250 S. Taxiway Circle, Mesa AZ 85212. The lease term is five years commencing on March 1, 2023.

   Michael Graci, Allegiant's Airport Affairs Manager, reported on the airline's plans for the 62,000 sq, ft. hangar. Allegiant will use the hangar for ongoing line maintenance activities and future Maintenance, Repair, and Overhaul (MRO) services.

Mayor Julia Wheatley moved to approve Resolution No. 23-05.
Mayor John Giles seconded the motion.
The motion was carried unanimously.

9. **Resolution No. 23-06** Authorizing a Facility Lease and Airport Operating Agreement with **DSV Air & Sea Inc.** for the properties located at 6203 and 6211 S. Sossaman Road, Mesa, AZ 85212 with an Effective Date of March 1, 2023. The Term for both agreements is thirty-nine months, terminating on May 31, 2026, with two (2), three (3) year options to renew.

   Tina Larsen, DSV Air & Sea Director, reported on their plans for importing and eventually exporting air cargo through Phoenix-Mesa Gateway Airport.

Mayor Chip Wilson moved to approve Resolution No. 23-06.
Mayor Julia Wheatley seconded the motion.
The motion was carried unanimously.

10. **Resolution No. 23-07** Authorizing a lease agreement with **USDA-FS CSA Southwest 4** for the exclusive use of 286,500 SF of Airport-owned apron. The lease term commences on February 21, 2023 and terminates on September 30, 2023.

Mayor Julia Wheatley moved to approve Resolution No. 23-07.
Mayor Chip Wilson seconded the motion.
The motion was carried unanimously.

11. **Board Member Comments/Announcements.**
Mayor Peterson welcomed newly elected Queen Creek Mayor Julia Wheatley to the Board of Directors. SkyBridge Arizona is holding a groundbreaking event at 10 a.m. today at 7733 E Velocity Way in Mesa. This is for the construction of one of two 250,000 sq. ft. industrial buildings.

12. **Next Meeting: Tuesday, March 21, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

13. **Adjournment.**
The meeting adjourned at 9:56 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-08

To:	**Board of Directors**
From:	**R. J. Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Aircraft Ground Power Units and Pre-Conditioned Air Units – CIP 1240**
Date:	**March 21, 2023**

Proposed Motion
To authorize the purchase of four (4) Aircraft Ground Power Units (GPU) and four (4) Preconditioned Air Units (PCAU) from ITW GSE, Inc. (ITW) in an amount not-to-exceed $617,852 under CIP 1240. The amount proposed includes an extended warranty.

Narrative
As part of the Terminal Modernization project, four (4) new Aircraft Ground Power Units (GPU) and Preconditioned Air Units (PCAU) are required for the new passenger gates being constructed.

The Request for Proposal (RFP), Solicitation 2023-017-RFP was issued on January 4, 2023, and advertised in the Arizona Business Gazette on 1/5, 1/12, 1/19, and 1/26/23. The Notice of RFP was also posted on the AzAA, ACC, ACI-NA, SWAAAE and the FAA Matchmaker Websites, as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFP was emailed to a list of six prospective firms. Airport staff received four (4) proposals:

JBT AeroTech Corporation
ITW GSE, Inc.
Twist Aero LLC
Dabico Airport Solutions, Inc.

After reviewing the submitted proposals, the Evaluation Panel selected ITW. The proposal met all requirements and minimum specifications and also demonstrated successful use in harsh desert climates. The Panel unanimously ranked ITW's proposal as number one based on pricing, demonstrated successful performance, longevity in harsh desert areas, warranty period and lead time.

Fiscal Impact
This purchase was included in the FY23 Capital Budget utilizing $700,000 in non-grant funding under CIP 1240.

Attachment(s): Proposal Summary Page

RESOLUTION NO. 23-08

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of four (4) Aircraft Ground Power Units (GPU) and four (4) Preconditioned Air Units (PCAU) from ITW GSE, Inc. (ITW) in an amount not-to-exceed $617,852 under CIP 1240. The amount proposed includes an extended warranty;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of four (4) Aircraft Ground Power Units (GPU) and four (4) Preconditioned Air Units (PCAU) from ITW GSE, Inc. (ITW) in an amount not-to-exceed $617,852 under CIP 1240. The amount proposed includes an extended warranty. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of March, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Attachment E
Price Proposal

Item	Price
Four (4) New Preconditioned Air Units, To Meet Minimum Specifications per Exhibit 1	$ **371,660.00**
Four (4) New Ground Power Units, To Meet Minimum Specifications per Exhibit 2	$ **172,028.00**
Manuals, 2 sets, to meet requirements per Section Two C.	$ Included
Sales Tax, 8.3% PMGAA is NOT tax exempt. If Offeror does not collect sales tax on behalf of the State of Arizona when invoicing, Offeror should still include tax at a rate of 7.6% for Use Tax.	$ **41,320.29**
Warranty, four (4) new Preconditioned Air Units, to meet requirements per Section Two C.	- Included -
Warranty, four (4) new Ground Power Units, to meet requirements per Section Two C.	- Included -
Commissioning, to meet requirements per Section Two C.	$ **2,200.00**
Training, to meet requirements per Section Two C.	**(Combined with commissioning)** $ Included
Shipping, four (4) new Preconditioned Air Units and four (4) new Ground Power Units	$ **$12,200.00**
Total	$ **$599,408.29**

Offeror's Payment Terms: Net 30 days

Discounts:
Prompt Payment: The price(s) quoted above can be discounted by 0.00 % if payment is made within 30 days.

Parts: PMGAA's price for purchasing parts direct from the Offeror shall be discounted by 20 % of the current list price for parts published by Offeror.

Exceptions / Clarifications of Offeror:

Exhibit I, PCA Cabinet - ITW GSE cabinet material is constructed of STEEL, with appropriate anti-corrosive coatings

	PC Air Units	**GPUs**
Delivery Time Estimate of Equipment to PMGAA:	8-12 weeks ARO	6-10 weeks ARO
Equipment Manufacturer:	ITW GSE	ITW GSE
Equipment is Manufactured in (Country):	U.S.A	U.S.A.

Greg Rentfro
Printed Name

Signature

February 5, 2023
Date

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-09

To:	**Board of Directors**
From:	**R. J. Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**FY23 Capital Budget Amendment – TSA In-Line Checked Baggage System Design – CIP 1265**
Date:	**March 21, 2023**

Proposed Motion

To Authorize an Amendment of the FY23 Capital Budget to provide $438,891 in funding for the TSA In-Line Checked Baggage System Design under CIP 1265 subject to receipt of a TSA OTA Grant.

Narrative

Due to the increase in passenger traffic at the Phoenix-Mesa Gateway Airport (PMGAA), it has been determined that the existing Baggage Handling System (BHS) will not be able to adequately keep up with the number of bags being checked. PMGAA staff propose working with an Engineering and Design Architectural Firm to provide planning and design services for a new in-line Checked Baggage Inspection System (CBIS). This project will include collaboration and coordination with the Transportation Security Administration (TSA), airlines and other airport stakeholders to deliver a system which meets the screening requirements set forth by the TSA.

The project will require the current Baggage Handling System to be removed and replaced with a new network of conveyor belts that will transport checked baggage to a new Checked Baggage Inspection System, comprising in-line Explosives Detection System (EDS) units, followed by transport of cleared bags to a common existing make-up unit for loading onto carts and transport to the aircraft.

Fiscal Impact

Requesting that these funds, for the TSA In-Line Checked Baggage System Design, be added and included in the FY23 Capital Budget utilizing TSA and PMGAA non-grant funds under CIP 1265.

RESOLUTION NO. 23-09

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an Amendment of the Fiscal Year 2023 Capital Budget to provide $438,891 in funding for the Transportation Security Administration (TSA) In-Line Checked Baggage System Design under CIP 1265 subject to receipt of a TSA Other Transaction Agreement Grant;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an Amendment of the Fiscal Year 2023 Capital Budget to provide $438,891 in funding for the Transportation Security Administration (TSA) In-Line Checked Baggage System Design under CIP 1265 subject to receipt of a TSA Other Transaction Agreement Grant. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of March, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-10

To:	**Board of Directors**
From:	**R. J. Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**TSA In-Line Checked Baggage System Design – Studdiford Technical Solutions, LLC - CIP 1265**
Date:	**March 21, 2023**

Proposed Motion

To authorize an Agreement with Studdiford Technical Solutions, LLC (Studdiford) for Professional Engineering Services, for the In-Line Checked Baggage System Design, in an amount not to exceed $438,891 under CIP 1265 subject to receipt of a TSA OTA grant.

Narrative

Due to the increase in passenger traffic at PMGAA, it has been determined that the existing Baggage Handling System (BHS) will not be able to adequately keep up with the number of bags being checked. The current BHS will be removed and replaced with a new network of conveyor belts that will transport checked baggage to a new Checked Baggage Inspection System (CBIS) comprising in-line Explosives Detection System (EDS) units, followed by transport of cleared bags to a common existing make-up unit for loading onto carts and transport to the aircraft.

PMGAA staff propose engaging the Professional Engineering Services of Studdiford to provide planning and design services for the new in-line Checked Baggage Inspection System (CBIS). This project will include collaboration and coordination with the Transportation Security Administration (TSA), airlines and other airport stakeholders to deliver a system which meets the screening requirements set forth by the TSA.

The Procurement of these services is in accordance with the Airport's Procurement Policy 22-01, following A.R.S. Title 34.

Fiscal Impact

Pending Board Approval for this project to be added to the FY23 Capital Budget. If approved, we anticipate the funding for this project will be comprised of 90% TSA funding and 10% PMGAA Match with non-grant funding under CIP 1265.

Attachment(s): Professional Services Agreement

RESOLUTION NO. 23-10

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an Agreement with Studdiford Technical Solutions, LLC (Studdiford) for Professional Engineering Services, for the In-Line Checked Baggage System Design, in an amount not to exceed $438,891 under CIP 1265 subject to receipt of a Transportation Security Administration Other Transaction Agreement grant;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an Agreement with Studdiford Technical Solutions, LLC (Studdiford) for Professional Engineering Services, for the In-Line Checked Baggage System Design, in an amount not to exceed $438,891 under CIP 1265 subject to receipt of a Transportation Security Administration Other Transaction Agreement grant. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of March, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

STUDDIFORD TECHNICAL SOLUTIONS, LLC

FOR

PROFESSIONAL ENGINEERING SERVICES - IN-LINE CHECKED BAGGAGE INSPECTION SYSTEM

CONTRACT NUMBER 20230112

CIP NUMBER 1265

The Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority (PMGAA), a joint powers airport authority authorized by the State of Arizona and consisting of the City of Mesa, City of Phoenix, City of Apache Junction, Town of Gilbert, Town of Queen Creek and the Gila River Indian Community.

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20230112** ("Contract") and the attached exhibits. Studdiford Technical Solutions, LLC, a Virginia Limited Liability Company ("Consultant"), with its principal offices located at 1608 Old Stage Road, Alexandria, VA 22308, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under this Contract shall generally include, but not be limited to, the following: professional engineering services - planning and design services, as more specifically described in the detailed scope of services attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Engineering and Facilities Director, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract as amended.

The term of this Contract shall commence on the date signed by PMGAA and ends upon final completion and acceptance by PMGAA of the project, as defined by the Scope of Services ("Base Term"), unless terminated, canceled or extended as provided in this Contract.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant, and its subconsultants as listed below, shall provide all services to be performed under this Contract. If additional subconsultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said subconsultants. PMGAA may, at its sole discretion, accept or reject proposed subconsultants.

DWL Architects + Planners, Inc.
LSW Engineers Arizona, Inc.
Martin, White & Griffis Structural Engineers, Inc.
Rider Levett Bucknall, LTD

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with PMGAA's Procurement Policy. Payments will be made in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate contracts or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all contracts with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all contracts with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX INSURANCE REQUIREMENTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage ($5,000,000 if operating in the Air Operations Area of the Airport).
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions. The insurance policies shall provide, or be endorsed to include, the following provisions:

   i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.
   ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract, except *Workers Compensation* and *Professional Liability,* for claims arising out of the Consultant's work or service.
   iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX NOTICES

Any notice, report or information which may be or is required to be given under this Contract will be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn: Engineering & Facilities Director
5835 South Sossaman Road
Mesa, Arizona 85212

TO CONSULTANT: Studdiford Technical Solutions, LLC
Attn: Larry Studdiford
1608 Old Stage Road
Alexandria, VA 22308

or to such other person(s) or address(es) as any such Party may designate from time to time by notice to the other Parties in accordance with this Section.

Executed as of the Commencement Date.

CONSULTANT
Studdiford Technical Solutions, LLC, a Virginia Limited Liability Company

By: _____

Name: Larry Studdiford

Title: President

Date: March 2, 2023

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A – SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

For the services provided herein, PMGAA agrees to pay Consultant the not to exceed amount of $438,891.00

NEW IN-LINE CHECKED BAGGAGE INSPECTION SYSTEM (CBIS) REVISED PROPOSAL FOR PROFESSIONAL ENGINEERING SERVICES

January 10, 2023

Prepared for:
Phoenix-Mesa Gateway Airport Authority
Phoenix-Mesa Gateway Airport

Prepared By:
Studdiford Technical Solutions, LLC

In association with:

Studdiford Technical Solutions, LLC (STS) is pleased to provide Phoenix-Mesa Gateway Airport Authority (PMGAA) with this revised proposal for design services in support of the New In-Line Checked Baggage Inspection System (CBIS) Project at at Phoenix-Mesa Gateway Airport.

PROJECT DESCRIPTION

The scope of this project is to provide planning and design services for the new in-line CBIS. The project scope also includeds collaboration and coordination with the Transportation Security Adminstration (TSA), airlines, and other airport stakeholders to deliver a system which meets the screening requiements set forth by the TSA. The existing baggage handling system (BHS) will be removed and replaced with a new network of conveyor belts that will transport checked baggage to a new CBIS comprising inline Explosives Detection System (EDS) units, followed by transport of cleared bags to a common existing make-up unit for loading onto carts and transport to the aircraft.

The following scope of services has been devloped and based on TSA requirements and guidance. The following design design deliverables will be in accordance with TSA's Planning Guidelines and Design Standards (PGDS) for Checked Baggage Inspection Systems (CBIS) version 8.0 deliverables checklist per design phase:

1. Pre-Design
2. Schematic Design
3. 30% Design
4. 70% Design
5. 100% Design

Our teaming partner, DWL Architects has provided design tasks for architectural, structural, mechanical, electrical, and cost estimating, which is included as Exhibit B in this scope of service.

TASK 1- PROJECT MANAGEMENT AND PREDESIGN PHASE SERVICES

The services will include attendance at meetings, project and subconsultant coordination, correspondence between the design team, subconsultants, Airport, TSA, and airport users. This task will begin at project commencement and continue throughout the project effort through design. This will include:

- Providing a lead to serve as liaison and project coordinator for the TSA and DHS
- Providing a monthly project schedule in accordance with the Other Transaction Agreement (OTA)
- Coordinate a "kick-off" meeting to be held at the airport to perform a detailed site survey
- Manage subsequent meetings as required by the airport
- Data collection for and a site walkthrough with Phoenix-Mesa Gateway Airport Authority (PMGAA) and airport staff to refine project understanding
- Baggage and architectural groups will review the appropriate documentation for each of their requisite tasks
- Development of the pre-design phase submittal:
  - Perform Flight Schedule Analysis based on planning assumptions received from PMGAA
  - Develop concept sketches with alternatives. Develop description of all alternatives considered
  - Assemble preliminary BHS ROM construction and O&M cost estimates, also known as the Current Working Estimate (CWE) and Life Cycle Cost Analysis (LCCA)
  - Develop the Alternatives Analysis report
  - Compile and submit the TSA pre-design submittal package
- Participate in pre-Design Review Notification (DRN) meeting with TSA

TASK 2- SCHEMATIC DESIGN PHASE

- **PM and BAGGAGE**
  - Develop the Basis of Design Report (BDR), including detailed program requirements description with inputs from PMGAA
  - Develop High-Level Flow-Based Modeling Assumptions and Results
  - Develop preliminary Concept Plans for the existing BHS and planned configuration of the new in-line CBIS
  - Develop the phasing and Constructability Technical Memoranda
  - Update the CWE and LCCA for delivery with BDR
  - Assemble the Stakeholder Notification Documentation
  - Coordinate the updated Preliminary Project Schedule with inputs from DWL
  - Prepare Requests for Variance (RFV) for submittal to TSA for any proposed deviations from the PGDS
  - Respond to pre-Design package comments from TSA
  - Compile and submit the TSA schematic design submittal package
  - Participate in the schematic DRN meeting

- **ELECTRICAL**
  - Electrical load study, determination of normal/emergency power requirements

- **ARCHITECTURAL**
  - Proposed Plan layouts

TASK 3- 30% DESIGN PHASE

- **PM and BAGGAGE**
  - Perform an on-site concept validation at AZA
  - Develop 30% level drawings and outline specifications
  - Coordinate and attend a 30% design level Technical Interchange Meeting (TIM) with TSA, if necessary
  - Update the BDR
  - Review and incorporate the DWL-provided MEP, architectural drawings
  - Coordinate the Phasing Plan development
  - Coordinate development of concept of operations
  - Update the CWE and LCCA
  - Coordinate update the Project Schedule
  - Prepare RFVs for submittal to TSA for any proposed deviations from the PGDS
  - Respond to Schematic Design package comments from TSA
  - Compile Stakeholder Review & stakeholder notification documentation
  - Compile and transmit the 30% TSA submittal package
  - Participate in 30% DRN meeting

- **STRUCTURAL (NON-ALLOCABLE)**
  - Develop 30% level drawings
  - Develop outline specifications -divisions 3, 4, and 5 respective structural sections
  - Respond to TSA review comments
  - Update technical content for the BDR

- **MECHANICAL**
  - Develop 30% level drawings – HVAC, Fire Sprinkler
  - Develop outline specifications -divisions 21,23
  - Respond to TSA review comments
  - Update technical content for the BDR

- **ELECTRICAL**
  - Outline specification, demolition plan, power plan
  - Required plans for EDS and TSA networks
  - Design for new power drops, associated transformers, electrical panels or subpanels, communication and network wiring and network and or communications exchanges

- **ARCHITECTURAL**
  - Upon approved plans proceed with developing drawings for Floor plans, Ceiling Plans and Demo Plans
  - Life Safety diagrams and building code sheets
  - Diagrams for the multiple phases and the Overall Diagram
  - Design details as required interfacing with mechanical, electrical, plumbing, and structural elements.
  - Notes listed on Drawings – outline specifications

TASK 4- 70% Design Phase

- **PM and BAGGAGE**
  - Perform an on-site concept validation at AZA, if needed.
  - Prepare an updated BDR based on the original 30% Report submitted, and any TSA comments and/or design modifications
  - Prepare a Preliminary Contingency Plan describing contingency operation noted in the PGDS
  - Develop 70% level drawings and specifications
  - Prepare a Site-Specific Configuration Management Plan
  - Review and incorporate the updated MEP, architectural drawings
  - Update of concept of operations
  - Update the CWE and LCCA
  - Update the Project Schedule
  - Reply to 30% TSA comments.
  - Compile and transmit the 70% TSA submittal package
  - Participate in the TSA 70% DRN meeting
  - Participate in coordination meetings as needed
  - Prepare RFVs for submittal to TSA for any proposed deviations from the PGDS

- **STRUCTURAL (NON-ALLOCABLE)**
  - Develop 70% level drawings and technical specifications
  - Update technical content for the BDR as required

- **MECHANICAL**
  - Develop 70% level drawings and technical specifications

- **ELECTRICAL**
  - Provide specifications, power plan, details, and schedules
  - Required plans for EDS and TSA networks
  - Design for new power drops, associated transformers, electrical panels or subpanels, communication and network wiring and network and or communications exchanges

- **ARCHITECTURAL**
  - Diagrams for the multiple phases and the Overall Diagram
  - Life Safety diagrams and building code sheets
  - Floor plans, Ceiling Plans and Demolition Plans
  - Develop Door, Penetration and Finish Schedules
  - Develop specifications

TASK 5- 100% Design Phase

- **PM and BAGGAGE**
  - Prepare final BDR, including resolution to any TSA comments and/or design modifications
  - Review and incorporate the final MEP, architectural drawings
  - Develop 100% level drawings and specifications
  - Coordinate final description of operations
  - Finalize the Contingency Plans
  - Respond to TSA comments on the 70% submittal
  - Compile and transmit the 100% TSA submittal package
  - Participate in the TSA 100% DRN meeting
  - Prepare Issue For Construction (IFC) drawings as necessary
  - Support PMGAA's bid process, including coordination of TSA facility modification OTA application

- **STRUCTURAL (NON-ALLOCABLE)**
  - Develop 100% level drawings and technical specifications
  - Attendance at internal coordination meetings – as required
  - Respond to TSA review comments
  - Update technical content for the BDR

- **MECHANICAL**
  - Provide 100% drawings and technical specifications
  - Respond to TSA review comments
  - Update technical content for the BDR

- **ELECTRICAL**
  - Provide 100% plans and specifications, signed, and sealed

- **ARCHITECTURAL**
  - Diagrams for the multiple phases and the Overall Diagram
  - Life Safety diagrams and building code sheets
  - Floor plans, Ceiling Plans and Demolition Plans
  - Door, Penetration and Finish Schedules and details
  - Interior Elevations where required
  - Specifications
  - Quality Assurance and Quality Control

ASSUMPTIONS, CLARIFICATIONS AND EXCLUSIONS

1. All planning assumptions (flight schedules, passenger data, etc.) will be provided by PMGAA.
2. All design associated with exterior canopy work for protection of conveyors are considered non-allocable (non-reimbursable by TSA).
3. Travel-related expenses will be billed at cost, within the guidelines set forth by the General Services Administration (GSA) for lodging, meals, and incidental expenses.
4. This proposal excludes the preparation of special studies not listed herein. If required and requested by PMGAA, special studies and reports can be added to this scope of work by amendment and pricing negotiation.
5. This proposal is valid for 120 business days.
6. All personnel working on the project will be U.S. citizens. All documents produced will be considered unclassified, other than those elements considered by TSA as "Sensitive Security Information (SSI)."

7. Invoices will be submitted monthly; to be paid within thirty (30) calendar days of receipt.
8. In accordance with TSA's Funding Policy Memo Section C.2, only basic interior construction and fit out is considered an allocable cost and must be limited to areas directly supporting the baggage screening operation to include CBIS areas, including the CBRA areas and OSR room(s). Costs in excess of basic finishes are not allowable and will be borne by the airport.
9. Design of any new required electrical substations is not allowable and will be borne by the airport.
10. Existing conditions plans to be provided by PMGAA.
11. Baggage conveyers will be slab supported including stacked belts.
12. Bid Phase Services will include assisting the airport with preparing RFP documents, answering RFIs, producing addendums as necessary, and assisting in the bid, negotiation and award for construction, and coordination of the OTA agreement between the airport and TSA.

COMPENSATION
STS and our subconsultant teaming partners will provide the above scope of work time-and-material (T&M) basis, not to exceed **$438,891.00**, with breakout as follows:

Allocable (TSA Reimbursable):
- STS: $251,506.00
- DWL Team: $125,090.00
- TOTAL: $376,596.00

There is also the expectation of the involvement of a Construction Manager At-Risk (CMAR) prior to completion of design for constructability reviews and participation in the preparation of bid documents. Including an allowance of $50,000.00 for CMAR design services ($20,000.00 at 30% design; $20,000.00 at 70% design; $10,000.00 at 100% design), the allocable project total is **$426,596.00**.

Non-Allocable (TSA non-reimbursable):
- STS: $12,779.00
- DWL Team: $49,516.00
- TOTAL: $62,295.00

A detailed breakdown is included as Exhibit A.

SCHEDULE
This proposal covers all efforts commencing upon notice to proceed (NTP) through completion of the 100% design submittal package (with final acceptance by TSA) and support through the bidding process.

Thank you for the opportunity to submit this Scope of Work and Price Proposal. If you have any questions, please feel free to contact me.

Best regards,
Studdiford Technical Solutions, LLC

Larry Studdiford, PMP
President

EXHIBIT A

Studdiford Technical Solutions, LLC

Scope Item													Subtotal		
	ttl hrs	Rate	Subtotal	ttl hrs	Rate	Subtotal	ttl hrs	Rate	Subtotal	ttl hrs	Rate	Subtotal	Hours	Cost	
		305.13			128.23			85.43			147.48				
Pre-Design															
PM Coordination meetings - 1/week	8	305.13	2,441.06	8	128.23	1,025.81	8	85.43	683.42	0	147.48	-	24	$ 4,150.30	
Site Visit, kick-off meeting and site survey	24	305.13	7,323.19	20	128.23	2,564.53	20	85.43	1,708.56	0	147.48	-	64	$ 11,596.28	
Flight Schedule Analysis	0	305.13	-	8	128.23	1,025.81	20	85.43	1,708.56	0	147.48	-	28	$ 2,734.37	
Concept Sketches	0	305.13	-	8	128.23	1,025.81	80	85.43	6,834.23	0	147.48	-	88	$ 7,860.05	
Alternatives Analysis Report	0	305.13	-	40	128.23	5,129.06	20	85.43	1,708.56	0	147.48	-	60	$ 6,837.62	
Preliminary Contingency Plan (mini-inline only)	0	305.13	-	0	128.23	-	0	85.43	-	0	147.48	-	0	$ -	
QA/QC; subcontracts management	4	305.13	1,220.53	8	128.23	1,025.81	8	85.43	683.42	24	147.48	3,539.48	44	$ 6,469.25	
Stakeholder Review & stakeholder notification documentation	0	305.13	-	8	128.23	1,025.81	0	85.43	-	0	147.48	-	8	$ 1,025.81	
TSA package development	0	305.13	-	20	128.23	2,564.53	16	85.43	1,366.85	0	147.48	-	36	$ 3,931.38	
TSA DRN Meeting	0	305.13	-	2	128.23	256.45	2	85.43	170.86	0	147.48	-	4	$ 427.31	
Expenses (est.)														$ 4,353.80	
Subtotal labor (allocable)														$ 42,780.75	
Subtotal labor (non-allocable)														$ 2,251.62	
Schematic Design															
PM Coordination meetings - 1/week	0	305.13	-	12	128.23	1,538.72	12	85.43	1,025.14	0	147.48	-	24	$ 2,563.85	
Site visit/meeting		305.13			128.23	-		85.43			147.48				
Basis of Design Report	0	305.13	-	30	128.23	3,846.80	0	85.43	-	0	147.48	-	30	$ 3,846.80	
Schematic Design Drawings	0	305.13	-	16	128.23	2,051.62	70	85.43	5,979.95	0	147.48	-	86	$ 8,031.58	
Preliminary Contingency Plan (mini-inline only)	0	305.13	-	0	128.23	-	0	85.43	-	0	147.48	-	0	$ -	
ROM Estimate	0	305.13	-	20	128.23	2,564.53	0	85.43	-	0	147.48	-	20	$ 2,564.53	
Preliminary Project Schedule	0	305.13	-	10	128.23	1,282.27	0	85.43	-	0	147.48	-	10	$ 1,282.27	
Environmental Assessment Form	0	305.13	-	8	128.23	1,025.81	0	85.43	-	0	147.48	-	8	$ 1,025.81	
Response to TSA Comments	0	305.13	-	8	128.23	1,025.81	16	85.43	1,366.85	0	147.48	-	24	$ 2,392.66	
QA/QC; subcontracts management	4	305.13	1,220.53	8	128.23	1,025.81	8	85.43	683.42	16	147.48	2,359.66	36	$ 5,289.42	
Stakeholder Review & stakeholder notification documentation	0	305.13	-	8	128.23	1,025.81	0	85.43	-	0	147.48	-	8	$ 1,025.81	
TSA package development	0	305.13	-	16	128.23	2,051.62	16	85.43	1,366.85	0	147.48	-	32	$ 3,418.47	
TSA DRN Meeting	0	305.13	-	2	128.23	256.45	2	85.43	170.86	0	147.48	-	4	$ 427.31	
Expenses (est.)														$ -	
Subtotal labor (allocable)														$ 30,275.08	
Subtotal labor (non-allocable)														$ 1,593.43	
30% Design															
PM Coordination meetings - 1/week	0	305.13	-	12	128.23	1,538.72	12	85.43	1,025.14	0	147.48	-	24	$ 2,563.85	
Site visit/meeting		305.13		24	128.23	3,077.44	24	85.43	2,050.27		147.48				
Updated Basis of Design Report	0	305.13	-	40	128.23	5,129.06	0	85.43	-	0	147.48	-	40	$ 5,129.06	
30% Design Drawings	0	305.13	-	16	128.23	2,051.62	80	85.43	6,834.23	0	147.48	-	96	$ 8,885.86	
Preliminary Contingency Plan (mini-inline only)	0	305.13	-		128.23	-	0	85.43	-	0	147.48	-	0	$ -	
Concept of Operations		305.13		20	128.23	2,564.53	20	85.43	1,708.56		147.48				
30% CWE and LCCA	0	305.13	-	20	128.23	2,564.53	0	85.43	-	0	147.48	-	20	$ 2,564.53	
Preliminary Project Schedule	0	305.13	-	20	128.23	2,564.53	0	85.43	-	0	147.48	-	20	$ 2,564.53	
Response to TSA Comments	0	305.13	-	16	128.23	2,051.62	16	85.43	1,366.85	0	147.48	-	32	$ 3,418.47	
QA/QC; subcontracts management	4	305.13	1,220.53	16	128.23	2,051.62	20	85.43	1,708.56	16	147.48	2,359.66	56	$ 7,340.37	
Stakeholder Review & stakeholder notification documentation	0	305.13	-	8	128.23	1,025.81	0	85.43	-	0	147.48	-	8	$ 1,025.81	
TSA package development	0	305.13	-	16	128.23	2,051.62	16	85.43	1,366.85	0	147.48	-	32	$ 3,418.47	
TSA DRN Meeting	0	305.13	-	2	128.23	256.45	5	85.43	427.14	0	147.48	-	7	$ 683.59	
Expenses (est.)															
Subtotal labor (allocable)														$ 35,714.82	
Subtotal labor (non-allocable)														1,879.73	
70% Design															
PM Coordination meetings - 1/week	0	312.76	-	16	131.43	2,102.91	16	87.56	1,401.02	0	151.17	-	32	$ 3,503.93	
Site visit/meeting	0	312.76	-	24	131.43	3,154.37	24	87.56	2,101.53	0	151.17	-	48	$ 5,255.90	
Updated Basis of Design Report	0	312.76	-	40	131.43	5,257.29	0	87.56	-	0	151.17	-	40	$ 5,257.29	
70% Design Drawings	0	312.76	-	16	131.43	2,102.91	80	87.56	7,005.09	0	151.17	-	96	$ 9,108.00	
BHS Specifications & manifest	0	312.76	-	60	131.43	7,885.93	40	87.56	3,502.55	0	151.17	-	100	$ 11,388.48	
Review A/E-provided MEP, architectural drawings (plan/elevation) - CBIS/CBRA		312.76		20	131.43	2,628.64	20	87.56	1,751.27		151.17				
Preliminary Contingency Plan	0	312.76	-	40	131.43	5,257.29	20	87.56	1,751.27	0	151.17	-	60	$ 7,008.56	
Draft Configuration Management Plan	0	312.76	-	20	131.43	2,628.64	0	87.56	-	0	151.17	-	20	$ 2,628.64	
70% CWE and LCCA	0	312.76	-	20	131.43	2,628.64	0	87.56	-	0	151.17	-	20	$ 2,628.64	
Updated Project Schedule & phasing plans	0	312.76	-	20	131.43	2,628.64	40	87.56	3,502.55	0	151.17	-	60	$ 6,131.19	
EDS equipment list		312.76		8	131.43	1,051.46		87.56	-		151.17				
Response to 30% TSA Comments	0	312.76	-	16	131.43	2,102.91	0	87.56	-	0	151.17	-	16	$ 2,102.91	
QA/QC; subcontracts management	4	312.76	1,251.05	16	131.43	2,102.91	20	87.56	1,751.27	16	151.17	2,418.65	56	$ 7,523.88	
Stakeholder Review & stakeholder notification documentation	0	312.76	-	8	131.43	1,051.46	0	87.56	-	0	151.17	-	8	$ 1,051.46	
TSA package development	0	312.76	-	16	131.43	2,102.91	16	87.56	1,401.02	0	151.17	-	32	$ 3,503.93	
TSA DRN Meeting	0	312.76	-	4	131.43	525.73	4	87.56	350.25	0	151.17	-	8	$ 875.98	
Expenses (est.)														$ 4,353.80	
Subtotal labor (allocable)														$ 64,570.36	
Subtotal labor (non-allocable)														$ 3,398.44	
100% Design Development															
PM Coordination meetings - 1/week	0	312.76	-	12	131.43	1,577.19	12	87.56	1,050.76	0	151.17	-	24	$ 2,627.95	
Site visit/meeting		312.76		24	131.43	3,154.37	24	87.56	2,101.53		151.17				
Final Basis of Design Report	0	312.76	-	20	131.43	2,628.64	16	87.56	1,401.02	0	151.17	-	36	$ 4,029.66	
100% Design Drawings	0	312.76	-	16	131.43	2,102.91	80	87.56	7,005.09	0	151.17	-	96	$ 9,108.00	
Final BHS Specifications, description of operation & motor manifest	0	312.76	-	20	131.43	2,628.64	16	87.56	1,401.02	0	151.17	-	36	$ 4,029.66	
Final Contingency Plan	0	312.76	-	20	131.43	2,628.64	16	87.56	1,401.02	0	151.17	-	36	$ 4,029.66	
Final site-specific Configuration Management Plan	0	312.76	-	8	131.43	1,051.46	0	87.56	-	0	151.17	-	8	$ 1,051.46	
Final CWE and LCCA	0	312.76	-	20	131.43	2,628.64	0	87.56	-	0	151.17	-	20	$ 2,628.64	
Final Project Schedule & phasing plan	0	312.76	-	16	131.43	2,102.91	20	87.56	1,751.27	0	151.17	-	36	$ 3,854.19	
Final EDS equipment list		312.76		8	131.43	1,051.46	0	87.56	-		151.17				
Response to 70% TSA Comments	0	312.76	-	16	131.43	2,102.91	16	87.56	1,401.02	0	151.17	-	32	$ 3,503.93	
QA/QC; subcontracts management	4	312.76	1,251.05	40	131.43	5,257.29	20	87.56	1,751.27	24	151.17	3,627.97	88	$ 11,887.58	
Stakeholder Review & stakeholder notification documentation	0	312.76	-	8	131.43	1,051.46	0	87.56	-	0	151.17	-	8	$ 1,051.46	
TSA package development	0	312.76	-	16	131.43	2,102.91	16	87.56	1,401.02	0	151.17	-	32	$ 3,503.93	
TSA DRN Meeting	0	312.76	-	4	131.43	525.73	4	87.56	350.25	0	151.17	-	8	$ 875.98	
IFC drawing package development, bid support, review & coordination	0	312.76	-	40	131.43	5,257.29	40	87.56	3,502.55	0	151.17	-	80	$ 8,759.83	
Expenses (est.)															
Subtotal labor (allocable)														$ 57,894.84	
Subtotal labor (non-allocable)														$ 3,047.10	
Subtotal															
Labor contingency														5%	
Labor w/ contingency (allocable)														$ 242,798.00	
Labor w/ contingency (non-allocable)														$ 12,779.00	
Expenses (est.)														$ 8,708.00	
Subconsultants (allocable)														$ ~~118,980.00~~	$125,090.00
Subconsultants (non-allocable)														$ 49,516.00	
Subtotal (allocable)														**$ ~~370,486.00~~**	$376,596.00
Subtotal (non-allocable)														**$ 62,295.00**	
TOTAL														**$ ~~432,781.00~~**	$438,891.00

EXHIBIT B

December 23, 2022

Larry Studdiford, PMP
President
Studdiford Technical Solutions, LLC
1608 Old Stage Road, Alexandria, VA 22308
C: +1 (203) 206-0533
larry@studdifordtech.com / www.studdifordtech.com

RE: Phoenix-Mesa Gateway Airport (PMGA)
Outbound BHS (structural components excluded)
Design and Engineering Services (SD, CD 30%, 70%, 100%)
DWL Project No. TBD

Dear Larry:

We are pleased for this opportunity to submit Architectural and Engineering Services for the Outbound Baggage Handling System (BHS) at Phoenix-Mesa Gateway Airport (PMGA). This scope and fee proposal is for four phases of design as outlined in the Planning guidelines and Design Standards (PGDS) which include Schematic Design, Detailed Design Phase 30%, 70% and 100%. The scope has been prepared in accordance with our understanding of the project based upon our meeting with you and PMGA on 10/13/2022 and subsequent correspondence.

Project Scope & Description:

The goal of this project is to provide a new in-line Checked Baggage Inspection System (CBIS) that follows the PGDS version 8.0 for the outbound BHS at PMGA's existing ticketing terminal. DWL understands the following project features:

- The CBIS will be predominantly located in the current Explosion Detection System (EDS) room with expansion north into the portions of the ticketing hall and south to the exterior with some conveyor outside.
- A new room will be expanded into the ticketing hall for the Check Baggage Resolution Area (CBRA).
- The project including the CBRA room will meet the requirements in the PGDS
- Conveyor will be routed on the exterior, south of the current EDS room.
- Where new conveyor is routed outside there may be a requirement for security fencing.
- Due to expansion beyond the current EDS room, there will be new wall penetrations for conveyors and new personnel doors.
- Scope includes modification and expansion of building systems including mechanical, electrical, and special systems.

DESIGN SERVICES:

The following complete design phases are included:

- Schematic Design (Basic Services)
- Detailed Design Phase 30%, 70%, 100% (Basic Services)

DESCRIPTION OF TASKS:

1. **Schematic Design**
    a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
        1) Schedule – DWL shall review and comment on STS's design schedule.
        2) Owner/BHS/Architect Meetings:
            - (1) in-person Kick-off meeting with all appropriate PMGAA and stakeholders. Design team engineering disciplines will not be in attendance.
            - (1) TSA Design Review Team meeting participation
            - Reasonable quantity of virtual owner/BHS/DWL meetings
        3) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.
    b. Existing conditions assessment: DWL will conduct 1 field verification assessment.
    c. DWL has the existing as-built documentation of the existing buildings and facilities in which our firms were previously involved.
    d. Schematic Design: Based upon the work product of the Pre-Design Phase and direction from STS and PMGA, initial design drawings will be developed for the building components of the project resulting in an approved Basis of Design Report (BDR). Per Table 6.1 DWL's scope for deliverables includes:
        1) Preliminary Concept Plans
        2) Coordinate with the ROM estimate of probable construction costs.
        3) Assist STS on the preliminary project schedule
        4) Written response to TSA comments using TSA comment spreadsheet for building related items.

2. **Detailed Design phase (DD) 30%**
    a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
        1) Schedule – DWL shall review and comment on STS's updated design schedule.
        2) Owner/BHS/Architect Meetings:
            - Reasonable quantity of virtual owner/BHS/DWL meetings
            - (1) TSA Design Review Team meeting participation
        3) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.
        4) Existing conditions assessment: MPE will conduct 1 field verification assessment.
    b. Detailed Design 30%: The Basis of Design Report (BDR) will be used to refine and finalize detailed design drawings along with direction from STS. Per Table 7.1 in the PGDS, DWL's scope for deliverables includes:
        1) Assisting STS with updates to the Basis of Design Report
        2) Preliminary architectural plans and coordination of MPE plans.
        3) Coordinate with RLB on the 30% Current Working Estimate.
        4) Develop a preliminary phasing schedule

5) Assist STS on the preliminary project schedule
6) Written response to TSA comments using TSA comment spreadsheet for building related items.

c. Preliminary Building Code Analysis
d. QAQC: An internal QAQC will be conducted via Bluebeam Studio, with an internal preliminary check-set for all engineering disciplines.

3. **Detailed Design phase (DD) 70%**

a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
   1) Schedule – DWL shall review and comment on STS's updated design schedule.
   2) Owner/BHS/Architect Meetings:
      - Reasonable quantity of virtual owner/BHS/DWL meetings
      - (1) TSA Design Review Team meeting participation
   3) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.
b. Detailed Design 70%: The Basis of Design Report (BDR) and 30% drawings will be used to refine and finalize detailed design drawings along with direction from STS. Per Table 7.2 in the PGDS, DWL's scope for deliverables includes:
   1) Assisting STS with updates to the Basis of Design Report
   2) 70% design drawings and coordination of MPE drawings
   3) 70% specifications and coordination of MPE specifications
   4) Coordinate with RLB on the 70% Current Working Estimate.
   5) Refine the phasing plan
   6) Assist STS on the project schedule
   7) Written response to TSA comments using TSA comment spreadsheet for building related items.
c. Refine Building Code Analysis
d. QAQC: An internal QAQC will be conducted via Bluebeam Studio, with an internal preliminary check-set for all engineering disciplines.
e. PMGAA Building Safety Review Submittal (70%). This set will be submitted for preliminary building safety review by PMGAA.

4. **Detailed Design phase/Construction Documents (CD) 100%**

a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
   1) Schedule – DWL shall review and comment on STS's updated design schedule.
   2) Owner/BHS/Architect Meetings:
      - Reasonable quantity of virtual owner/BHS/DWL meetings
      - (1) TSA Design Review Team meeting participation
   3) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.

b. Detailed Design 100%: The Basis of Design Report (BDR) and 70% drawings will be used to refine and finalize detailed design drawings along with direction from STS. Per Table 7.3 in the PGDS, DWL's scope for deliverables includes:
   1) Bid Documents
   2) Assisting STS with updates to the Basis of Design Report
   3) Project specifications and coordination of MPE specifications
   4) Coordinate with RLB on the 100% Current Working Estimate.
   5) Final phasing plan
   6) Assist STS on the final project schedule
   7) Written response to TSA comments using TSA comment spreadsheet for building related items.
c. Final Building Code Analysis
d. QAQC: An internal QAQC will be conducted via Bluebeam Studio, with an internal preliminary check-set for all engineering disciplines.
e. PMGAA Building Safety Review Submittal (100%). This set will be sealed/signed and submitted for final building safety review by PMGAA.

ASSUMPTIONS:

1. The construction budget is unknown at this time.
2. The overall square footage of the interior project area is approximately 4,500 SF. The exterior area is approximately 1,500 SF. All areas within the CBIS area will be in a climate controlled interior space.
3. The Construction Contract Delivery Method is CM at Risk and the contractor has not been selected.
4. This proposal assumes that all scope is to be documented in one submittal package.
5. Interior Design: The design team assumes the existing materials and finishes will be utilized for this project and will meet the requirements in the PGDS. No finish and materials board will be provided.
6. Subconsultants included in this proposal. Please review their attached proposals for further scope details.
   a. LSW (Mechanical, Plumbing, Fire Protection, Electrical, Special Systems)
   b. Rider Levett Bucknall (Cost Estimating)
7. For the purpose of justifying load additions to existing electrical infrastructure, existing electrical loads will be established from existing record drawings and our site investigation. If adequate records and documentation are not available, 30-day maximum demand load readings may be required (which are not included and assumed to be performed by Owner's staff electricians).
8. Value Engineering/Scope Reduction services are included if the RLB cost estimate is greater than 10% of the budget.
9. Construction documents are not submitted to City of Mesa Building Safety department, since PMGAA will provide their own building safety review and permit.
10. Package deliverables shall be delivered both in the native format (word, excel, AutoCAD) and as a PDF file. Hard copies are not required for TSA, however a reasonable quantity of printed sets are assumed for PMGA.
11. Reimbursables include project related expenses such as mileage, courier, web-based meetings, printing, and copying (in or out of office).

EXCLUSIONS:

In order to provide clarity and to prevent any misunderstandings, we want to identify items that are excluded from this proposal. If for any reason the Phoenix-Mesa Gateway Airport Authority requires these services, we can provide them for additional compensation.

1. Services from engineers or consultants not identified in this proposal and beyond this project's scope will not be provided (Civil, landscape)
2. Structural components and associated engineering
3. Acoustics consultant, analysis, and engineering.
4. Physical materials and finish boards
5. Geotechnical Analysis (soils report): Because there is no Soils Report being performed, the design team will note previous Soils Report were performed at the site however will not recommend any soils preparation and edit a soils specification. The design team will not accept liability or take responsibility for geotechnical requirements for this project.
6. Tests or investigations requiring demolition of existing construction or other types of forensic investigation are not included in this proposal.
7. Procurement Phase and Construction Administration
8. Environmental and hazardous assessment.
9. Government permit and plan review fees.
10. LEED design and USGBC submission fees.
11. Water Supply Test.
12. Multiple bid packages.
13. Travel outside the Phoenix Metropolitan area.
14. Renderings
15. Finishes and materials board (physical excluded, digital included)
16. Videos and fly-throughs
17. Life Cycle Cost Analysis
18. Stakeholder notification documentation
19. BHS scope
20. Deliverables beyond those described below.

DELIVERABLES:

1. Schematic Design (supporting documents for Basis of Design Report)
2. Detailed Design (DD) 30%
3. Detailed Design (DD) 70%
4. Detailed Design/Construction Documents (CD) 100%

COMPENSATION:

We propose to provide the previously mentioned services as an Hourly Not-to-Exceed Fee(s) as follows:

	Discipline Total ($)
Architectural – DWL*	63,660.00
Mech./Plumbing/Elec./Tech - LSW	28,430.00
Cost Estimating - RLB	31,000.00
Total Design Services	**$123,090.00**
Reimbursable Expenses**	$ 2,000.00

* DWL's personnel hourly rates are based on an Overhead Rate of 1.7335 and includes 10% profit.
**For this proposal we are estimating reimbursables for 6 half-size sets for each package.

See attached DWL estimated hourly breakdown and consultants' proposals for your review.

CONCLUSION:

We appreciate your consideration and the opportunity to submit this proposal. We look forward to working with you and the Phoenix-Mesa Gateway Airport Authority team. If you have any questions or require further explanation, please do not hesitate to contact me.

Sincerely,

DWL ARCHITECTS + PLANNERS, INC.

Sandra Kukla, AIA, LEED AP
President

cc: Mary Ann Modzelewski
Shawn Filip
Anna Alexander

DWL ARCHITECTS + PLANNERS, INC.

DWL ARCHITECTS+

PMGA Outbound BHS (Structural components excluded)
Schematic Design (SD), Construction Documents (CD - 30%, 70%, 100%)

Hourly Not-to-Exceed

COMPENSATION ESTIMATE | DWL Project No. TBD | Construction Budget: TBD | 12/23/2022

ARCHITECTURAL - Design Phase

Labor Hours

	Task Description	Principal 221.00 per hr. Hours	Principal Direct Cost	Design Director 194.00 per hr. Hours	Design Director Direct Cost	Proj. Manager 132.00 per hr. Hours	Proj. Manager Direct Cost	Sr. Architect 143.00 per hr. Hours	Sr. Architect Direct Cost	Project Architect 131.00 per hr. Hours	Project Architect Direct Cost	Apprentice Architect 97.00 per hr. Hours	Apprentice Architect Direct Cost	Building Code Manager 156.00 per hr. Hours	Building Code Manager Direct Cost	CADD/BIM Technician 99.00 per hr. Hours	CADD/BIM Technician Direct Cost	Interior Designer 90.00 per hr. Hours	Interior Designer Direct Cost	Spec Writer 150.00 per hr. Hours	Spec Writer Direct Cost	Clerical 87.00 per hr. Hours	Clerical Direct Cost	Task Total
1	**Schematic Design (SD)**	6	1,326.00	0	0.00	18	2,376.00	0	0	0	0	20	1,940.00	0	0	0	0.00	0	0.00	0	0.00	2	174.00	5,816.00
2	**Detail Design Phase (DD) 30%**	6	1,326.00	0	0.00	68	8,976.00	0	0	0	0	68	6,596.00	2	312	0	0.00	0	0.00	22	3,300.00	3	261.00	20,771.00
3	**Design Design Phase (DD) 70%:**	6	1,326.00	0	0.00	60	7,920.00	0	0	0	0	60	5,820.00	0	0	0	0.00	0	0.00	12	1,800.00	3	261.00	17,127.00
4	**Construction Documents (CD) 100%:**	6	1,326.00	0	0.00	68	8,976.00	0	0	0	0	68	6,596.00	0	0	0	0.00	0	0.00	18	2,700.00	4	348.00	19,946.00
		0	0.00	0	0.00	0	0.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0.00
		0	0.00	0	0.00	0	0.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0.00
	DWL DESIGN PHASE TOTAL	24	5,304.00	0	0.00	214	28,248.00	0	0.00	0	0.00	216	20,952.00	2	312.00	0	0.00	0	0.00	52	7,800.00	12	1,044.00	520 **$63,660.00**

63,660.00

TEAM SUMMARY

Discipline			Basic Services: Schematic Design (SD)	Basic Services: Detailed Design Phase (DD) 30%	Basic Services: Detailed Design Phase (DD) 70%	Basic Services: Construction Documents (CD) 100%:	Add'l Services			Totals
Basic Design & Engineering										
Architectural - DWL			5,816.00	20,771.00	17,127.00	19,946.00				63,660.00
			-				-	-		0.00
MPE & SS - LSW			-	9,420.00	9,060.00	9,950.00				28,430.00
			-							0.00
	Subtotal - Pre-Design	0.00			Subtotal - Basic Design & Engineering	92,090.00		Subtotal - Basic Design & Eng.	0.00	
									Basic Design & Engineering Sub-Total	**$92,090.00**
Other Design & Engineering										
Cost Estimating - RLB			6,200.00	6,200.00	6,200.00	12,400.00				31,000.00
										0.00
										0.00
										0.00
	-	-	*12,016.00*	*36,391.00*	*32,387.00*	*42,296.00*	-	-	-	
	Subtotal - Other Design & Engineering	0.00			Subtotal - Other Design & Engineering	31,000.00		Subtotal - Other Design & Engineering	0.00	
									Other Design & Engineering Sub-Total	**$31,000.00**
									Total	**$123,090.00**
									Design Allowance	$0.00
								Total with A	**Total with Allowance**	**$123,090.00**

REIMBURSABLE EXPENSES

Firm	Expense	
DWL / Consultants	Printing, Copies, Courier - Billed only as needed	2,000.00
	Total Reimbursable	**$2,000.00**

	$ -	0.0%

DWL's personnel hourly rates are based on an Overhead Rate of 1.7335 and includes 10% profit.

	Total w/ Reimbursable	**$125,090.00**

LSWEngineers
ENGINEERING SOLUTIONS
FOR THE BUILT ENVIRONMENT

2333 W. Northern Ave., #9
Phoenix, AZ 85021
www.lswengineers.com
602.249.1320

November 23, 2022

DWL Architects + Planners, Inc.
2333 North Central Avenue
Phoenix, AZ 85004

Attn: Sandy Kukla, AIA, LEED AP

Re: AZA (PMGA) Outbound Baggage Addition
LSW Proposal No. PR2022-345 Revision 4

Ms. Kukla:

We are pleased to offer our engineering services for the outbound baggage addition project of the ticketing terminal at Phoenix-Mesa Gateway Airport located at 6033 South Sossaman Road in Mesa, Arizona.

PROJECT UNDERSTANDING

This project is understood to be the expansion of the outbound baggage handling system (BHS) conveyor and the creation of a new checked baggage reconciliation area (CBRA) with a new Inline Checked Baggage Inspection System (CBIS) and replacement of the existing explosion detection system (EDS) system. The project delivery system is understood to be Design-Bid-Build or Construction Manager at Risk (CMAR).

Our mechanical, plumbing, electrical, and technology engineering services for this project will consist of the following. Services not indicated below are considered outside of our basic scope and will be provided upon request as an additional service.

It is our understanding that the design of this project will include deliverables as defined below. The design duration for this project is understood to start after notice to proceed—anticipated in April or May of 2023. The project is understood to take between twelve (12) and sixteen (16) months to complete.

30% Package

1. Provide 30% design drawing showing the engineering systems intended for this project.

2. Provide a written narrative describing the engineering systems intended for this project.

3. Assist the architectural design team with the engineering systems space requirements in the development of the schematic building floor plan.

70% Package

1. Prepare design development drawings showing all main engineering systems equipment locations and sizes. Equipment weights will be shown as needed for the Structural Engineer. The drawings will also include the following:

    a. Routing of mechanical duct mains.

    b. Mechanical zoning layout and thermostat locations for review.

2. Provide engineering systems equipment cut sheets for review.

3. Assist the architectural design team in the development of the ceiling plan.

100% Package

1. Completion of the engineering design drawings.

2. Completion of the engineering specifications.

SCOPE OF WORK

Mechanical

The mechanical scope for this project is anticipated to include:

1. Complete heating, cooling, and ventilation load calculations.

2. Design to revise the existing mechanical HVAC system for the new CBRA room. The existing mechanical HVAC system capacity will be evaluated for this project in order to verify expansion to accommodate the loads of the new equipment of this project.

Plumbing

The plumbing scope for this project is anticipated to include:

1. Selection of floor sinks for the new EDS equipment condensate as located on the Architectural plans and the sizing and routing of the associated waste and vent piping for these fixtures.

Electrical

The electrical scope for this project is anticipated to include:

1. Design of the electrical power distribution (normal and emergency) for this project, including connection to the equipment and receptacles. Our design includes connection to the existing power distribution system within this facility. The existing power distribution system will be evaluated for this project in order to verify expansion to accommodate the new loads of the project.

2. For the purpose of justifying load additions to existing electrical infrastructure, existing electrical loads will be established from existing record drawings and our site investigation. If adequate records and documentation are not available, 30-day maximum demand load readings may be required (which are not included).

Technology Systems

The technology scope for this project is anticipated to include:

1. Buildout of the MER/TR Rooms or Wall-Mounted Racks: Our design includes room/rack layout, cable support and pathway system, telecommunication grounding, and passive component rack layouts per Owner standards.

2. Passive Network Cabling: Our design service includes cabling system design from outlet locations to the Main Equipment Room (MER) or Telecommunications Room (TR), cable support and pathway system, and outside plant fiber-optic and multiple pair copper cabling.

3. Access Control/Security System: Our design service includes the access control, intrusion detection, card reader, door monitoring, door control, motion sensor, and duress systems, and associated control panels. The door hardware will be specified by the Architect.

4. Camera Surveillance: Our design includes camera layout and associated cabling and pathways, camera specification, and video recording requirements.

GENERAL

Our scope will include the following general engineering services for the project:

1. Site investigation to observe the systems associated with this project (site investigation is limited to accessible areas only).

2. Attend up to eight meetings during the design phase of this project including attendance at four TSA meetings and four owner meetings. Attendance at a reasonable quantity of virtual internal design meetings as required.

3. Design using Revit with models stored on a BIM360 Project HUB. It is required that while our model is in BIM360, the model shall remain independent from all disciplines outside of our scope of work, and any revisions to the model shall be made by our staff only. It is anticipated that the architectural BIM360 model elements will be “frozen” seven days before each milestone deliverable.

4. Provide one set of drawings in electronic portable document format (PDF) at each intermediate deliverable.

5. Provide one final set of signed and sealed drawings in electronic portable document format (PDF) at the completion of design.

6. Provide one final set of signed and sealed specifications in electronic portable document format (PDF) at the completion of design.

PROFESSIONAL FEE

Our fee for the work outlined above will be billed hourly, at rates described herein, up to an aggregate limit of **$28,430.**

NOTE: This fee includes all travel expenses incurred within the metropolitan Phoenix area.

This fee does not include plotting or printing of sets of our drawings or other discipline's drawings for interprofessional coordination or distribution—electronic (PDF) files will be provided to the Architect for their assembly and printing as required

CLIENT SERVICES

Services requested of the Client and/or Owner include the following:

1. Provide the following as required to assist us in the site investigation of existing conditions: facility access and an escort, ladders or other means to access overhead systems and equipment, and authorization for the use of cameras.

2. Provide access to the building maintenance staff to answer questions.

3. Provide all connection requirements for new equipment.

4. Provide a project title block and updated Revit model in a timely manner to meet the established project deliverables.

5. Provide a PDF set of the drawings at each established deliverable.

EXCLUSIONS

1. Cost estimating.

2. Meetings or teleconference meetings beyond those listed.

3. Electrical demand load readings.

4. Design to increase the capacity, modify or replace the electrical distribution system.

5. Building Information Modeling (BIM) beyond an LOD-200 or clash-free modeling.

6. Utility company energy rebate data collection and/or submission.

7. Life cycle cost analysis.

8. Functional testing or commissioning services.

9. Value engineering services or changes after completion of the associated 70% design documents.

10. Any design services caused by scope changes.

ADDITIONAL SERVICES

Additional services will be performed on an hourly basis at our standard billing rates or a separate fixed fee contract as determined by your firm. Our current rate structure is shown below for your reference. Hourly contracted work will be invoiced based on our rates in effect at the time of such requests.

2023:	Principal	$230./ hour
	Senior Engineer	$205./ hour
	Engineer	$155./ hour
	Senior Designer	$135./ hour
	Field Observer	$125./ hour
	Designer	$115./ hour
	CAD Operator	$85./ hour
	Administrative	$80./ hour
	Outside Services	Our cost

This proposal is effective for not more than 30 days.

LSW accepts the AIA C401 contract and requests that you prepare this document reflecting the terms and conditions of this proposal for our mutual execution prior to our beginning work.

We appreciate this opportunity and look forward to working with your firm on this project.

Regards,

LSW ENGINEERS ARIZONA, INC.

Cory Killpack, P.E.
Vice President

CK:js:gk

Please indicate your acceptance of this proposal by signing and returning one copy of this letter for our files.

APPROVED: _____ DATE: _____

YOUR PROJECT / REFERENCE NO.:_____

https://lswphxcom.sharepoint.com/sites/Marketing/Shared Documents/PROPOSAL/2022/PR2022-345 - AZA Outbound BHS Addition/PR2022-345 REV4 fee AZA Outbound BHS Addition.docx

Fee Hours

November 23, 2022

Proposal No.: PR2022-345 Revision 4
Project Name: AZA Outbound BHS Addtion

Task Description	Task ID	Hours								Task Total
		Principal 230.00	Senior Engineer 205.00	Engineer 155.00	Field Observer 125.00	Senior Designer 135.00	Designer 115.00	CAD Operator 85.00	Clerical 80.00	
Design Phase Services										***% of Total Fee: 100.0%***
Site Investigation				8						1,240.00
Meetings			6	12		14				4,980.00
30% Documents			4	4		8		8		3,200.00
70% Documents			6	12		14	18	18	6	9,060.00
100% Documents			6	16		16	18	18	6	9,950.00
										-
										-
										-
										-
										-
										-
										-
Sub-totals		**-**	**4,510.00**	**8,060.00**	**-**	**7,020.00**	**4,140.00**	**3,740.00**	**960.00**	**28,430.00**
Construction Phase Services										***% of Total Fee: 0.0%***
										-
										-
										-
										-
										-
										-
										-
										-
										-
										-
										-
										-
Sub-totals		**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

Engineering Services Grand Total	**28,430.00**

RLB | Rider Levett Bucknall

4343 East Camelback Road
Suite 350
Phoenix, Arizona 85018

T: +1 602 443 4848
F: +1 602 443 4849

SJM:K/PHX-FP:PMGAA:TAM
December 21st, 2022

Ms. Sandra Kukla, LEED AP
President
DWL Architects + Planners, Inc.
2333 N. Central Avenue
PHOENIX, AZ 85004

Via e-mail: kukla@dwlarchitects.com

Dear Sandra:

RE: PHOENIX MESA GATEWAY AIRPORT AUTHORITY (PMGAA)
BAGGAGE HANDLING SYSTEM RENOVATION
FEE PROPOSAL FOR ADD SERVICE COST CONSULTANCY SERVICES

Thank you very much for inviting Rider Levett Bucknall (RLB) to submit a fee proposal for providing Cost Consultancy Services for the planned PMGAA Baggage Handling System Renovation located in Mesa, AZ.

Project Scope & Description

The goal of this project is to provide an update to the existing baggage handling system at PMGA.

RLB assumes that a baggage handling system consultant will provide pricing for the baggage handling system.

Cost estimates will be presented in TSA's Current Working Estimate (CWE) format in a Basis of Estimate document in compliance with PGDS requirements prepared for submittal to TSA at each detailed design phase (30%, 70% and 100%). These documents will also present TSA allocable / non-allocable cost breakdowns.

Scope of Work & Proposed Fees

RLB to provide Cost Consultancy Services including the following:

Attend Project Meetings (2), Prepare One (1) Schematic Design Estimate of Construction Cost including review w/ project team.

Attend Project Meetings (2), Prepare One (1) Design Development 30% Estimate of Construction Cost including review w/ project team.

Attend Project Meetings (2), Prepare One (1) Design Development 70% Estimate of Construction Cost including review w/ project team.

Attend Project Meetings (2), Prepare One (1) Design Development 100% Estimate of Construction Cost including review w/ project team.

RE: PHOENIX MESA GATEWAY AIRPORT AUTHORITY (PMGAA)
BAGGAGE HANDLING SYSTEM RENOVATION
FEE PROPOSAL FOR ADD SERVICE COST CONSULTANCY SERVICES

Proposed Fees

Our fees for providing the following Cost Consultancy Services are as follows:

Pre-Design & Schematic Design – Prepare one (1) Schematic Design Estimate of Construction Cost including review w/ project team – 40-hours x $155 / hour - $6,200

Design Development 30% - Prepare one (1) Design Development 30% Estimate of Construction Cost including review w/ the project team - 40-hours x $155 / hour - $6,200

Design Development 70% - Prepare one (1) Design Development 70% Estimate of Construction Cost including review w/ the project team - 40-hours x $155 / hour - $6,200

Design Development 100%- Prepare one (1) 100% Design Development Estimate of Construction Cost including review w/ the project team – 80-hours x $155 / hour - $12,400

Total Base Fee - $31,000

Overhead – 160% Profit – 10%

Exclusions

Please carefully note that our proposed fees specifically do not include the following:

- this fee proposal is based on preparing one (1) construction cost estimate of one (1) design solution for each of the disciplines (Architecture, Structure, Mechanical, Electrical, etc.). Studies of alternative design options, different systems, cost reduction/value engineering, etc., are excluded. If these studies become necessary and desirable, we will prepare an added proposal for your consideration.

- preparation of new cost estimates or amendments to our cost estimates necessitated by changes in the design or by further redesigns beyond the design milestone exercises specifically included within this proposal

- cost estimating associated with any Alternates, Options and/or Value-Engineering / Value-Analysis related items.

RE: PHOENIX MESA GATEWAY AIRPORT AUTHORITY (PMGAA)
BAGGAGE HANDLING SYSTEM RENOVATION
FEE PROPOSAL FOR ADD SERVICE COST CONSULTANCY SERVICES

Additional Services

If any additional Cost Consultancy Services are requested, then those services will be reimbursed in accordance with our current hourly rates which are as follows:

President, Executive Vice President	$275.00
Senior Vice Presidents, Vice Presidents	$245.77
Principals, Associates, Resident Managers	$200.00
Senior Cost Manager	$170.00
Cost Manager	$145.00
Cost Estimator	$120.00

Terms & Conditions

The terms will be as per DWL Architects + Planner's contract with Owner and the Standard AIA Consultant Agreement. Unless otherwise agreed to in writing, RLB's scope of services is limited to the extent included in this proposal.

Any additional scope, changes in the scope, or additional scope required by contract terms and conditions shall be an additional service for which additional fees will be required.

Acceptance

To signify your acceptance of this proposal, please sign below and return it to me.

In the meantime, if you have any questions, or would like to discuss some aspect of this proposal, please feel free to contact us.

Yours faithfully,
RIDER LEVETT BUCKNALL LTD.

Scott J. Macpherson MRICS
Executive Vice President

Jesse Zunke CM-Lean
Associate

Accepted: _____

Position / Title: _____

Date: _____

December 23, 2022

Larry Studdiford, PMP
President
Studdiford Technical Solutions, LLC
1608 Old Stage Road, Alexandria, VA 22308
C: +1 (203) 206-0533
larry@studdifordtech.com / www.studdifordtech.com

RE: Phoenix-Mesa Gateway Airport (PMGA)
Outbound BHS – **Canopy and Structural components**
Design and Engineering Services (SD, CD 30%, 70%, 100%)
DWL Project No. TBD

Dear Larry:

We are pleased for this opportunity to submit Architectural and Engineering Services for an exterior canopy and structural components at the Terminal Ticketing building at Phoenix-Mesa Gateway Airport (PMGA). This scope and fee proposal is for four phases of design as outlined in the Planning guidelines and Design Standards (PGDS) which include Schematic Design, Detailed Design Phase 30%, 70% and 100%. The scope has been prepared in accordance with our understanding of the project based upon our meeting with you and PMGA on 10/13/2022 and subsequent correspondence.

This proposal identifies a separate scope and fee for the canopy-only portion for the new in-line Checked Baggage Inspection system (CBIS). There is a separate proposal for the BHS related work.

Project Scope & Description:

The goal of this project is to provide an exterior canopy and other structural components for the associated project for a new in-line Checked Baggage Inspection System (CBIS) that follows the PGDS version 8.0 for the outbound BHS at PMGA's existing ticketing terminal. DWL understands the following project features:

- Conveyor will be routed on the exterior, south of the current EDS room. The project will include either a modification to the existing canopy or a new canopy, considered non-allocable for TSA reimbursement.
- Where new conveyor is routed outside there may be a requirement for security fencing. The structure associated with a potential fence is included in this proposal.
- Due to expansion beyond the current EDS room, there will be new wall penetrations for conveyors and new personnel doors. The structure associated with these openings is included in this proposal.

DESIGN SERVICES:

The following complete design phases are included:

- Schematic Design (Basic Services)
- Detailed Design Phase 30%, 70%, 100% (Basic Services)

DESCRIPTION OF TASKS:

1. **Schematic Design**
    a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
        1) Schedule – DWL shall review and comment on STS's design schedule.
        2) Owner/BHS/Architect Meetings:
            - No additional meetings for this scope are anticipated.
            - Reasonable quantity of virtual owner/BHS/DWL meetings
        3) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.
    b. Existing conditions assessment: DWL will conduct 1 field verification assessment.
    c. DWL has the existing as-built documentation of the existing buildings and facilities in which our firms were previously involved.
    d. Schematic Design: Based upon the work product of the Pre-Design Phase and direction from STS and PMGA, initial design drawings will be developed for the canopy in association with the CBIS project documents. Structural related scope will be separate. Per Table 6.1 DWL's scope for deliverables includes:
        1) Preliminary Concept Plans
        2) Coordinate with the ROM estimate of probable construction costs.

2. **Detailed Design phase (DD) 30%**
    a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
        1) Owner/BHS/Architect Meetings:
            - Reasonable quantity of virtual owner/BHS/DWL meetings
        2) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.
    b. Detailed Design 30%: The Basis of Design Report (BDR) will be used to refine and finalize detailed design drawings along with direction from STS. Per Table 7.1 in the PGDS, DWL's scope for deliverables includes:
        1) Preliminary architectural plans and coordination of structural plans.
        2) Coordinate with RLB on the 30% Current Working Estimate.
    c. QAQC: An internal QAQC will be conducted via Bluebeam Studio, with an internal preliminary check-set for all engineering disciplines.

3. **Detailed Design phase (DD) 70%**
    a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
        1) Owner/BHS/Architect Meetings:
            - Reasonable quantity of virtual owner/BHS/DWL meetings
        2) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will

be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.

b. Detailed Design 70%: The Basis of Design Report (BDR) and 30% drawings will be used to refine and finalize detailed design drawings along with direction from STS. Per Table 7.2 in the PGDS, DWL's scope for deliverables includes:
   1) 70% design drawings and coordination of structural drawings
   2) 70% specifications and coordination of structural specifications
   3) Coordinate with RLB on the 70% Current Working Estimate.
c. Prepare Building Code Analysis
d. QAQC: An internal QAQC will be conducted via Bluebeam Studio, with an internal preliminary check-set for all engineering disciplines.
e. PMGAA Building Safety Review Submittal (70%). This set will be submitted for preliminary building safety review by PMGAA.

4. **Detailed Design phase/Construction Documents (CD) 100%**

   a. Project Management/Administration - Manage assigned staff and sub-consultants, maintain contract and project files.
      1) Owner/BHS/Architect Meetings:
         - Reasonable quantity of virtual owner/BHS/DWL meetings
      2) Design team/Consultant Meetings as required – Regularly scheduled internal coordination meetings between members of the consultant team. In-person meetings will be held at DWL's Phoenix office. Conference calls will be administered using Microsoft Teams.
   b. Detailed Design 100%: The Basis of Design Report (BDR) and 70% drawings will be used to refine and finalize detailed design drawings along with direction from STS. Per Table 7.3 in the PGDS, DWL's scope for deliverables includes:
      1) Bid Documents
      2) Project specifications and coordination of structural specifications
      3) Coordinate with RLB on the 100% Current Working Estimate.
   c. Final Building Code Analysis
   d. QAQC: An internal QAQC will be conducted via Bluebeam Studio, with an internal preliminary check-set for all engineering disciplines.
   e. PMGAA Building Safety Review Submittal (100%). This set will be sealed/signed and submitted for final building safety review by PMGAA.

ASSUMPTIONS:

1. The construction budget is unknown at this time.
2. The overall square footage of the interior project area is approximately 4,500 SF. The exterior under-canopy area is approximately 1,500 SF.
3. The Construction Contract Delivery Method is CM at Risk and the contractor has not been selected.
4. This proposal assumes that all scope is to be documented in one submittal package for the canopy. The canopy package is stand-alone however is issued at the same time as the associated CBIS project.
5. No finish and materials board will be provided.

6. Subconsultants included in this proposal. Please review their attached proposals for further scope details.
    a. MWG (Structural)
    b. Rider Levett Bucknall (Cost Estimating)
7. Value Engineering/Scope Reduction services are included if the RLB cost estimate is greater than 10% of the budget.
8. Construction documents are not submitted to City of Mesa Building Safety department, since PMGAA will provide their own building safety review and permit.
9. Package deliverables shall be delivered both in the native format (word, excel, AutoCAD) and as a PDF file. A reasonable quantity of printed sets are assumed for PMGA.
10. Reimbursables include project related expenses such as mileage, courier, web-based meetings, printing, and copying (in or out of office).
11. Due to the separation of this scope and the larger associated CBIS project, some scope may be unknown at this time, therefore, DWL is including a design allowance for any unknown or inadvertently missed scope. Design allowance: $5,000. Prior use of the design allowance requires PMGA written approval.

EXCLUSIONS:

In order to provide clarity and to prevent any misunderstandings, we want to identify items that are excluded from this proposal. If for any reason the Phoenix-Mesa Gateway Airport Authority requires these services, we can provide them for additional compensation.

1. Services from engineers or consultants not identified in this proposal and beyond this project's scope will not be provided (Civil, landscape, MPE)
2. Acoustics consultant, analysis, and engineering.
3. Geotechnical Analysis (soils report): Because there is no Soils Report being performed, the design team will note previous Soils Report were performed at the site however will not recommend any soils preparation and edit a soils specification. The design team will not accept liability or take responsibility for geotechnical requirements for this project.
4. Tests or investigations requiring demolition of existing construction or other types of forensic investigation are not included in this proposal.
5. Procurement Phase and Construction Administration
6. Environmental and hazardous assessment.
7. Government permit and plan review fees.
8. LEED design and USGBC submission fees.
9. Multiple bid packages.
10. Travel outside the Phoenix Metropolitan area.
11. Renderings
12. Finishes and materials board
13. Videos and fly-throughs
14. Life Cycle Cost Analysis
15. Stakeholder notification documentation
16. BHS scope
17. Deliverables beyond those described below.

DELIVERABLES:

1. Schematic Design (supporting documents for Basis of Design Report)
2. Detailed Design (DD) 30%
3. Detailed Design (DD) 70%
4. Detailed Design/Construction Documents (CD) 100%

COMPENSATION:

We propose to provide the previously mentioned services as an Hourly Not-to-Exceed Fee(s) as follows:

	Discipline Total ($)
Architectural – DWL*	16,026.00
Structural Engineering – MWG	11,990.00
Cost Estimating - RLB	15,500.00
Design Allowance	5,000.00
Total Design Services	**$48,516.00**
Reimbursable Expenses**	$ 1,000.00

* DWL's personnel hourly rates are based on an Overhead Rate of 1.7335 and includes 10% profit.
**For this proposal we are estimating reimbursables for 6 half-size sets for each package.

See attached DWL estimated hourly breakdown and consultants' proposals for your review.

CONCLUSION:

We appreciate your consideration and the opportunity to submit this proposal. We look forward to working with you and the Phoenix-Mesa Gateway Airport Authority team. If you have any questions or require further explanation, please do not hesitate to contact me.

Sincerely,

DWL ARCHITECTS + PLANNERS, INC.

Sandra Kukla, AIA, LEED AP
President

cc: Mary Ann Modzelewski
Shawn Filip
Anna Alexander

DWL ARCHITECTS + PLANNERS, INC.

DWL ARCHITECTS+

PMGA Outbound BHS - Canopy and Structural Components
Schematic Design (SD), Construction Documents (CD - 30%, 70%, 100%)

Hourly Not-to-Exceed

COMPENSATION ESTIMATE | DWL Project No. TBD | Construction Budget: TBD | 12/23/2022

ARCHITECTURAL - Design Phase

Labor Hours

	Task Description	Principal 221.00 per hr. Hours	Principal Direct Cost	Design Director 194.00 per hr. Hours	Design Director Direct Cost	Proj. Manager 132.00 per hr. Hours	Proj. Manager Direct Cost	Sr. Architect 143.00 per hr. Hours	Sr. Architect Direct Cost	Project Architect 131.00 per hr. Hours	Project Architect Direct Cost	Apprentice Architect 97.00 per hr. Hours	Apprentice Architect Direct Cost	Building Code Manager 156.00 per hr. Hours	Building Code Manager Direct Cost	CADD/BIM Technician 99.00 per hr. Hours	CADD/BIM Technician Direct Cost	Interior Designer 90.00 per hr. Hours	Interior Designer Direct Cost	Spec Writer 150.00 per hr. Hours	Spec Writer Direct Cost	Clerical 87.00 per hr. Hours	Clerical Direct Cost	Task Total
1	**Schematic Design (SD)**	4	884.00	0	0.00	8	1,056.00	0	0	0	0	4	388.00	0	0	0	0.00	0	0.00	0	0.00	2	174.00	2,502.00
2	**Detail Design Phase (DD) 30%**	2	442.00	0	0.00	8	1,056.00	0	0	0	0	16	1,552.00	2	312	0	0.00	0	0.00	6	900.00	3	261.00	4,523.00
3	**Design Design Phase (DD) 70%:**	2	442.00	0	0.00	6	792.00	0	0	0	0	16	1,552.00	0	0	0	0.00	0	0.00	4	600.00	3	261.00	3,647.00
4	**Construction Documents (CD) 100%:**	2	442.00	0	0.00	16	2,112.00	0	0	0	0	16	1,552.00	0	0	0	0.00	0	0.00	6	900.00	4	348.00	5,354.00
		0	0.00	0	0.00	0	0.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0.00
		0	0.00	0	0.00	0	0.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0.00
	DWL DESIGN PHASE TOTAL	10	2,210.00	0	0.00	38	5,016.00	0	0.00	0	0.00	52	5,044.00	2	312.00	0	0.00	0	0.00	16	2,400.00	12	1,044.00	130 **$16,026.00**

16,026.00

TEAM SUMMARY

Discipline			Basic Services: Schematic Design (SD)	Basic Services: Detailed Design Phase (DD) 30%	Basic Services: Detailed Design Phase (DD) 70%	Basic Services: Construction Documents (CD) 100%:	Add'l Services			Totals
Basic Design & Engineering										
Architectural - DWL			2,502.00	4,523.00	3,647.00	5,354.00				16,026.00
Structural - MWG			-	3,070.00	4,315.00	4,605.00	-	-		11,990.00
			-							0.00
			-							0.00
	Subtotal - Pre-Design	0.00			Subtotal - Basic Design & Engineering	28,016.00		Subtotal - Basic Design & Eng.	0.00	
									Basic Design & Engineering Sub-Total	**$28,016.00**
Other Design & Engineering										
Cost Estimating - RLB			3,100.00	3,100.00	3,100.00	6,200.00				15,500.00
										0.00
										0.00
										0.00
	-	-	*5,602.00*	*10,693.00*	*11,062.00*	*16,159.00*	-	-	-	
	Subtotal - Other Design & Engineering	0.00			Subtotal - Other Design & Engineering	15,500.00		Subtotal - Other Design & Engineering	0.00	
									Other Design & Engineering Sub-Total	**$15,500.00**
									Total	**$43,516.00**
									Design Allowance	$5,000.00
									Total with Allowance	**$48,516.00**

REIMBURSABLE EXPENSES

Firm	Expense	
DWL / Consultants	Printing, Copies, Courier - Billed only as needed	1,000.00
	Total Reimbursable	**$1,000.00**

	$ -	0.0%

DWL's personnel hourly rates are based on an Overhead Rate of 1.7335 and includes 10% profit.

	Total w/ Reimbursable	**$49,516.00**

October 18, 2022
Revised (October 21, 2022)

MARTIN WHITE GRIFFIS
STRUCTURAL ENGINEERS, INC

Sandra Kukla, AIA, LEED, AP
DWL Architects + Planners, Inc.
2333 North Central Avenue
Phoenix, AZ 85004

Re: PMGA Outbound Baggage
MWG #: 22100.00

Dear Sandra:

We are pleased to submit our proposal to provide structural engineering services for the Outbound Baggage Facility at Phoenix-Mesa Gateway Airport. Our understanding relative to the project scope and details of the services which we propose to provide, are as follow:

1. Scope:

a. Outbound baggage screening facility at the checked baggage screening facility. A new canopy over a portion of the new conveyor.

b. Design of new wall penetrations in existing building at the new conveyor locations.

2. Design Services:

a. Design Development (30% and 70%):

1. Develop foundation and framing plans. Study the existing building plans and structural systems.

2. Provide a structural narrative and draft specifications.

3. Attend in-house quality review session with the design team prior to submission to the Airport.

4. Attend coordination meeting as required.

b. Contract Documents:

1. Provide final REVIT structural model and details for construction.

2. Provide final structural calculations and project specifications.

3. Provide progress submittals sealed and signed.

4. Attend coordination meetings.
5. Review cost estimate.

6. Attend in-house quality review session with the design team prior to submission to the Airport.

3. Fees and Payments

a. The following are fee based on hourly rates , by phase (refer to attached worksheet):

Design Development 30%	$3,070.00
Design Development 70%	$4,315.00
Construction Documents	$4605.00

Total Fee Based on the attached spreadsheet: $11,990.00

Hourly rates are based on our overhead rate of 133% and include a 10% profit.

b. No Construction Administration and site visits are included in this proposal.

c. Our services will be billed monthly and are due and payable within 7 days after receipt of payment by your client for work performed for which payment has been made. Non-payment could result in actions pursuant to ARS statute 32-128 C 5.

4. Additional Services:

a. The following services are not included in the Design Phase Services. Martin, White & Griffis shall be additionally compensated for work hereunder when such services are authorized by the Architect on an hourly basis as outlined below.

1. The final Structural Special Inspections which are required by the Building Code.
2. Any changes to plans and specifications concerning any portion of the structural systems after approval of the owner have been obtained.
3. Work resulting from corrections, revisions or substitutions required because of errors or omissions in construction by the building contractor.
4. Preparation of construction cost estimates.
5. Formal value engineering studies.
6. Site visits.
7. Structural design, detailing and/or drafting services in connection with any other improvements to the structure other than as outlined in this proposal.
8. Any analysis, details and/or calculations for seismic restraint or special anchorage of equipment.
9. MWG will not be responsible for any aspect of the geotechnical work without a soils report for the site. No soils specification or information on the contract drawings will be provided.

b. Fee for additional services will be on an hourly basis at the billing rates as follows:

Senior Structural Engineer:	$180.00 / hr.
Structural Engineer:	$145.00 / hr.
Engineer EIT/Designer	$115.00 / hr.
Revit:	$100.00 / hr.

Hourly rates are based on our overhead rate of 133% and include a 10% profit.

c. Payment of the fee for additional services will be due and payable on the same basis as that for design phase services, outlined in paragraph 3 above.

d. No additional service shall be provided without prior written authorization to proceed from the Architect.

5. **Delays:** Should the project be terminated or have an extended delay at any time, the payment of fee shall be a proportional fee for services performed to termination date or date of delay.

If, for any reason, the project design is completed but no contract awarded the fee basis shall be the full lump sum fee indicated.

6. **Termination of Agreement:** This agreement is terminated if and when the agreement between the Owner and Architect is terminated. The engineer shall be promptly notified of the termination. It also may be terminated by either party upon seven day's written notice should the other party fail substantially to perform in accordance with its terms through no fault of others than the engineer, the engineer shall be paid for services performed to termination date, including reimbursements then due.

Thank you for the opportunity of submitting this proposal. If you find it satisfactory, please indicate so by signing and returning one copy, so that we will be able to proceed with the work.

Sincerely,

Thomas C. Griffis, PE
Principal

Agreed to:

_____
DWL Architects + Planners, Inc.

_____
Date

TCG:mjo

Attachment

AZA/PMGA Outbound Baggage

Consultant: Martin, White & Griffis Structural Engineers Inc. **Date: 10/21/2022**

PHASE	HOURS	RATES	FEE	SUBTOTAL
Design Development 30%				
Sr Structural Engineer	2	$180.00	$360.00	
Structural Engineer	10	$145.00	$1,450.00	
EIT	4	$115.00	$460.00	
Revit	8	$100.00	$800.00	
				$3,070.00
Design Development 70%				
Sr Structural Engineer	2	$180	$360.00	
Structural Engineer	8	$145	$1,160.00	
EIT	13	$115	$1,495.00	
Revit	13	$100	$1,300.00	
				$4,315.00
CONSTRUCTION DOCUMENTS				
Sr Structural Engineer	2	$180.00	$360.00	
Structural Engineer	10	$145.00	$1,450.00	
EIT	13	$115.00	$1,495.00	
Revit	13	$100.00	$1,300.00	
				$4,605.00
			Total	**$11,990.00**

RLB | Rider Levett Bucknall

4343 East Camelback Road
Suite 350
Phoenix, Arizona 85018

T: +1 602 443 4848
F: +1 602 443 4849

SJM:K/PHX-FP:PMGAA:TAM
November 29th, 2022

Ms. Sandra Kukla, LEED AP
President
DWL Architects + Planners, Inc.
2333 N. Central Avenue
PHOENIX, AZ 85004

Via e-mail: kukla@dwlarchitects.com

Dear Sandra:

RE: PHOENIX MESA GATEWAY AIRPORT AUTHORITY (PMGAA)
BAGGAGE HANDLING SYSTEM CANOPY
FEE PROPOSAL FOR ADD SERVICE COST CONSULTANCY SERVICES

Thank you very much for inviting Rider Levett Bucknall (RLB) to submit a fee proposal for providing Cost Consultancy Services for the planned PMGAA Baggage Handling System Canopy located in Mesa, AZ.

Project Scope & Description

The goal of this project is to provide an update to the existing baggage handling system to include a new canopy at PMGA.

Scope of Work & Proposed Fees

Scope of Work

RLB to provide Cost Consultancy Services including the following:

Attend Project Meetings (2), Prepare One (1) Schematic Design Estimate of Construction Cost including review w/ project team.

Attend Project Meetings (2), Prepare One (1) Design Development 30% Estimate of Construction Cost including review w/ project team.

Attend Project Meetings (2), Prepare One (1) Design Development 70% Estimate of Construction Cost including review w/ project team.

Attend Project Meetings (2), Prepare One (1) Design Development 100% Estimate of Construction Cost including review w/ project team.

RE: PHOENIX MESA GATEWAY AIRPORT AUTHORITY (PMGAA)
BAGGAGE HANDLING SYSTEM CANOPY
FEE PROPOSAL FOR ADD SERVICE COST CONSULTANCY SERVICES

Proposed Fees

Our fees for providing the following Cost Consultancy Services are as follows:

Pre-Design & Schematic Design – Prepare one (1) Schematic Design Estimate of Construction Cost including review w/ project team – 20-hours x $155 / hour - $3,100

Design Development 30% - Prepare one (1) Design Development 30% Estimate of Construction Cost including review w/ the project team - 20-hours x $155 / hour - $3,100

Design Development 70% - Prepare one (1) Design Development 70% Estimate of Construction Cost including review w/ the project team - 20-hours x $155 / hour - $3,100

Design Development 100%- Prepare one (1) 100% Design Development Estimate of Construction Cost including review w/ the project team – 40-hours x $155 / hour - $6,200

Total Base Fee - $15,500

Overhead – 160% Profit – 10%

Exclusions

Please carefully note that our proposed fees specifically do not include the following:

- this fee proposal is based on preparing one (1) construction cost estimate of one (1) design solution for each of the disciplines (Architecture, Structure, Mechanical, Electrical, etc.). Studies of alternative design options, different systems, cost reduction/value engineering, etc., are excluded. If these studies become necessary and desirable, we will prepare an added proposal for your consideration.

- preparation of new cost estimates or amendments to our cost estimates necessitated by changes in the design or by further redesigns beyond the design milestone exercises specifically included within this proposal

- cost estimating associated with any Alternates, Options and/or Value-Engineering / Value-Analysis related items.

RE: PHOENIX MESA GATEWAY AIRPORT AUTHORITY (PMGAA)
BAGGAGE HANDLING SYSTEM CANOPY
FEE PROPOSAL FOR ADD SERVICE COST CONSULTANCY SERVICES

Additional Services

If any additional Cost Consultancy Services are requested, then those services will be reimbursed in accordance with our current hourly rates which are as follows:

President, Executive Vice President	$275.00
Senior Vice Presidents, Vice Presidents	$245.77
Principals, Associates, Resident Managers	$200.00
Senior Cost Manager	$170.00
Cost Manager	$145.00
Cost Estimator	$120.00

Terms & Conditions

The terms will be as per DWL Architects + Planner's contract with Owner and the Standard AIA Consultant Agreement. Unless otherwise agreed to in writing, RLB's scope of services is limited to the extent included in this proposal.

Any additional scope, changes in the scope, or additional scope required by contract terms and conditions shall be an additional service for which additional fees will be required.

Acceptance

To signify your acceptance of this proposal, please sign below and return it to me.

In the meantime, if you have any questions, or would like to discuss some aspect of this proposal, please feel free to contact us.

Yours faithfully,
RIDER LEVETT BUCKNALL LTD.

Scott J. Macpherson MRICS
Executive Vice President

Jesse Zunke CM-Lean
Associate

Accepted: _____

Position / Title: _____

Date: _____

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT A**, "Scope of Services and Fee Schedule".

2. Method of Payment

Subject to the terms of this Contract, PMGAA shall pay Consultant the appropriate rate or fixed price amount for services rendered as described in the Contract only after Consultant has submitted an invoice for services performed and PMGAA has certified and approved each invoice.

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice depicting tasks performed and/or hours spent for services performed. Invoices must be based on the actual hours and/or expenses incurred for the services completed during the billing period. Consultant's invoices must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and/or progress reports in accordance with terms specified in the Contract. Progress reports will clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C - SPECIAL PROVISIONS

1. Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.
This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2. Civil Rights Act of 1964, Title VI – Assurances

Title VI List of Pertinent Nondiscrimination Acts and Authorities:
During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Title VI Compliance With Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

a. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

c. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

d. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
   i. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
   ii. Cancelling, terminating, or suspending a contract, in whole or in part.

f. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six (above) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

3. <u>Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</u>

Consultant, by accepting this Contract, certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any government department or agency.

4. <u>Project Security</u>

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA all Contractor and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

5. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict.

6. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant

shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

7. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

8. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. **Certification.** Consultant certifies:
   a. The award of this Contract did not involve collusion or other anti-competitive practices.
   b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
   c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. **Termination of Contract.**

   a. PMGAA reserves the right to cancel this Contract in whole or in part due to failure of Consultant to carry out any term, promise, or condition of the Contract. At least ten (10) business days before terminating the Contract, PMGAA will issue a written notice of default specifying one of the following reasons. PMGAA shall, at all times during the term of the Contract or any extension term thereto, have the sole authority to determine if the default has been cured to its satisfaction.

      (1) Consultant has provided personnel that do not meet the requirements of the Contract.

      (2) Consultant has failed to perform adequately the stipulations, conditions or services/specifications required in this Contract.

      (3) Consultant has attempted to impose on PMGAA personnel or materials, products, or workmanship of unacceptable quality.

      (4) Consultant has failed to furnish the required service(s) and/or product(s) within the time stipulated in the Contract or associated Authorization of Services.

      (5) Consultant has failed to make progress in the performance of the requirements of the Contract or Authorization of Services, or Consultant fails to give PMGAA adequate assurance the Consultant will perform the Contract in full and on time.

      (6) Each payment obligation of PMGAA created hereby is conditioned on the availability of PMGAA, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by PMGAA for continuance of service under this Contract, then PMGAA may terminate the Contract. PMGAA shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to PMGAA if this provision is exercised, and PMGAA shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

   b. This Contract may be terminated at any time by mutual written consent or by PMGAA - with or without cause - provided the terminating party gives fourteen (14) calendar days' advance written notice to the other party. PMGAA may terminate this Contract, in whole or in part, for PMGAA's convenience and with fourteen (14) days' written notice. If this Contract is terminated, then PMGAA is liable only for services rendered and material received, certified, and approved by PMGAA under the Contract before the termination effective date.

3. **Dispute Resolution**.

   a. **Negotiations**. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.

   b. **Mediation**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and

administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.

c. **Binding Dispute Resolution**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

4. **Independent Contractor.** At all times, each party acts in its individual capacity not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days. PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

5. **Affirmative Action.** Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

6. **Human Relations**. Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

7. **Non-Exclusive Contract**. This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

8. **Americans with Disabilities Act.** Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

9. **Confidentiality of Records**. Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

10. **Gratuities.** PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

11. **Applicable Law.** This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

12. **Contract**. This Contract is based on and the result of a negotiated Scope of Work and Proposal, Bid or Statement of Qualifications submitted by Consultant under this RFP, IFB or RFQ. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

13. **Contract Amendments**. This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

14. **Provisions Required by Law**. Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

15. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

16. **Protection of Government Property.** Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

17. **Interpretation – Parol Evidence.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

18. **Subcontracts.** Consultant shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Consultant of its acceptance or rejection within forty-five (45) days or written request by Consultant. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Consultant referred to herein. Consultant is responsible for Contract performance whether subcontractors are used.

19. **No Waiver.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

20. **Warranties.** Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

21. **Indemnification.** To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited

to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

22. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

23. **Advertising.** Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

24. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Consultant's or any of Consultant's subcontractor's business, which is related to the performance of this Contract or related subcontract.

25. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

26. **Inspection.** All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

27. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

28. **Title and Risk of Loss.** The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

29. **Liens.** All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

30. **Licenses.** Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

31. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

32. **Clean Up.** Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

33. **Patents.** Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

34. **Records and Audit Rights.** Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

35. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-11

To:	**Board of Directors**
From:	**Brian Lehrich, CPA, Director of Finance**
Through:	**Chuck Odom, Chief Financial Officer**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Award for Solicitation 2023-023-RFP – Auditor Services**
Date:	**March 21, 2023**

Proposed Motion
To authorize a contract with CliftonLarsonAllen LLP (CLA)for auditor services in an amount not to exceed $218,225 for a period of five (5) years which includes (2) one year renewal options.

Narrative
As required by federal and state law, the Phoenix Mesa Gateway Airport Authority (PMGAA) is subject to an annual financial and compliance audit by an independent certified public accounting firm. PMGAA's previous contract for auditor services concluded with the issuance of the June 30, 2022 financial and compliance audits and as required by PMGAA procurement policy, a new RFP was issued for auditor services for the period beginning with the June 30, 2023 financial statements.

PMGAA issued a Request for Proposals, Solicitation 2023-023-RFP, on January 17, 2023, advertising in the Arizona Business Gazette on 1/19, 1/16, 2/2, and 2/9, 2023. The RFP was posted on PMGAA's website as well as the following sites: Arizona Airports Association, Airport Consultants Council, Airports Council International-North America, and Southwest American Association of Airport Executives. Thirteen prospective respondents also received copies of the solicitation by direct email. PMGAA received proposals from six firms.

The Evaluation Panel reviewed the Proposals submitted and scored and ranked the respondents. Based upon the Proposals received and the established criteria, the Evaluation Panel unanimously ranked CLA number one and recommends CLA to provide auditor services to PMGAA.

Fiscal Impact
Auditor Services are included in the Fiscal Year 2024 and subsequent operating budgets.

Attachment(s)
Professional Services Agreement

RESOLUTION NO. 23-11

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a contract with CliftonLarsonAllen LLP (CLA)for auditor services in an amount not to exceed $218,225 for a period of five (5) years which includes (2) one year renewal options;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a contract with CliftonLarsonAllen LLP (CLA)for auditor services in an amount not to exceed $218,225 for a period of five (5) years which includes (2) one year renewal options. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of March, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

CLIFTONLARSONALLEN LLP

FOR

AUDITOR SERVICES

CONTRACT NUMBER 20230227

The Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority (PMGAA), a joint powers airport authority authorized by the State of Arizona and consisting of the City of Mesa, City of Phoenix, City of Apache Junction, Town of Gilbert, Town of Queen Creek and the Gila River Indian Community.

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 2023XXXXX** ("Contract") and the attached exhibits. CliftonLarsonAllen LLP, a Minnesota Limited Liability Partnership ("Consultant"), with its principal offices located at 220 South 6th Street, Suite 300, Minneapolis, Minnesota, 55402, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under this Contract shall generally include, but not be limited to, the following: Auditor Services, as more specifically described in the detailed scope of services attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Chief Financial Officer, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract as amended.

This Contract is effective as of June 1, 2023 and ends on May 31, 2026 ("Base Term"), unless terminated, canceled or extended as provided in this Contract.

This Contract has two (2) optional one-year extensions that PMGAA may exercise at its sole discretion. Prior to the expiration of the Contract Base Term, PMGAA may elect to extend the Contract. If PMGAA exercises such right, all terms, conditions and provisions of the original Contract shall remain the same and apply during the extended

period. All fees for the optional renewal terms are provided for in **EXHIBIT A**, "Scope of Services & Fee Schedule.". Any extension of this Contract shall require an amendment signed by both parties.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant itself shall provide all services to be performed under this Contract. If Sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with PMGAA's Procurement Policy. Payments will be made in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate contracts or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all contracts with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all contracts with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – NOT USED

SECTION XIX INSURANCE REQUIREMENTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $2,000,000 per occurrence, claim or incident.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage.
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.
   v. Privacy Liability: Liability arising out of the breach of personally identifiable information whether the disclosure is committed intentionally, negligently, electronically or non-electronically (i.e. laptop, dumpster diving, etc.). Coverage may also be required for breach of confidential corporate information.
   vi. Network Security Liability: Liability arising from the interruption of your systems caused by damage to your computer programs or data that results from virus, hacking, a denial of service attack, a denial of access or a simple mistake by your authorized personnel in the administration of your computer system or handling of your e-Business information assets (administrative error). This also includes liability for transmission of a computer virus to a third party via a covered computer system or the failure to prevent the use of your computer system in a denial of service attack.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions. The insurance policies shall provide, or be endorsed to include, the following provisions:

   i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.
   ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract, except *Workers Compensation* and *Professional Liability,* for claims

arising out of the Consultant's work or service.

iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX NOTICES

Any notice, report or information which may be or is required to be given under this Contract will be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn: Chief Financial Officer
5835 South Sossaman Road
Mesa, Arizona 85212

TO CONSULTANT: CliftonLarsonAllen LLP
Attn: Mr. Dennis Osuch
20 East Thomas Road, Suite 2300
Phoenix, AZ 85012

or to such other person(s) or address(es) as any such Party may designate from time to time by notice to the other Parties in accordance with this Section.

Executed as of the Effective Date

CONSULTANT
CliftonLarsonAllen LLP, a Minnesota Limited Liability Partnership

By: Sandra Cronstrom

Name: Sandra Cronstrom

Title: Principal

Date: March 8, 2023

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A – SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

SCOPE OF SERVICES

The anticipated services to be provided under this agreement are listed below.

1. Consultant will audit the annual financial statements of PMGAA (comprised of the basic financial statements and notes to those financial statements), for the fiscal years ending June 30, 2023, 2024, and 2025 (and such additional years as may be agreed upon), express an opinion on the presentation of the financial statements, and provide all required opinions, schedules and letters relating to supplemental annual reporting to granting agencies. Deliverables: An electronic copy plus 15 printed and bound copies of the audit report and financial statements.
2. The management's discussion and analysis and certain other disclosures are supplementary information required by accounting principles generally accepted in the United States. Offeror will fulfill certain limited audit procedures relating to the supplementary information.
3. The financial audit will be conducted in accordance with auditing standards generally accepted in the United States of America and standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.
4. The compliance audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 US *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).
5. In keeping with *Government Auditing Standards* and 2 CFR § 200.333, Offeror will maintain working papers for a minimum of at least three years from the date of the audit reports. These working papers will be made available to representatives of PMGAA's cognizant audit agency (Federal Aviation Administration or designee), other government audit staff, the United States General Accounting Office, PMGAA and subsequent auditors upon their request and after they have provided Offeror reasonable notice of their request to review the working papers.
6. It is expected that in the audit process, some guidance will be offered by Consultant to help ensure high quality in the content and presentation of PMGAA's statements and reports. Consultant will also provide a management letter and issue a report on internal controls, detailing any reportable conditions of significant deficiencies in PMGAA's control structure.
7. Should Consultant become aware of any irregularities or indications of illegal acts, Consultant must make an immediate, written report to the Executive Director.
8. The audit work may begin as soon as the proposed contract is signed and should be completed by October 15 following the end of the fiscal year. Final reports should be completed, and 15 printed and bound copies delivered to the PMGAA by October 31.
9. Consultant will conduct an Audit of the Schedule of Passenger Facility Charges (PFC) revenue in accordance with 14 *Code of Federal Regulations* Part 158, "Passenger Facility Charges" requirements.
10. Consultant shall be present at certain Board meetings, and certain monthly meetings of key staff, as determined by PMGAA.

If additional services are requested by PMGAA beyond the original scope listed herein and/or should such changes in scope of work be required as a result of changes in legal or regulatory requirements upon which PMGAA is subject, Consultant and PMGAA shall agree, in writing, to the fees for the additional required services.

If PMGAA requires additional services outside of the Scope of Services, Consultant shall provide a written quote to PMGAA using the hourly rates as specified herein.

FEE SCHEDULE

For the services provided herein, PMGAA agrees to pay Consultant the following fees:

1. Not to Exceed Totals for Annual Audit and PFC Audit:

Year One (1): $41,104.00

Year Two (2): $42,337.00

Year Three (3): $43,607.00

Year Four (4): $44,915.00 (optional extension)

Year five (5): $46,262.00 (optional extension)

2. Hourly rates:

Hourly rates stated below will be applicable for the base term (years 1 through 3) of the contract and may be amended, upon mutual agreement, for the optional extension terms.

Principal: $300.00

Director/Manager: $200.00

Senior: $145.00

Associate: $125.00

Clerical: $90.00

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT A**, "Scope of Services and Fee Schedule".

2. Method of Payment

Subject to the terms of this Contract, PMGAA shall pay Consultant the appropriate rate or fixed price amount for services rendered as described in the Contract only after Consultant has submitted an invoice for services performed and PMGAA has certified and approved each invoice.

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice depicting tasks performed and/or hours spent for services performed. Invoices must be based on the actual hours and/or expenses incurred for the services completed during the billing period. Consultant's invoices must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and/or progress reports in accordance with terms specified in the Contract. Progress reports will clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C - SPECIAL PROVISIONS

1. Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2. Civil Rights Act of 1964, Title VI – Assurance

Title VI List of Pertinent Nondiscrimination Acts and Authorities:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English

proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Title VI Compliance With Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

3. <u>Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</u>

Consultant, by accepting this Contract, certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any government department or agency.

4. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA, all Consultant and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

5. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict.

6. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

7. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

8. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. **Certification.** Consultant certifies:
   a. The award of this Contract did not involve collusion or other anti-competitive practices.
   b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
   c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. **Termination of Contract.**

   a. Termination for cause. PMGAA reserves the right to cancel this Contract in whole or in part due to failure of Consultant to carry out any term, promise, or condition of the Contract. At least ten (10) business days before terminating the Contract, PMGAA will issue a written notice of default specifying one of the following reasons. PMGAA shall, at all times during the term of the Contract or any extension term thereto, have the sole authority to determine if the default has been cured to its satisfaction. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Contract.

      (1) Consultant has provided personnel that do not meet the requirements of the Contract.

      (2) Consultant has failed to perform adequately the stipulations, conditions or services/specifications required in this Contract.

      (3) Consultant has attempted to impose on PMGAA personnel or materials, products, or workmanship of unacceptable quality.

      (4) Consultant has failed to furnish the required service(s) and/or product(s) within the time stipulated in the Contract or associated Authorization of Services.

      (5) Consultant has failed to make progress in the performance of the requirements of the Contract or Authorization of Services, or Consultant fails to give PMGAA adequate assurance the Consultant will perform the Contract in full and on time.

      (6) Each payment obligation of PMGAA created hereby is conditioned on the availability of PMGAA, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by PMGAA for continuance of service under this Contract, then PMGAA may terminate the Contract. PMGAA shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to PMGAA if this provision is exercised, and PMGAA shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

   b. Termination for convenience. This Contract may be terminated at any time by mutual written consent or by PMGAA - with or without cause - provided the terminating party gives ninety (90)) calendar days' advance written notice to the other party. PMGAA may terminate this Contract, in whole or in part, for PMGAA's convenience and with thirty (30) days' written notice. If this Contract is terminated, then PMGAA is liable only for services rendered and material received, certified, and approved by PMGAA under the Contract before the termination effective date.

   c. Upon termination of the Contract, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

3. **Dispute Resolution**.

   a. **Negotiations**. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.

b. **Mediation**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.

c. **Binding Dispute Resolution**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

4. **Independent Contractor.** At all times, each party acts in its individual capacity not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days. PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

5. **Affirmative Action.** Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

6. **Human Relations**. Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

7. **Non-Exclusive Contract**. This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

8. **Americans with Disabilities Act.** Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

9. **Confidentiality of Records**. Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

10. **Gratuities.** PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled

by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

11. **Applicable Law.** This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

12. **Contract**. This Contract is based on and the result of a negotiated Scope of Work and Proposal, Bid or Statement of Qualifications submitted by Consultant under an RFP, IFB or RFQ. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

13. **Contract Amendments**. This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

14. **Provisions Required by Law**. Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

15. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

16. **Protection of Government Property.** Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

17. **Interpretation – Parol Evidence.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

18. **Subcontracts.** Consultant shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Consultant of its acceptance or rejection within forty-five (45) days or written request by Consultant. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Consultant referred to herein. Consultant is responsible for Contract performance whether subcontractors are used.

19. **No Waiver.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

20. **Warranties.** Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights

of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

21. **Indemnification.** To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

22. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

23. **Advertising.** Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

24. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Consultant's or any of Consultant's subcontractor's business, which is related to the performance of this Contract or related subcontract.

25. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

26. **Inspection.** All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

27. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

28. **Title and Risk of Loss.** The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

29. **Liens.** All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

30. **Licenses.** Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

31. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

32. **Clean Up.** Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

33. **Patents.** Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

34. **Records and Audit Rights.** Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

35. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

EXHIBIT E – CONSULTANT'S RFP SUBMITTAL

Consultant's Proposal in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2023-023-RFP dated February 14, 2023, is hereby incorporated herein and made part of this Contract.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-12

To: Board of Directors
From: Shea Joachim, CEcD, Business Development Director
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: SkyPlus Hotels Corp – Amendment 1
Date: March 21, 2023

Proposed Motion
To authorize Amendment 1 of the Development Lease Agreement with SKYPLUS HOTELS, CORP, an Arizona Corporation.

Narrative
In April 2021 the Phoenix-Mesa Gateway Airport Authority ("PMGAA") Board approved a development lease agreement with SkyPlus Hotels Corp to facilitate the development of an approximately 65,000 SF, 129-room hotel on Lot 116-A within the SkyBridge Arizona project. Lot 116-A is approximately 178,026 SF and has been identified as a non-aeronautical parcel.

As SkyPlus Hotels, Corp initiated its development plans for the hotel it encountered several unexpected delays. SkyPlus Hotels, Corp has requested to extend the Construction Rent Period in exchange for a payment of $7,566.11. The payment matches the cost associated with Lot 116-A being subject to Master Lease Agreement rent for the period of the proposed extension of the Construction Rent Period.

Amendment
The proposed amendment extends the Construction Rent Period from April 30th, 2023 to September 30th, 2024 in exchange for a one-time payment of $7,566.11.

Attachment(s)
Development Lease Amendment 1

RESOLUTION NO. 23-12

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize Amendment 1 of the Development Lease Agreement with SKYPLUS HOTELS, CORP, an Arizona Corporation;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes Amendment 1 of the Development Lease Agreement with SKYPLUS HOTELS, CORP, an Arizona Corporation. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of March, 2023.

_____
Brigette Peterson, Chair

ATTEST:

_____
Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

_____
Jill Casson Owen, Attorney

FIRST AMENDMENT TO DEVELOPMENT LEASE

Development Parcel for Lot 116-A, SkyPlus Hotels, Corp, an Arizona corporation

THIS FIRST AMENDMENT TO DEVELOPMENT LEASE ("**Amendment**") is made as of the 1st day of April, 2023 ("**Effective Date**"), by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **SKYPLUS HOTELS, CORP**, an Arizona corporation ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

RECITALS

A. Lessor and Lessee are parties to that certain Development Lease No. 003 dated May 1, 2021 ("**Lease**") covering certain property commonly known as Lot 116-A of the Master Plan for the Airport, which property is more particularly described in the Lease, and referred to in the Lease and in this Amendment as "**Premises**."

B. Lessee provided Lessor with a letter dated December 20, 2022 which detailed the unforeseen issues Lessee had to deal with prior to starting construction.

C. The Parties desire to modify the Lease to accommodate unforeseen delays in the commencement of construction..

NOW, THEREFORE, in exchange for the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. Recitals. The above recitals are hereby confirmed as true and correct and are reaffirmed herein.

2. Base Rent Adjustment. Section 4.1 of the Lease is hereby deleted in its entirety and replaced with the following:

> 4.1 Base Rent. Lessee agrees to pay Lessor annual rental ("Base Rent") for the use of the Premises as follows:
>
> 4.1.1 Subject to Section 4.4 below, commencing on the Effective Date through September 30, 2024, Base Rent shall be $0.00 per square foot of the Premises per year.
>
> 4.1.2 Commencing on October 1, 2024 through March 31, 2048, Base Rent shall be $0.10 per square foot of the Premises per year, subject to the triennial CPI Adjustment set forth in Section 4.2 below.
>
> 4.1.3 Commencing on April 1, 2048, through the end of the Term, Base Rent per square foot of the Premises per year shall be an amount equal to fair

market value as determined in accordance with Section 4.3 below, subject to the triennial CPI Adjustments set forth in Section 4.2 below.

3. Master Lease Base Rent Payment. On or before the Effective Date of this Amendment, Lessee shall deposit with Lessor a payment in the amount of $7,566.11 (plus applicable taxes) which represents the amount that would have been owed for Base Rent for the Premises under the Master Lease Agreement had the Premises remained subject to the Master Lease Agreement from May 1, 2021 until September 30, 2022.

4. **Construction Rent Period Adjustment.** The first sentence in Section 4.5 of the Lease is hereby deleted in its entirety and replaced with the following:

"A modified base rent for a construction period commencing on October 1, 2022 and ending on September 30, 2024 ("**Construction Base Rent Period**") has been granted to Lessee as additional consideration for entering into this Lease and agreeing to pay the Base Rent and all other charges hereunder, and to perform the terms and provisions otherwise required under this Lease."

5. Miscellaneous.

(a) Capitalized Terms/Definitions. Each capitalized term used in this Amendment and not defined herein shall be deemed to have the same meaning ascribed to it in the Lease.

(b) Continuing Effect. Except as specifically provided in this Amendment, the provisions of the Lease shall remain unchanged and in full force and effect. In the event of a conflict between the Lease and this Amendment, this Amendment shall control.

(c) Authority. Each person executing this Amendment on behalf of a Party represents and warrants that it has the full power, authority, and legal right to execute and deliver this Amendment on behalf of such Party and that this Amendment constitutes the legal, valid and binding obligations of such Party, its heirs, representatives, successors and assigns, enforceable against such Party or Parties in accordance with its terms.

(d) Counterparts. To facilitate execution of this Amendment, this Amendment may be executed in one or more counterparts as may be convenient or required, and an executed copy of this Amendment delivered electronically by e-mail shall have the effect of an original, executed instrument. All counterparts of this Amendment shall collectively constitute a single instrument; but, in making proof of this Amendment it shall not be necessary to produce or account for more than one such counterpart executed by each Party hereto. It shall not be necessary for the signature of, or on behalf of, each Party hereto, or that the signature of all persons required to bind any such Party appear on each counterpart of this Amendment.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By:_____

J. Brian O'Neill, A.A.E.
Executive Director/CEO

LESSEE:

SKYPLUS HOTEL, CORP, an Arizona corporation

By:_____

Felipe Monroy Torres
CEO

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-13

To:	**Board of Directors**
From:	**Arturo Montoya, Information Technology Manager**
Through:	**Chuck Odom, CFO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**CIP 1233 Lenel Security Servers 4yr Refresh Program**
Date:	**March 21, 2023**

Proposed Motion
To authorize the procurement of server equipment from Dell Marketing, L.P. (Dell) in an amount not to exceed $53,795.

Narrative
The Phoenix-Mesa Gateway Airport Authority's (PMGAA's) Information Technology Service (ITS) ensures the Airport's operation, compliance, and disaster recovery functionality relative to information technology industry standards. FY23 is slated to continue with prior fiscal years practice of desktop computer/server refresh replacement program per a pre-established schedule. The procurement of six (6) servers will complete a five-year refresh life cycle program. Servers are a critical component of the Airport's ability to store and access data across the network. A server plays a vital role in business technology and provides a system solution for backing up operating systems and data in the event of primary system data becoming corrupted, deleted, or lost. As part of the strategic direction of the Airport, increased attention and commitment is being placed on providing essential technology systems and services to ensure cost effective support operations.

As a qualified member of the Arizona Department of Administration State Procurement Office (ADSPO), PMGAA is able to procure goods and services under state contracts that have been competitively bid. The State has currently contracted with Dell for computer hardware and support under contract ADSPO16-098163. It is under this contract that PMGAA will procure the server equipment. This contract is available upon request.

Fiscal Impact
This purchase was included in the FY23 Capital Improvement Projects and is funded under CIP 1233.

Attachment(s)
Dell Technologies Quote

RESOLUTION NO. 23-13

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the procurement of server equipment from Dell Marketing, L.P. (Dell) in an amount not to exceed $53,795;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the procurement of server equipment from Dell Marketing, L.P. (Dell) in an amount not to exceed $53,795. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of March, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

A quote for your consideration

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we've created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your **Premier page**, or, if you do not have Premier, use this **Quote to Order**.

Quote No.	**3000143773428.1**	Sales Rep	Dana Harris
Total	**$53,794.86**	Phone	(800) 456-3355, 6180478
Customer #	22980627	Email	Dana_Harris@Dell.com
Quoted On	Feb. 08, 2023	**Billing To**	PAYABLE ACCOUNTS PHOENIX-MESA GATEWAY AIRPORT 5835 S SOSSAMAN RD MESA, AZ 85212-6014
Expires by	Feb. 28, 2023		
Contract Name	Dell NASPO Computer Equipment PA - State of AZ		
Contract Code	C000000010731		
Customer Agreement #	MNWNC-108 / ADSPO16-098163		
Solution ID	17301326.1		

Message from your Sales Rep

Please contact your Dell sales representative if you have any questions or when you are ready to place an order. Thank you for shopping with Dell!

Regards,
Dana Harris

Shipping Group

Shipping To

BRIAN WALLACE
PHOENIX-MESA GATEWAY AIRPORT
5835 S SOSSAMAN RD
MESA, AZ 85212
(480) 988-7600

Shipping Method

Standard Delivery

Product	Unit Price	Quantity	Subtotal
PowerEdge R350 (SQL Server)	**$10,749.82**	**1**	**$10,749.82**
PowerEdge R350 (Lenel Applicaton / WATCH)	**$4,660.64**	**1**	**$4,660.64**
PowerEdge R350 (Lenel Communication)	**$4,006.65**	**1**	**$4,006.65**
PowerEdge R350 (VMS Management)	**$4,660.64**	**1**	**$4,660.64**

Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

PowerEdge R750 (VMS Recording Servers)	**$12,974.82**	**2**	**$25,949.64**

Subtotal:	**$50,027.39**
Shipping:	**$0.00**
Environmental Fee:	**$0.00**
Non-Taxable Amount:	**$4,636.03**
Taxable Amount:	**$45,391.36**
Estimated Tax:	**$3,767.47**
Total:	**$53,794.86**

Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

Shipping Group Details

Shipping To	Shipping Method
BRIAN WALLACE PHOENIX-MESA GATEWAY AIRPORT 5835 S SOSSAMAN RD MESA, AZ 85212 (480) 988-7600	Standard Delivery

		Quantity	Subtotal
PowerEdge R350 (SQL Server) Estimated delivery if purchased today: Feb. 20, 2023 Contract # C000000010731 Customer Agreement # MNWNC-108 / ADSPO16-098163	**$10,749.82**	**1**	**$10,749.82**

Description	SKU	Unit Price	Quantity	Subtotal
PowerEdge R350 Server	210-BBRU	-	1	-
Trusted Platform Module 2.0 V3	461-AAIG	-	1	-
3.5" Chassis with up to 4 Hot Plug Hard Drives, Front PERC	321-BGVP	-	1	-
Intel Xeon E-2374G 3.7GHz, 8M Cache, 4C/8T, Turbo (80W), 3200 MT/s	338-CCKU	-	1	-
Heatsink for 80W or less CPU	412-AAPW	-	1	-
Performance Optimized	370-AAIP	-	1	-
3200MT/s UDIMM	370-AGNY	-	1	-
Unconfigured RAID	780-BCDS	-	1	-
PERC H755 SAS Front	405-AAZB	-	1	-
Front PERC Mechanical Parts, front load	750-ACFR	-	1	-
Performance BIOS Settings	384-BBBL	-	1	-
UEFI BIOS Boot Mode with GPT Partition	800-BBDM	-	1	-
Dual, Hot-Plug, Redundant Power Supply (1+1), 600W	450-AKMP	-	1	-
Riser Config 0, 1 x8, 1 x16 slots	330-BBWS	-	1	-
Standard Fan	750-ADOY	-	1	-
PowerEdge R350 Motherboard with Broadcom 5720 Dual Port 1Gb On-Board LOM	329-BGKI	-	1	-
iDRAC9, Enterprise 15G	385-BBQV	-	1	-
On-Board LOM	542-BBBP	-	1	-
Standard Bezel	325-BCHH	-	1	-
Dell EMC Luggage Tag R350	350-BCGP	-	1	-
BOSS-S2 controller card + with 2 M.2 480GB (RAID 1)	403-BCMB	-	1	-
BOSS Cables and Bracket for R350	470-AFBW	-	1	-
iDRAC,Factory Generated Password, No OMQR	379-BCRG	-	1	-
iDRAC Group Manager, Disabled	379-BCQY	-	1	-
Windows Server 2019 Standard,16CORE,FI,No Med, No CAL, Multi Language	634-BSFE	-	1	-
Windows Server 2019 Standard,16CORE,Digitally Fulfilled Recovery Image, Multi Language	528-CFIB	-	1	-
Microsoft SQL Server 2019 Standard, 4 CORE, OEM, NFI, ENGLISH	634-BUWX	-	1	-

Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

ReadyRails Sliding Rails With Cable Management Arm	770-BDEL	-	1	-
No Internal Optical Drive	429-ABLW	-	1	-
No Systems Documentation, No OpenManage DVD Kit	631-AACK	-	1	-
PowerEdge R350 Shipping	340-CWUI	-	1	-
PowerEdge R350 Shipping Material for 3.5" Chassis	340-CWUL	-	1	-
PowerEdge Non BIS Marking	389-DYHB	-	1	-
PowerEdge R350 CCC Marking, No CE Marking	389-EBNO	-	1	-
Dell Hardware Limited Warranty Plus Onsite Service	867-0213	-	1	-
ProSupport Next Business Day Onsite Service After Problem Diagnosis 5 Years	867-0244	-	1	-
ProSupport 7x24 Technical Support and Assistance 5 Years	867-0256	-	1	-
Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355	989-3439	-	1	-
On-Site Installation Declined	900-9997	-	1	-
8GB UDIMM, 3200MT/s, ECC	370-AGQW	-	4	-
2.4TB 10K RPM SAS ISE 12Gbps 512e 2.5in Hot-plug Hard Drive, 3.5in HYB CARR	400-ANTE	-	2	-
Power Cord - C13, 3M, 125V, 15A (North America, Guam, North Marianas, Philippines, Samoa, Vietnam)	450-AALV	-	2	-
Broadcom 57412 Dual Port 10GbE SFP+ Adapter, PCIe Low Profile	540-BBVI	-	1	-
			Quantity	**Subtotal**
PowerEdge R350 (Lenel Applicaton / WATCH) Estimated delivery if purchased today: Feb. 20, 2023 Contract # C000000010731 Customer Agreement # MNWNC-108 / ADSPO16-098163		**$4,660.64**	**1**	**$4,660.64**

Description	**SKU**	**Unit Price**	**Quantity**	**Subtotal**
PowerEdge R350 Server	210-BBRU	-	1	-
Trusted Platform Module 2.0 V3	461-AAIG	-	1	-
3.5" Chassis with up to 4 Hot Plug Hard Drives, Front PERC	321-BGVP	-	1	-
Intel Xeon E-2388G 3.2GHz, 16M Cache, 8C/16T, Turbo (95W), 3200 MT/s	338-CCKN	-	1	-
Heatsink for 95W or above CPU	412-AAPV	-	1	-
Performance Optimized	370-AAIP	-	1	-
3200MT/s UDIMM	370-AGNY	-	1	-
Unconfigured RAID	780-BCDS	-	1	-
PERC H755 SAS Front	405-AAZB	-	1	-
Front PERC Mechanical Parts, front load	750-ACFR	-	1	-
Performance BIOS Settings	384-BBBL	-	1	-
UEFI BIOS Boot Mode with GPT Partition	800-BBDM	-	1	-
Dual, Hot-Plug, Redundant Power Supply (1+1), 600W	450-AKMP	-	1	-
Riser Config 0, 1 x8, 1 x16 slots	330-BBWS	-	1	-
Standard Fan	750-ADOY	-	1	-
PowerEdge R350 Motherboard with Broadcom 5720 Dual Port 1Gb On-Board LOM	329-BGKI	-	1	-
iDRAC9, Enterprise 15G	385-BBQV	-	1	-

On-Board LOM	542-BBBP	-	1	-
Standard Bezel	325-BCHH	-	1	-
Dell EMC Luggage Tag R350	350-BCGP	-	1	-
BOSS-S2 controller card + with 2 M.2 480GB (RAID 1)	403-BCMB	-	1	-
BOSS Cables and Bracket for R350	470-AFBW	-	1	-
iDRAC,Factory Generated Password, No OMQR	379-BCRG	-	1	-
iDRAC Group Manager, Disabled	379-BCQY	-	1	-
Windows Server 2019 Standard,16CORE,FI,No Med, No CAL, Multi Language	634-BSFE	-	1	-
Windows Server 2019 Standard,16CORE,Digitally Fulfilled Recovery Image, Multi Language	528-CFIB	-	1	-
ReadyRails Sliding Rails With Cable Management Arm	770-BDEL	-	1	-
No Internal Optical Drive	429-ABLW	-	1	-
No Systems Documentation, No OpenManage DVD Kit	631-AACK	-	1	-
PowerEdge R350 Shipping	340-CWUI	-	1	-
PowerEdge R350 Shipping Material for 3.5" Chassis	340-CWUL	-	1	-
PowerEdge Non BIS Marking	389-DYHB	-	1	-
PowerEdge R350 CCC Marking, No CE Marking	389-EBNO	-	1	-
Dell Hardware Limited Warranty Plus Onsite Service	867-0213	-	1	-
ProSupport Next Business Day Onsite Service After Problem Diagnosis 5 Years	867-0244	-	1	-
ProSupport 7x24 Technical Support and Assistance 5 Years	867-0256	-	1	-
Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355	989-3439	-	1	-
On-Site Installation Declined	900-9997	-	1	-
8GB UDIMM, 3200MT/s, ECC	370-AGQW	-	4	-
1.2TB Hard Drive SAS ISE 12Gbps 10k 512n 2.5in with 3.5in HYB CARR	400-BFWY	-	2	-
Power Cord - C13, 3M, 125V, 15A (North America, Guam, North Marianas, Philippines, Samoa, Vietnam)	450-AALV	-	2	-
Broadcom 57412 Dual Port 10GbE SFP+ Adapter, PCIe Low Profile	540-BBVI	-	1	-
			Quantity	**Subtotal**
PowerEdge R350 (Lenel Communication)		**$4,006.65**	**1**	**$4,006.65**

Estimated delivery if purchased today:
Feb. 20, 2023
Contract # C000000010731
Customer Agreement # MNWNC-108 / ADSPO16-098163

Description	**SKU**	**Unit Price**	**Quantity**	**Subtotal**
PowerEdge R350 Server	210-BBRU	-	1	-
Trusted Platform Module 2.0 V3	461-AAIG	-	1	-
3.5" Chassis with up to 4 Hot Plug Hard Drives, Front PERC	321-BGVP	-	1	-
Intel Xeon E-2374G 3.7GHz, 8M Cache, 4C/8T, Turbo (80W), 3200 MT/s	338-CCKU	-	1	-
Heatsink for 80W or less CPU	412-AAPW	-	1	-
Performance Optimized	370-AAIP	-	1	-
3200MT/s UDIMM	370-AGNY	-	1	-

Unconfigured RAID	780-BCDS	-	1	-
PERC H755 SAS Front	405-AAZB	-	1	-
Front PERC Mechanical Parts, front load	750-ACFR	-	1	-
Performance BIOS Settings	384-BBBL	-	1	-
UEFI BIOS Boot Mode with GPT Partition	800-BBDM	-	1	-
Dual, Hot-Plug, Redundant Power Supply (1+1), 600W	450-AKMP	-	1	-
Riser Config 0, 1 x8, 1 x16 slots	330-BBWS	-	1	-
Standard Fan	750-ADOY	-	1	-
PowerEdge R350 Motherboard with Broadcom 5720 Dual Port 1Gb On-Board LOM	329-BGKI	-	1	-
iDRAC9, Enterprise 15G	385-BBQV	-	1	-
On-Board LOM	542-BBBP	-	1	-
Standard Bezel	325-BCHH	-	1	-
Dell EMC Luggage Tag R350	350-BCGP	-	1	-
BOSS-S2 controller card + with 2 M.2 480GB (RAID 1)	403-BCMB	-	1	-
BOSS Cables and Bracket for R350	470-AFBW	-	1	-
iDRAC,Factory Generated Password, No OMQR	379-BCRG	-	1	-
iDRAC Group Manager, Disabled	379-BCQY	-	1	-
Windows Server 2019 Standard,16CORE,FI,No Med, No CAL, Multi Language	634-BSFE	-	1	-
Windows Server 2019 Standard,16CORE,Digitally Fulfilled Recovery Image, Multi Language	528-CFIB	-	1	-
ReadyRails Sliding Rails With Cable Management Arm	770-BDEL	-	1	-
No Internal Optical Drive	429-ABLW	-	1	-
No Systems Documentation, No OpenManage DVD Kit	631-AACK	-	1	-
PowerEdge R350 Shipping	340-CWUI	-	1	-
PowerEdge R350 Shipping Material for 3.5" Chassis	340-CWUL	-	1	-
PowerEdge Non BIS Marking	389-DYHB	-	1	-
PowerEdge R350 CCC Marking, No CE Marking	389-EBNO	-	1	-
Dell Hardware Limited Warranty Plus Onsite Service	867-0213	-	1	-
ProSupport Next Business Day Onsite Service After Problem Diagnosis 5 Years	867-0244	-	1	-
ProSupport 7x24 Technical Support and Assistance 5 Years	867-0256	-	1	-
Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355	989-3439	-	1	-
On-Site Installation Declined	900-9997	-	1	-
8GB UDIMM, 3200MT/s, ECC	370-AGQW	-	2	-
480GB SSD SATA Read Intensive 6Gbps 512 2.5in Hot-plug AG Drive,3.5in HYB CARR, 1 DWPD	400-AXRJ	-	1	-
Power Cord - C13, 3M, 125V, 15A (North America, Guam, North Marianas, Philippines, Samoa, Vietnam)	450-AALV	-	2	-
Broadcom 57412 Dual Port 10GbE SFP+ Adapter, PCIe Low Profile	540-BBVI	-	1	-
			Quantity	**Subtotal**

PowerEdge R350 (VMS Management) $4,660.64 1 $4,660.64

Estimated delivery if purchased today:
Feb. 20, 2023
Contract # C000000010731
Customer Agreement # MNWNC-108 / ADSPO16-098163

Description	SKU	Unit Price	Quantity	Subtotal
PowerEdge R350 Server	210-BBRU	-	1	-
Trusted Platform Module 2.0 V3	461-AAIG	-	1	-
3.5" Chassis with up to 4 Hot Plug Hard Drives, Front PERC	321-BGVP	-	1	-
Intel Xeon E-2388G 3.2GHz, 16M Cache, 8C/16T, Turbo (95W), 3200 MT/s	338-CCKN	-	1	-
Heatsink for 95W or above CPU	412-AAPV	-	1	-
Performance Optimized	370-AAIP	-	1	-
3200MT/s UDIMM	370-AGNY	-	1	-
Unconfigured RAID	780-BCDS	-	1	-
PERC H755 SAS Front	405-AAZB	-	1	-
Front PERC Mechanical Parts, front load	750-ACFR	-	1	-
Performance BIOS Settings	384-BBBL	-	1	-
UEFI BIOS Boot Mode with GPT Partition	800-BBDM	-	1	-
Dual, Hot-Plug, Redundant Power Supply (1+1), 600W	450-AKMP	-	1	-
Riser Config 0, 1 x8, 1 x16 slots	330-BBWS	-	1	-
Standard Fan	750-ADOY	-	1	-
PowerEdge R350 Motherboard with Broadcom 5720 Dual Port 1Gb On-Board LOM	329-BGKI	-	1	-
iDRAC9, Enterprise 15G	385-BBQV	-	1	-
On-Board LOM	542-BBBP	-	1	-
Standard Bezel	325-BCHH	-	1	-
Dell EMC Luggage Tag R350	350-BCGP	-	1	-
BOSS-S2 controller card + with 2 M.2 480GB (RAID 1)	403-BCMB	-	1	-
BOSS Cables and Bracket for R350	470-AFBW	-	1	-
iDRAC,Factory Generated Password, No OMQR	379-BCRG	-	1	-
iDRAC Group Manager, Disabled	379-BCQY	-	1	-
Windows Server 2019 Standard,16CORE,FI,No Med, No CAL, Multi Language	634-BSFE	-	1	-
Windows Server 2019 Standard,16CORE,Digitally Fulfilled Recovery Image, Multi Language	528-CFIB	-	1	-
ReadyRails Sliding Rails With Cable Management Arm	770-BDEL	-	1	-
No Internal Optical Drive	429-ABLW	-	1	-
No Systems Documentation, No OpenManage DVD Kit	631-AACK	-	1	-
PowerEdge R350 Shipping	340-CWUI	-	1	-
PowerEdge R350 Shipping Material for 3.5" Chassis	340-CWUL	-	1	-
PowerEdge Non BIS Marking	389-DYHB	-	1	-
PowerEdge R350 CCC Marking, No CE Marking	389-EBNO	-	1	-
Dell Hardware Limited Warranty Plus Onsite Service	867-0213	-	1	-
ProSupport Next Business Day Onsite Service After Problem Diagnosis 5 Years	867-0244	-	1	-

ProSupport 7x24 Technical Support and Assistance 5 Years	867-0256	-	1	-
Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355	989-3439	-	1	-
On-Site Installation Declined	900-9997	-	1	-
8GB UDIMM, 3200MT/s, ECC	370-AGQW	-	4	-
1.2TB Hard Drive SAS ISE 12Gbps 10k 512n 2.5in with 3.5in HYB CARR	400-BFWY	-	2	-
Power Cord - C13, 3M, 125V, 15A (North America, Guam, North Marianas, Philippines, Samoa, Vietnam)	450-AALV	-	2	-
Broadcom 57412 Dual Port 10GbE SFP+ Adapter, PCIe Low Profile	540-BBVI	-	1	-
			Quantity	**Subtotal**
PowerEdge R750 (VMS Recording Servers) Estimated delivery if purchased today: Mar. 08, 2023 Contract # C000000010731 Customer Agreement # MNWNC-108 / ADSPO16-098163		**$12,974.82**	**2**	**$25,949.64**

Description	**SKU**	**Unit Price**	**Quantity**	**Subtotal**
PowerEdge R750 Server	210-AYCG	-	2	-
3.5 Chassis	379-BDSZ	-	2	-
SAS/SATA Backplane	379-BDSS	-	2	-
4x2.5 Rear Storage	379-BDTB	-	2	-
No GPU Enablement	379-BDSR	-	2	-
Trusted Platform Module 2.0 V3	461-AAIG	-	2	-
3.5" Chassis with up to 12 HDDs (SAS/SATA), 4x2.5" Rear HDDs (SAS/SATA) for 1CPU Configuration	321-BGLS	-	2	-
Intel Xeon Silver 4314 2.4G, 16C/32T, 10.4GT/s, 24M Cache, Turbo, HT (135W) DDR4-2666	338-CBWK	-	2	-
No Additional Processor	374-BBBX	-	2	-
Heatsink for 1 CPU configuration (CPU less than 165W)	412-AAUY	-	2	-
Performance Optimized	370-AAIP	-	2	-
3200MT/s RDIMMs	370-AEVR	-	2	-
Unconfigured RAID	780-BCDS	-	2	-
PERC H755 Adapter, Low Profile	405-AAYY	-	2	-
Performance BIOS Settings	384-BBBL	-	2	-
UEFI BIOS Boot Mode with GPT Partition	800-BBDM	-	2	-
High Performance Fan x6	750-ADGL	-	2	-
Power Supply 800W RDNT D, Mixed Mode	450-AJEX	-	2	-
Riser Config 9, 1x16 slot	330-BBUX	-	2	-
R750 Motherboard with Broadcom 5720 Dual Port 1Gb On-Board LOM	329-BFGT	-	2	-
iDRAC9, Enterprise 15G	385-BBQV	-	2	-
Broadcom 57414 Dual Port 10/25GbE SFP28, OCP NIC 3.0	540-BCOC	-	2	-
PowerEdge 2U Standard Bezel	325-BCHU	-	2	-
Dell EMC Luggage Tag	350-BCED	-	2	-

BOSS-S2 controller card + with 2 M.2 480GB (RAID 1)	403-BCMB	-	2	-
BOSS Cables and Bracket for R750 (4x2.5" Rear)	470-AERS	-	2	-
No Quick Sync	350-BBYX	-	2	-
iDRAC,Factory Generated Password	379-BCSF	-	2	-
iDRAC Group Manager, Disabled	379-BCQY	-	2	-
Windows Server 2019 Standard,16CORE,FI,No Med, No CAL, Multi Language	634-BSFE	-	2	-
Windows Server 2019 Standard,16CORE,Digitally Fulfilled Recovery Image, Multi Language	528-CFIB	-	2	-
ReadyRails Sliding Rails	770-BBBQ	-	2	-
Cable Management Arm, 2U	770-BDRQ	-	2	-
Fan Foam, HDD 2U	750-ACOM	-	2	-
No Systems Documentation, No OpenManage DVD Kit	631-AACK	-	2	-
PowerEdge R750 Shipping	340-CULS	-	2	-
PowerEdge R750 Shipping Material	481-BBFG	-	2	-
Dell/EMC label (BIS) for 3.5" Chassis	389-DYHG	-	2	-
PE R750 CCC Marking, No CE Marking	389-DYHH	-	2	-
Custom Configuration	817-BBBB	-	2	-
Dell Hardware Limited Warranty Plus Onsite Service	852-7274	-	2	-
ProSupport Next Business Day Onsite Service After Problem Diagnosis 5 Years	852-7288	-	2	-
ProSupport 7x24 Technical Support and Assistance 5 Years	852-7308	-	2	-
Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355	989-3439	-	2	-
On-Site Installation Declined	900-9997	-	2	-
8GB RDIMM, 3200MT/s, Single Rank	370-AEVO	-	8	-
20TB Hard Drive SAS 12Gbps 7.2K 512e 3.5in Hot-Plug, AG Drive	161-BBVV	-	14	-
1.2TB 10K RPM SAS 12Gbps 512n 2.5in Flex Bay Hard Drive	401-ABDD	-	8	-
Power Cord - C13, 3M, 125V, 15A (North America, Guam, North Marianas, Philippines, Samoa, Vietnam)	450-AALV	-	4	-

Subtotal:	**$50,027.39**
Shipping:	**$0.00**
Environmental Fee:	**$0.00**
Estimated Tax:	**$3,767.47**
Total:	**$53,794.86**

Important Notes

Terms of Sale

This Quote will, if Customer issues a purchase order for the quoted items that is accepted by Supplier, constitute a contract between the entity issuing this Quote ("Supplier") and the entity to whom this Quote was issued ("Customer"). Unless otherwise stated herein, pricing is valid for thirty days from the date of this Quote. All product, pricing and other information is based on the latest information available and is subject to change. Supplier reserves the right to cancel this Quote and Customer purchase orders arising from pricing errors. Taxes and/or freight charges listed on this Quote are only estimates. The final amounts shall be stated on the relevant invoice. Additional freight charges will be applied if Customer requests expedited shipping. Please indicate any tax exemption status on your purchase order and send your tax exemption certificate to Tax_Department@dell.com or ARSalesTax@emc.com, as applicable.

Governing Terms: This Quote is subject to: (a) a separate written agreement between Customer or Customer's affiliate and Supplier or a Supplier´s affiliate to the extent that it expressly applies to the products and/or services in this Quote or, to the extent there is no such agreement, to the applicable set of Dell's Terms of Sale (available at www.dell.com/terms or www.dell.com/oemterms), or for cloud/as-a-Service offerings, the applicable cloud terms of service (identified on the Offer Specific Terms referenced below); and (b) the terms referenced herein (collectively, the "Governing Terms"). Different Governing Terms may apply to different products and services on this Quote. The Governing Terms apply to the exclusion of all terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier.

Supplier Software Licenses and Services Descriptions: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain infrastructure products at www.dellemc.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

Offer-Specific, Third Party and Program Specific Terms: Customer's use of third-party software is subject to the license terms that accompany the software. Certain Supplier-branded and third-party products and services listed on this Quote are subject to additional, specific terms stated on www.dell.com/offeringspecificterms ("Offer Specific Terms").

In case of Resale only: Should Customer procure any products or services for resale, whether on standalone basis or as part of a solution, Customer shall include the applicable software license terms, services terms, and/or offer-specific terms in a written agreement with the end-user and provide written evidence of doing so upon receipt of request from Supplier.

In case of Financing only: If Customer intends to enter into a financing arrangement ("Financing Agreement") for the products and/or services on this Quote with Dell Financial Services LLC or other funding source pre-approved by Supplier ("FS"), Customer may issue its purchase order to Supplier or to FS. If issued to FS, Supplier will fulfill and invoice FS upon confirmation that: (a) FS intends to enter into a Financing Agreement with Customer for this order; and (b) FS agrees to procure these items from Supplier. Notwithstanding the Financing Agreement, Customer's use (and Customer's resale of and the end-user's use) of these items in the order is subject to the applicable governing agreement between Customer and Supplier, except that title shall transfer from Supplier to FS instead of to Customer. If FS notifies Supplier after shipment that Customer is no longer pursuing a Financing Agreement for these items, or if Customer fails to enter into such Financing Agreement within 120 days after shipment by Supplier, Customer shall promptly pay the Supplier invoice amounts directly to Supplier.

Customer represents that this transaction does not involve: (a) use of U.S. Government funds; (b) use by or resale to the U.S. Government; or (c) maintenance and support of the product(s) listed in this document within classified spaces. Customer further represents that this transaction does not require Supplier's compliance with any statute, regulation or information technology standard applicable to a U.S. Government procurement.

For certain products shipped to end users in California, a State Environmental Fee will be applied to Customer's invoice. Supplier encourages customers to dispose of electronic equipment properly.

Electronically linked terms and descriptions are available in hard copy upon request.

^DELL BUSINESS CREDIT (DBC): Offered to business customers by WebBank, who determines qualifications for and terms of credit. Taxes, shipping and other charges are extra and vary. The Total Minimum Payment Due is the greater of either $20 or 3% of the New Balance shown on the statement rounded up to the next dollar, plus all past due amounts. Dell and the Dell logo are trademarks of Dell Inc.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Re: Resolution 23-14

Board Action Item

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject: **Operating and Capital Budget for Fiscal Year ending June 30, 2024**
Date: **March 21, 2023**

Proposed Motion
To adopt the proposed Operating Budget, Capital Budget, Debt Service Budget, and Member Government Contributions for the fiscal year ending June 30, 2024.

Narrative
The following is an overview of the proposed budgets.

Key Assumptions for FY24 Budget

1. Member contributions will continue to partially fund capital improvements.
2. Enplaning passenger activity is expected to increase in FY24's budget by 9.5% over FY23's.
3. Aero revenue will be up 5%; Non-Aero revenue will be up 13%.
4. Air-Service Incentive Program carries over from previous fiscal year.
5. Operating Contingency is 10% of total expenses from unrestricted cash reserve.

FY24 Operating Budget Highlights

Operating Revenues:	FY23 Budget	FY24 Budget	Difference	%
Aero Op Rev: Aircraft Parking	$ 196,000	$ 243,129	$ 47,129	24%
Aero Op Rev: Fuel Flowage	741,352	769,638	28,286	4%
Aero Op Rev: Landing Fees	1,218,451	1,615,226	396,775	33%
Aero Op Rev: Lease Income	2,748,496	3,682,210	933,714	34%
Aero Op Rev: Svcs Sold	5,977,002	6,080,517	103,515	2%
Aero Op Rev: Fuel Sales	7,201,310	6,571,400	(629,910)	-9%
Total Aero Op Revenue	18,082,612	18,962,120	879,508	5%
Non-Aero Op Rev: Concess	1,195,850	1,209,836	13,986	1%
Non-Aero Op Rev: Lease Inc	1,131,592	1,165,801	34,209	3%
Non-Aero Op Rev: Parking	3,632,067	4,166,487	534,420	15%
Non-Aero Op Rev: Rental Car	2,193,000	2,665,423	472,423	22%
Non-Aero Op Rev: Svcs Sold	150,400	150,520	120	0%
Total Non-Aero Op Revenue	8,302,910	9,358,067	1,055,157	13%
Total Operating Revenue	$ 26,385,522	$ 28,320,187	$ 1,934,665	7%
Operating Expenditures:				
Communication & Utilities	$ 898,999	$ 905,502	$ 6,503	1%
Contractual Services	6,413,400	7,359,351	945,951	15%
Cost of Goods Sold	4,897,478	4,543,710	(353,768)	-7%
Insurance	652,189	696,578	44,388	7%
Other	535,571	474,792	(60,779)	-11%
Compensation & Benefits	10,468,250	11,670,064	1,201,814	11%
Repair & Maintenance	1,374,413	1,365,650	(8,763)	-1%
Supplies & Materials	983,523	1,105,779	122,256	12%
Total Operating Expense	$ 26,223,823	$ 28,121,425	$ 1,897,602	7%
Operating Income	$ 161,699	$ 198,762	$ 37,061	23%
Total Operating Expense	$ 26,223,823	$ 28,121,425	1,897,602	7%
Potential Air Incentive	2,000,000	2,000,000	-	0%
10% Contingency	2,622,382	2,812,142	189,760	7%
Total Budgeted Operating Expense Capacity	$ 30,846,205	$ 32,933,567	$ 2,087,362	7%

Capital Improvement Program (CIP) Project Summary

The proposed capital budget for FY24 is $23,986,400. The projects are listed in Attachment 1 with more detailed description of the projects in Attachment 2. The carry over capital projects from FY23 total $69,176,128 and are listed in Attachment 3 with the descriptions in Attachment 4.

FY24 Capital Improvement Program Funding Summary

FAA	$ 16,846,100
Member Contributions	4,060,000
PMGAA Cash Reserves	2,253,350
ADOT	826,950
Total for FY24	$ 23,986,400

FY23 Carry Over Capital Funding Sources

FAA	$ 31,984,874
PMGAA Cash Reserves	24,491,392
CFC	5,500,000
ADOT	4,485,790
PFC	2,714,072
Total for FY23 Carry Over	$ 69,176,128

Total Operating, Capital and Debt Service Budget Combined

Total Operating Expense	$ 28,121,425
Potential Air Incentive	2,000,000
10% Operating Expense Contingency	2,812,142
FY24 Capital Budget	23,986,400
FY23 Carry Over Capital Projects	69,176,128
Capital Maintenance Reserve	1,000,000
Debt Service Payment	1,292,000
Total Budget Operating and Capital	$128,388,095

Attachment(s)

1. FY24 Proposed Capital Budget
2. FY24 Capital Improvement Project Descriptions
3. FY23 Carry Over Capital Improvement Projects
4. FY23 Carry Over Capital Improvement Project Descriptions
5. FY24 Capital Projects Location Map

RESOLUTION NO. 23-14

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority is required pursuant to Arizona Revised Statutes and Section 9 of the Joint Powers Airport Authority Agreement to recommend to the governing bodies of the Airport Authority's members an operating budget, capital budget, debt service budget, and capital improvement program for each fiscal year; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Phoenix-Mesa Gateway Airport Authority as follows:

> **The Phoenix-Mesa Gateway Airport Authority Board of Directors hereby adopts the Phoenix-Mesa Gateway Airport Authority Fiscal year 2024 Operating Budget in the amount of $32,933,567, the Fiscal Year 2024 Phoenix-Mesa Gateway Airport Authority Capital Improvement Program and Debt Service in the amount of $95,454,528, and incorporated as if fully set forth herein, subject to the authority granted to the Executive Director/CEO under Board Policy #15-04, and including the member government contributions and proportions provided as follows: City of Mesa $1,700,000 (41.87 %); City of Phoenix $1,300,000 (32.02 %); Gila River Indian Community $450,000 (11.08%); Town of Gilbert $350,000 (8.62 %); Town of Queen Creek $130,000 (3.20 %); City of Apache Junction $130,000 (3.20 %).**
>
> Passed and adopted by the Authority this 21st day of March, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PMGAA FY24 Capital Budget

Project ID - Project Name	Cost Estimate Latest	Funding Source: FAA	ADOT	PMGAA Match	PMGAA Non-Grant	Project Total	Begin Project Date	Complete Project Date
1072 RWY 12R/30L Reconstruction of Sections Remaining from FY23	$16,000,000	$14,569,600	$715,200	$715,200		$16,000,000	7/1/2023	6/30/2024
1243/1251-Center Runway Asphalt Mill & Replace distance remaining signs	$2,500,000	$2,276,500	$111,750	$111,750		$2,500,000	7/1/2023	6/30/2024
1223-DEMO Old ATCT, Old RTR Facility, Old ASR, Other Facilities, H24	$2,470,000				$2,470,000	$2,470,000	7/1/2023	6/30/2024
1268-New Airport Entrance Monument Signs	$600,000				$600,000	$600,000	7/1/2023	6/30/2024
1259- Replc 3 Fire Protection Pumps at So. Central and Pump House	$400,000				$400,000	$400,000	7/1/2023	6/30/2024
0964-Replc 2003 Tymco Pavement Sweeper E-302	$342,000				$342,000	$342,000	7/1/2023	6/30/2024
1244-Replc Network Cores & Edge Equipment Life Cycle Refresh	$280,000				$280,000	$280,000	7/1/2023	6/30/2024
1029-Replc 2-2009 Boarding Ramps 238 & 239	$180,000				$180,000	$180,000	7/1/2023	6/30/2024
1061-Replc 2002 Mobile Air Condition Unit - EQP 262	$170,000				$170,000	$170,000	7/1/2023	6/30/2024
1258-Replc Terminal Seats Ph1 2 Gates	$160,000				$160,000	$160,000	7/1/2023	6/30/2024
1276-Replc Center RWY Edge Lights with LED	$150,000				$150,000	$150,000	7/1/2023	6/30/2024
1260-Add Uninterrupted Power Source units to Baggage Belts	$100,000				$100,000	$100,000	7/1/2023	6/30/2024
1269-Roof Coating Phase 1	$75,000				$75,000	$75,000	7/1/2023	6/30/2024
1247-Replc 2-2008 Ford Escape Trucks TRK-108 & 109	$72,000				$72,000	$72,000	7/1/2023	6/30/2024
1064-Replc Defuel/Refuel Cart -EQP 277	$70,000				$70,000	$70,000	7/1/2023	6/30/2024
1256-Replc 1996 8K lb Forklift	$65,000				$65,000	$65,000	7/1/2023	6/30/2024
1250- Replc 2006 Towable Airstair unit -EQP 232	$50,000				$50,000	$50,000	7/1/2023	6/30/2024
1261-Replc Carpeting at the Terminal Gates 5, 6, & 7	$50,000				$50,000	$50,000	7/1/2023	6/30/2024
1267-Baggage Claim 2 Canopy	$50,000				$50,000	$50,000	7/1/2023	6/30/2024
1270-Video Matrix Switch	$33,400				$33,400	$33,400	7/1/2023	6/30/2024
1246-Replc 2 Copiers (last refresh FY18)	$30,000				$30,000	$30,000	7/1/2023	6/30/2024
0864-US Customs Technology Refresh	$25,000				$25,000	$25,000	7/1/2023	6/30/2024
1271-20v Lenel Gate Controls	$25,000				$25,000	$25,000	7/1/2023	6/30/2024
1228-Replc 1999 Nitrogen Cart -EQP 267	$20,000				$20,000	$20,000	7/1/2023	6/30/2024
1272-Replc 2-Post Lift for Fleet Mx	$20,000				$20,000	$20,000	7/1/2023	6/30/2024
1273-Replc Tire Changer Wheel Balance Equipment	$15,000				$15,000	$15,000	7/1/2023	6/30/2024
1274-HazMat Trailer with generator	$14,000				$14,000	$14,000	7/1/2023	6/30/2024
1275-West Vault Cut Out Switch	$10,000				$10,000	$10,000	7/1/2023	6/30/2024
1266-Replc TWY C Sign Panel C2-C3	$10,000				$10,000	$10,000	7/1/2023	6/30/2024
	$23,986,400	$16,846,100	$826,950	$826,950	$5,486,400	$23,986,400		

Phoenix - Mesa Gateway Airport Authority
FY24 Capital Budget

Attachment 2

Project # Name	Amount	Description
1072-Reconstruction of Runway 12R/30L & Twy Hotel	$16,000,000	Reconstruct Runway 12R30L from 1000 feet from north end to 500 feet north of Taxiway Lima. Project encompasses sections 20, 30, and 40 totaling almost 1 million sq ft. Project will include runway PCCP replacement, shoulder, lighting, striping, and signage improvements.
1243-Center Runway Asphalt Mill & Replace	$2,500,000	Mill 1.5" of asphalt on the full length of asphalt runway section and Twy K runway intersection. Replace with new asphalt and stripe
1223-DEMO Old ATCT, Old RTR Facility, Old ASR, Other Facilities, H24	$2,470,000	Demo old ATCT; Demo and relocate Remote Transmitter & Receiver (RTR) Facility to make way for Gateway East Development; Demolish the existing structures on Lots 50A, 50B, 50C and 45 and ready site for commercial development. Demolition activities will likely require some environmental
1267-New Airport Entrance Monument Signs	$600,000	Construct new monument airport entrance signs on both north and south ends of the airport
1259- Replc 3 Fire Protection Pumps at So. Central and Pump House	$400,000	Purchase 3 Fire protection pumps to replace existing older equipment
0964-Replc 2003 Pavement Sweeper -302	$342,000	Replc 2003 Tymco Pavement Sweeper EQP E-302 with new High Speed Runway pavement sweeper
1244-Replc Network Cores & Edge Equipment Life Cycle Refresh	$280,000	Replace Network Edge device located in each PMGAA occupied buildings. This project to ensure PCI compliance based on required refresh and update requirements. Primary & Secondary Core Router Life Cycle Refresh
1029-Replc 2 2009 Boarding Ramps 238 & 239	$180,000	Replc 2 2009 Boarding Ramps 238 & 239
1061-Replc 2002 Mobile Air Condition Unit - EQP 262	$170,000	Equipment beyond useful life and scheduled for replacement per procurement policy
1258-Replc Terminal Seats Ph1 2 Gates	$160,000	Replace beamline terminal seats at two gates
1276-Replc Center RWY Edge Lights with LED	$150,000	Replace 12C/30C quartz edge lights with LED edge lights. Provides runway lighting consistency with 12R/30L inside runway. LED is energy efficient, has less light dimming over time, and has a longer lifespan than quartz.
1260-Add Uninterrupted Power Source units to Baggage Belts	$100,000	Add Uninterrupted Power source units to the bag belts in the Bag Makeup and Baggage Claim area.
1269-Roof Coating Phase 1	$75,000	In order to maintain the warranty on the roofs that were installed/repaired/replaced, the roof coatings need to be done on many of the PMGAA owned properties. This project will be done in phases over a few years, starting roof coatings phase 1 in FY24.
1247-Replc 2-2008 Ford Escape Trucks TRK-108 & 109	$72,000	Replc 2-2008 Ford Escape Trucks TRK-108 & 109
1064-Replc Defuel/Refuel Cart -EQP 277	$70,000	Equipment beyond useful life and scheduled for replacement per procurement policy
1256-Replc 1996 8K lb Forklift	$65,000	Life Cycle replacement, meet the needs of our customers upon request, and for FBO use in operations
1250- Replc 2006 Towable Airstair unit -EQP 232	$50,000	Replc old air stairs used for enplaning and deplaning passengers from narrow body aircraft
1261-Replc Carpeting at the Terminal Gates 5, 6, & 7	$50,000	Carpet is worn and past its serviceable life and in need of replacement
1267-Baggage Claim 2 Canopy	$50,000	Need to install a Canopy over the baggage claim 2 area. This canopy will provide shade that will protect our equipment from the intense sun and provide a safer cooker work environment for the contracted employees who are moving baggage from the carts to the baggage belts
1270-Video Matrix Switch	$33,400	Hardware and programming of video matrix switch to consolidate the management and control of video surveillance display from 6 input devices to one.
1246-Replc 2 Copiers (last refresh FY18)	$30,000	Replc 2 Copiers last life cycle refresh was FY18
1271-20v Lenel Gate Controls	$25,000	Hardware and programming for PMGAA control of perimeter gate located at ATP. Resolves security vulnerability.
0864-US Customs Technology Refresh	$25,000	Perform technology refresh on US Customs computer network and equipment
1228-Replc 1999 Nitrogen Cart -EQP 267	$20,000	Replc 1999 Nitrogen Cart that is used for Aircraft Servicing
1272-Replc 2-Post Lift for Fleet Mx	$20,000	2 post lift is not sufficient to provide high safety level when working on long wheel based and heavy vehicles. 4 post lift is needed when replacing the 15 year old vehicle lift.
1273-Replc Tire Changer Wheel Balance Equipment	$15,000	The 2012 tire maintenance devices (change/balance) are losing tolerances creating additional work to maintain vehicle tires. More modernized technology increases efficiencies, reduces physical demands, making it safer for the operator.
1274-HazMat Trailer with generator	$14,000	Current HAZMAT trailer is over 20 years old. Roof and floor are rotting through. Generator past useful life and inop.
1275-West Vault Cut Out Switch	$10,000	Safety cut off between regulator and field circuits. Standardizing configuration same as east vault and FAA standards. Provides the ability to isolate circuits, which does not currently exist.
1266-Replc TWY C Sign Panel C2-C3	$10,000	Sign panels are old and need replacement to ensure continued FAA compliance
	$23,986,400	

Carry Overs Projects	FY23-FY24	Federal Aviation Admin (FAA)	State of Arizona (ADOT)	PMGAA Grant Match Funds	PMGAA Non-Grant Funds	Passenger Facility Charges (PFC)	Customer Facility Charges (CFC)	Project Totals
500AIR1072 Reconstruction of Rwy 12R/30L & Twy Hotel	$23,503,512	$20,265,865	$2,118,026	$1,119,622				$23,503,512
500TRM1201 Terminal Modernization	11,951,000	8,411,147	412,891	412,891		2,714,072		11,951,000
500FUE1224 Increase Jet A Storage Capacity Design & Construct	9,000,000				9,000,000			9,000,000
500PKG1242 Construction of Rental Car Care Facility	5,500,000						5,500,000	5,500,000
500TRM1252 Design & Construct Enclosed Pedestrian Walk Way	3,632,619	3,307,863	162,378	162,378				3,632,619
500AIR0741 Design and Recon Twy H Between B and 12R	1,248,005		1,123,205	124,801				1,248,005
500AIR0744 Taxiway W Design & Recon	743,657		669,291	74,366				743,657
500RDW0982 Taxiway Circle Access Rd Reconstruction	450,000				450,000			450,000
500SDD0389 Demo Existing Structures	270,000				270,000			270,000
500PLN1253 Eastside Terminal Analysis	200,000				200,000			200,000
700EQP0284 Purchase Pavement Cleaning Machine	675,000				675,000			675,000
700VHC1226 Replc 2003 Ford Ranger - TRK 545	2,335				2,335			2,335
Capacity Increase to carry over	12,000,000				12,000,000			12,000,000
Total Carry Over from FY23	$69,176,128	$31,984,874	$4,485,790	$1,894,057	$22,597,335	$2,714,072	$5,500,000	$69,176,128

Phoenix - Mesa Gateway Airport Authority
FY24 Capital Budget FY23 Carry Overs

Attachment 4

Project # Name	Amount	Description
500AIR1072 Reconstruction of Rwy 12R/30L & Twy Hotel	23,503,512	Reconstruction and construction administration of Runway 12R30L from 1000 feet from north end to 500 feet north of Taxiway Lima. Project encompasses pavement sections 20,30,and 40 (See ADOT PCI map) totaling almost one million square feet. Project will include runway PCCP replacement, shoulders, lighting (edge, ERGL, etc.) , striping, and signage
500TRM1201 Terminal Modernization	11,951,000	The existing gates 1-4 are housed in a modular building that exceeds its usable life and is causing increased maintenance issues.
500FUE1224 Increase Jet A Storage Capacity Design & Construct	9,000,000	Expansion to meet expected activity for airfield activity
500PKG1242 Construction of Rental Car Care Facility	5,500,000	Improvements include demolition of existing fence, building, canopy, pavement and fueling equipment. Redevelopment of site will include new administration & Mx Buildings, car service canopies, car vacuum bays, car wash building, new asphalt, concrete pavements, utilities, fueling equipment pads, fire hydrants and traffic markings.
500TRM1252 Design & Construct Enclosed Pedestrian Walk Way	3,632,619	Due to the increased passenger traffic accessing the TSA Security checkpoint, PMGAA staff is recommending to have a Programmatic Design created that will connect the Ticketing Terminal and TSA Checkpoint areas under one roof. Currently our passengers must exit the Ticketing Terminal, walk up a ramp to access TSA Secure Checkpoint. This access point has a great deal of confusion since some passengers don't check baggage, but instead proceed straight to the checkpoint. The current entry point gets overcrowded with people accessing it from two different directions, creating gridlock, confusion and safety issues from people standing in the heat.
500AIR0741 Design and Recon Twy H Between B and 12R	1,248,005	Design & Reconstruct Taxiway H between Taxiway B and Runway 12R. 250' x 75' (2,100 SY PCCP), plus 250' x 30' shoulders (1,700 SY AC), including lighting, drainage, signage & marking. According to AP Tech report dated March 2010, the pavement condition index (PCI) is rated at 66.
500AIR0744 Taxiway W Design & Recon	743,657	Design and reconstruct a section of Taxiway Whiskey located on the southern portion of the taxiway and north of intersection of W and T. 2013 pavement condition index (PCI) for the worst section is rated at 57, approaching pavement failure if not reconstructed in the intermediate term. The dimensions of the section is 22' x 405' (8,910 SF). Project to address edge lighting, markings, shoulder, drainage as required.
500RDW0982 Taxiway Circle Access Rd Reconstruction	450,000	Due to age of pavement and wear and tear on the roadway after being the haul route for two major projects and ATCT this access roadway in front of 1080 will be need if replacement.
500SDD0389 Demo Existing Structures	270,000	Demo of existing reinforced PCC structures located in the Mesa Skybridge Arizona leasehold
500PLN1253 Eastside Terminal Analysis	200,000	Planning for potential growth and cost implications on the Eastside of the Airport
700EQP0284 Purchase Pavement Cleaning Machine	675,000	Purchase pavement cleaning machine that has capabilities to clean pavements and markings, remove rubber, remove paint markings and prep for marking.
700VHC1226 Replc 2003 Ford Ranger - TRK 545	2,335	Replc 2003 Ford Ranger - TRK 545
Capacity Increase to carry over	12,000,000	This budget will cover any new projects that come up or existing projects that are delayed and need to carry over into FY24
	69,176,128	

Attachment 5

Phoenix-Mesa Gateway Airport

FY24 CIP
Project Locations

Projects not on map

864	1250
964	1256
1029	1259
1061	1260
1064	1269
1228	1270
1244	1271
1246	1272
1247	1273
1274	

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Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: January 2023 Financials
Date: March 21, 2023

Attached is the monthly Financials Report for January 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
January, 2023

	Month of January 2023				Y-T-D as of January 2023			
	January FY22 Actual	January FY23 Actual	YOY Variance	B/(W)	YTD FY22 Actual	YTD FY23 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	17,849	30,309	12,460	70%	134,826	177,945	43,119	32%
Fuel Flowage Fees	65,569	57,316	(8,253)	-13%	346,038	387,380	41,342	12%
Landing Fees	130,198	127,165	(3,033)	-2%	869,910	783,621	(86,289)	-10%
Lease Income Aero	375,042	329,166	(45,876)	-12%	1,988,191	1,892,884	(95,307)	-5%
Fuel Sales	417,725	706,847	289,122	69%	2,956,189	4,784,577	1,828,388	62%
Services Sold - Aero	475,085	473,631	(1,454)	0%	2,659,941	2,893,375	233,434	9%
Sub-total Aero Operating Revenues	1,481,468	1,724,434	242,966	16%	8,955,095	10,919,782	1,964,687	22%
Non-Aeronautical Operating Revenues								
Concessions	84,340	123,939	39,599	47%	614,979	799,978	184,999	30%
Lease Income Non-Aero	122,240	116,463	(5,777)	-5%	840,209	768,003	(72,206)	-9%
Parking	338,646	427,219	88,573	26%	2,550,108	2,878,931	328,823	13%
Rental Car Fees	195,651	286,932	91,281	47%	1,071,744	1,362,429	290,685	27%
Svcs Sold - Non Aero	2,204	2,258	54	2%	27,461	34,083	6,622	24%
Sub-total Non-Aero Operating Revenues	743,081	956,811	213,730	29%	5,104,501	5,843,424	738,923	14%
Total Operating Revenues	**2,224,549**	**2,681,245**	**456,696**	**21%**	**14,059,596**	**16,763,206**	**2,703,610**	**19%**
Operating Expenses								
Costs of Goods Sold	291,611	418,549	(126,938)	-44%	1,977,002	3,273,245	(1,296,243)	-66%
Personnel	805,327	837,663	(32,336)	-4%	5,482,768	5,765,793	(283,025)	-5%
Comm & Utilities	52,404	61,388	(8,984)	-17%	546,725	577,730	(31,005)	-6%
Contractual Services	467,638	510,618	(42,980)	-9%	3,123,027	3,499,880	(376,853)	-12%
Insurance	51,321	56,835	(5,514)	-11%	337,247	400,583	(63,336)	-19%
Other	22,552	39,453	(16,901)	-75%	116,049	166,210	(50,161)	-43%
Repair & Maintenance	88,345	112,793	(24,448)	-28%	382,263	484,337	(102,074)	-27%
Supplies & Materials	75,553	81,301	(5,748)	-8%	602,224	530,485	71,739	12%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,622,382]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**1,854,751**	**2,118,600**	**(263,849)**	-14%	**12,567,305**	**14,698,263**	**(2,130,958)**	-17%
Operating Income (Loss) Before Depreciation	**369,798**	**562,645**	**192,847**	52%	**1,492,291**	**2,064,943**	**572,652**	38%
	16.6%	21.0%			10.6%	12.3%		
Depreciation		1,423,150				10,003,474		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **March 21, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Request for Proposals	2023-017-RFP	Preconditioned Air Units & Ground Power Units	March 2023
Request for Proposals	2023-019-RFP	Remote Transmitter and Receiver (RTR) Relocation	April 2023
Request for Proposals	2023-023-RFP	Auditor Services	April 2023
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Proposals	2023-006-RFP	Car Rental Concessions	March 2023	September 2023
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	April 2023	June 2023
Request for Proposals	2023-020-RFP	ATM Services	May 2023	September 2023
Request for Proposals	2023-021-RFP	Vending Services	May 2023	September 2023

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $36,669.

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Bob Draper, Engineering and Facilities Director**
Through: **Chuck Odom, Chief Financial Officer**
J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: Rental Car Care Return Lot Renovation Project Change Order, CIP 1222
Date: **March 21, 2023**

On March 15, 2022, the Board approved a contract for Construction Services for the Rental Car Return Lot Renovation project with SDB Contracting Services, resolution #22-06, in the amount of $671,121. Since the project has been underway, Airport staff has issued one change order against the contract in the amount of $16,916.67 for a change to the scope mid-way through the project, resulting in a final total contract amount of $688,037.67.

This project is funded by CFC funds. SDB's portion of the project has been completed and closed by Airport staff.

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, April 18, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Brigette Peterson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Brigette Peterson, Chair)

3. **Pledge of Allegiance**

4. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

5. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

6. **Presentation: SkyBridge Annual Report** – Will Moseley, SkyBridge Arizona General Manager

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **March 21, 2023**.

   b) **Resolution No. 23-15 –** Approving additional changes to the **Airport Rules and Regulations**.

   c) **Resolution No. 23-16 –** Authorizing the filing of **grant applications** including agreeing to all understandings and assurances contained therein; and, authorizing the acceptance and execution of any Federal Aviation Administration (FAA) or other Federal agency, State of Arizona, Arizona County or Arizona Local Municipal grant offer(s), applied for or received between July 1, 2023 and June 30, 2024 by the Chair of the Authority, the Executive Director/CEO, Deputy Director/COO or Chief Financial Officer/CFO.

   d) **Resolution No. 23-17 –** Authorizing a Contract with **Arizona West Builders and Communications, Inc. (Arizona West)** for Design and Construction Services for the Remote Transmitter and Receiver (RTR) Building Relocation in an amount not to exceed $1,167,755.52 under CIP 1219.

   e) **Resolution No. 23-18** Authorizing the purchase of Jet A and 100LL Avgas fuel from **Ascent Aviation Group, Inc. (World Fuel)** for Airport Authority resale in the amount of $450,000.

Consideration and Approval of:

8. **Resolution No. 23-19** Authorizing a Construction Manager At Risk (CMAR) Construction Services Contract and Guaranteed Maximum Price (GMP) 2 for the Fuel Farm Expansion Project with **KEAR Civil Corporation (KEAR)**, in an amount not to exceed $2,874,552 under CIP 1224.

9. **Resolution No. 23-20** Authorizing the Executive Director/CEO and/or delegate to negotiate and execute a final Construction Manager at Risk (CMAR) Construction Services contract, with **Willmeng Construction, Inc. (Willmeng)** for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $3,540,125 under CIP 1252**.**

10. **Resolution No. 23-21** Authorizing a Construction Administration contract, with **DWL Architects** for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $175,924 under CIP 1252**.**

11. **Board Member Comments/Announcements**

12. **Next Meeting: Tuesday, May 16, 2023 at 9:00 a.m.**

13. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- Allegiant Leases 63,000 Sq. Ft. Hangar for Maintenance Operation
- Uber, Lyft, and Turo Changing Ground Transportation Industry
- Gulfstream's 225,000 Sq. Ft. West Coast Service Center Taking Shape
- Utilities and Footings Being Placed for 5-Gate Terminal Addition
- Gateway Airport Upgrading TSA In-Line Checked Baggage System
- Virgin Galactic's Second Hangar Goes Vertical
- Gateway Airport Improving Vehicle Parking Information on Website

Executive Director's Report

April 2023

Financial Snapshot

OPERATING INCOME	February		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY22	FY23	
Revenues	$2,346,276	$2,460,262	**$113,986**	$16,406,574	$19,223,776	**$2,817,202**
Less Expenses	$1,875,365	$2,141,405	**$266,040**	$14,442,676	$16,847,166	**$2,404,490**
Operating Income *(Before Depreciation)*	**$470,911**	**$318,857**	**($152,054)**	**$1,963,898**	**$2,376,610**	**$412,712**

Investment Fund Balances: As of February, the Local Governmental Investment Pool (LGIP) 700 = $6,059,739; Wells Fargo; Collateralized Money Market = $13,103,297 and Brokered CD's = $37,383,318; Total $56,546,354. The market value accounting adjustment was $103,082 for the month. The entry is for accounting purposes only. PMGAA invests in fixed rate instruments. However, these results reflect an improvement in investment results.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) reported a net operating income of $318,857 for February 2023, a decrease of $152,054 compared to the monthly operating income in February 2022. February's financial results were mixed when compared to the prior months of fiscal year 2023 (FY23). Aeronautical fuel sales remained strong with continued growth in retail jet fuel sales and non-aeronautical concessions and parking revenue improved. However, concessions and parking revenues were primarily improved by the addition of new concession locations and a scheduled increase in parking rates.

Operating expenditures for February 2023 increased by 14% over February 2022, reflecting higher costs for aviation fuel, Authority personnel, contractual services, and operational maintenance.

Fiscal year-to-date 2023 (FYTD23), total operating revenues improved by 17% and operating expenditures increased by 17%. Total operating expenditures are 2% under FY23 budget.

At their March 21, 2023 meeting, the PMGAA Board of Directors approved the FY24 Operating, Capital, and Debt Service Budget of $128,388,095.

PMGAA Solicitations

This update is to provide notification of active and upcoming solicitations to ensure compliance with PMGAA's procurement transparency clause.

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Request for Proposals	2023-019-RFP	Remote Transmitter and Receiver (RTR) Relocation	April 2023
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
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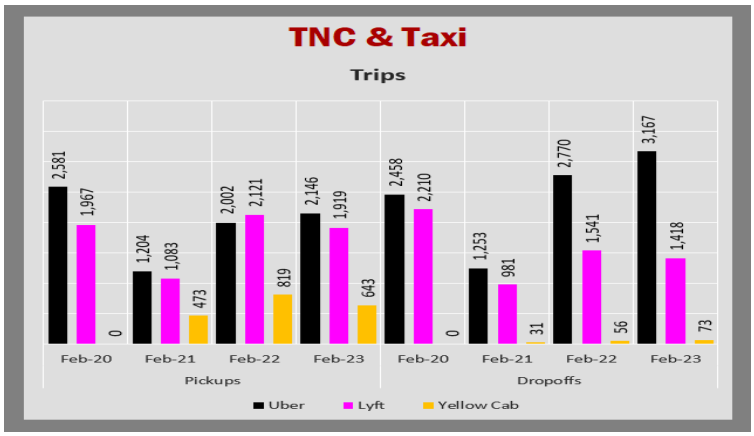
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	April 2023
Request for Proposals	2023-020-RFP	ATM Services	May 2023
Request for Proposals	2023-021-RFP	Vending Services	May 2023

Airport Operations

Uber, Lyft, and Turo Changing Ground Transportation Industry

A decade ago, transportation to and from the airport consisted of using your personal vehicle, renting a car, asking a family member or friend for a ride, taking the bus, scheduling a van, or calling a taxi. Today, the ground transportation industry has changed dramatically with the growing popularity of ridesharing pioneers Uber and Lyft, and peer-to-peer car rental companies like Turo and Zipcar.



The graph at the right is a snapshot of the current ground transportation environment at Phoenix-Mesa Gateway Airport (Airport, Gateway Airport). As you can see, Uber and Lyft represented 8,650 pick-ups and drop-offs in February 2023, while taxicab companies operating at the Airport had just 716. Also, during the month of February 2023, Gateway Airport newcomer Turo reported $462,220 in gross sales.

PASSENGER COUNTS		February		% Change	FYTD		% Change
		2022	2023		FY22	FY23	
Passengers	TOTAL	172,575	178,753	4%	1,130,344	1,247,456	10%
	Deplaned	89,612	91,013	2%	578,898	636,292	10%
	Enplaned	82,963	87,740	6%	551,446	611,164	11%
Allegiant	Scheduled	159,620	156,398	-2%	1,087,125	1,167,743	7%
Swoop	Scheduled	4,456	8,088	82%	13,907	27,057	95%
Sun Country	Scheduled	4,801	5,493	14%	13,953	24,117	73%
WestJet	Scheduled	1,692	1,972	17%	4,416	7,651	73%
Flair	Scheduled	1,689	6,802	303%	4,331	20,494	373%
Swift	Charter	317	0	-100%	1,739	394	-77%

OPERATIONS	February		% Change	FYTD		% Change
	2022	2023		FY22	FY23	
Air Carrier	1,272	1,054	-17%	9,020	7,937	-12%
Military	1,265	234	-82%	3,298	2,503	-24%
General Aviation	18,653	16,637	-11%	143,184	152,896	7%
TOTAL	**21,190**	**17,925**	**-15%**	**155,502**	**163,336**	**5%**

Engineering and Planning

Utilities and Footings Being Placed for 5-Gate Terminal Addition

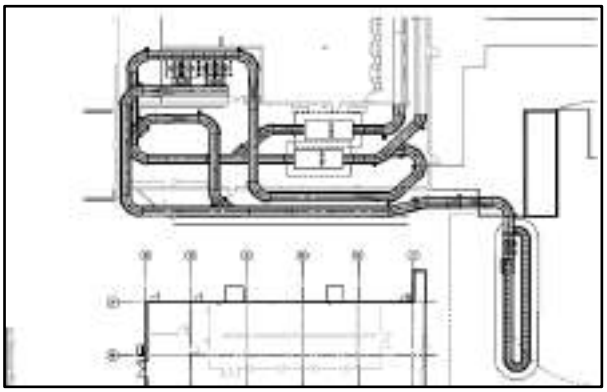
Preparing the Site for Construction of a 30,000 Sq. Ft. Terminal Addition

Record-setting commercial passenger activity is exciting for Gateway Airport and financially beneficial for the regional economy of greater Phoenix. PMGAA, in an ongoing effort to ensure that facilities and infrastructure keep pace with the growing popularity of the Airport, is constructing a 5-gate, 30,000 sq. ft. terminal addition. The project is scheduled for completion in January 2024.

McCarthy Building Companies, Inc., the project's construction manager, is busy installing in-ground utilities and concrete footings in preparation to pour the building's foundation next month.

Gateway Airport Upgrading TSA In-Line Checked Baggage System

PMGAA is working with the Transportation Security Administration (TSA) on a project that will greatly improve the processing time and overall efficiency of Gateway Airport's in-line checked baggage system. Technological advancements in explosive detection equipment have allowed the TSA to partner with airports to increase throughput of the checked baggage that is screened prior to being loaded onboard an aircraft. The Airport's upgraded system will include new explosive detection equipment and variable speed conveyors.



Business Development

Gulfstream's 225,000 Sq. Ft. West Coast Service Center Taking Shape

One of the largest buildings in the history of the Airport is being constructed on the east side of Gateway Airport. Gulfstream Aerospace's 225,000 sq. ft. west coast service center is rising from the desert adjacent to Ellsworth Road. The $100MM+ project is scheduled to be completed and operational by the end of 2023.

Roof Trusses Being Installed at Gulfstream's New Facility

The City of Mesa is working with Gulfstream and PMGAA to provide the critical infrastructure and utilities necessary to unlock the east side for development and complete this important project.

Allegiant Leases 63,000 Sq. Ft. Hangar for Maintenance Operation

Rendering of Allegiant's New Maintenance Hangar

Allegiant Air, Gateway Airport's largest commercial airline with more than 50 nonstop destinations across the U.S., is doubling the size of its airfield facilities in Mesa. The industry leading ultra-low-cost carrier has significantly increased their investment in greater Phoenix by leasing a 63,000 sq. ft. hangar and expanding aircraft maintenance operations in Arizona. This is the first Allegiant maintenance facility that can accommodate every aircraft in their growing fleet.

Virgin Galactic's Second Hangar Goes Vertical

It's always so exciting to watch a major private development project going vertical at Gateway Airport. The anticipation begins with the sitework and utilities and grows as the pad is poured and the steel is delivered.

Steel Beams Ready to be Placed at Virgin Galactic's Hangar

Virgin Galactic's second hangar, a 115,200 sq. ft. spaceship manufacturing facility, is making real progress with the concrete block outer walls being laid in April. Once the masonry is complete, steel will be erected, and exterior fabricated panels put in place.

Projects like Virgin Galactic and Gulfstream are dramatically changing Gateway Airport. These large tenants represent thousands of jobs and hundreds of millions of dollars in economic benefit to the local community.

Community Noise Report

CALLERS	February		FYTD	
	2022	2023	FY22	FY23
Total	12	22	98	107

AIRCRAFT TYPE	February		FYTD	
	2022	2023	FY22	FY23
	Callers	Callers	Callers	Callers
Commercial	5	9	60	59
GA Total	1	6	11	24
Helicopter	0	0	5	0
Military	6	7	22	24
Total	12	22	98	107

LOCATION	February		FYTD	
	2022	2023	FY22	FY23
Mesa	8	6	34	46
Gilbert	3	8	52	41
Gold Canyon	0	0	1	2
Queen Creek	0	7	6	13
Queen Valley	1	0	3	1
San Tan Valley	0	0	0	0
Apache Junction	0	1	1	4
Fountain Hills	0	0	1	0
TOTAL	12	22	98	107

PMGAA received communications from 22 individuals regarding aircraft noise issues during the month of February 2023, compared to the 12 PMGAA received last February. Spring is a very busy travel season for greater Phoenix, as sun-seeking visitors from colder climates flock to Arizona for a much-needed vacation or a visit with family and friends living in the Valley.

PMGAA Team Member Spotlight

Employee Name: **Daniel Carbone**
Employee Title: **Shift Supervisor**
PMGAA Department: **Gateway Aviation Services**
Years with PMGAA: **11**

What are your job responsibilities for PMGAA? I am responsible for supervising the FBO line on B shift 1300-2100. I make sure our customers receive great customer service as safely and quickly as possible. Requests include, but not limited to, fueling, push/tow service, escorting, and oxygen servicing. We must be knowledgeable with a wide variety of aircraft as our customers range from commercial, corporate, general aviation, military, and USFS.

What is your most memorable Gateway Airport moment? Prior to supervising B shift I was the C shift supervisor for almost 6 years which is different in many ways! One New Year's Eve, I happened to be working with John Burgmeier who was airfield OPS at the time, and we went to the air traffic control tower to observe the fireworks around the valley from the outside catwalk.

What is something people may not know about you? I used to have an import company that focused on obtaining ornamental corals from countries around the world like Indonesia, Australia, Vietnam, and Tonga. This started with my love of scuba diving and everything under the ocean. I no longer have the business as many things in the trade industry have changed over the years. However, I do still have a reef aquarium and maintain my advance diving certification.

Gateway Aviation Services

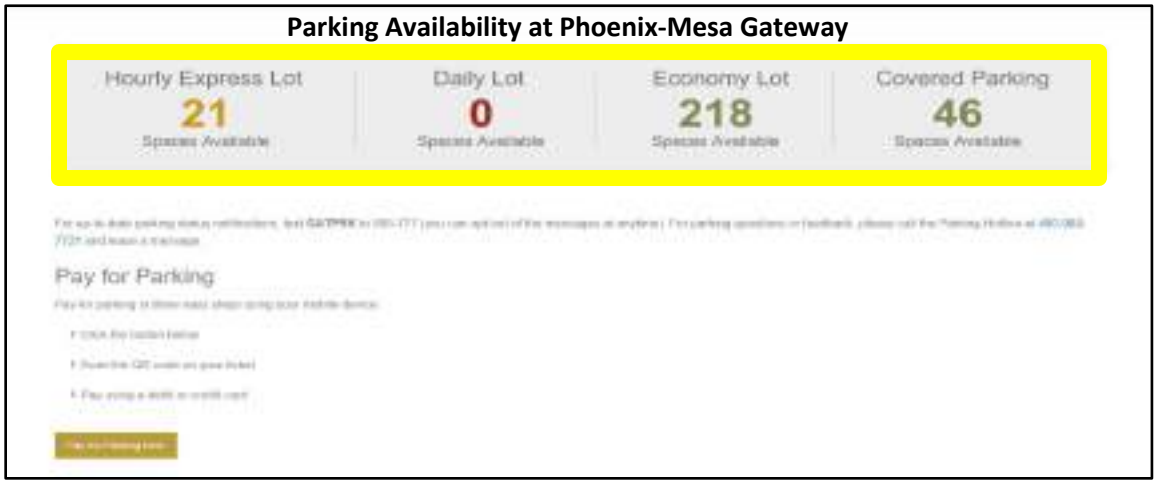
PMGAA pumped more than 1.55MM gallons of aviation fuel during the month of February 2023, a 22% decrease compared to the almost 2MM gallons dispensed during last February. Commercial Jet A fuel was down 19% during the month, another reminder of the on-going financial and operational impacts the national pilot shortage is having on airports across the country.

PMGAA expects to resume commercial service growth as new pilots are hired and routes are restored.

FUEL (Gallons)	February			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	37,218	35,018	-6%	294,309	323,673	10%
Retail Jet A	35,339	79,525	125%	315,998	545,993	73%
Contract	488,654	272,210	-44%	2,484,714	2,362,927	-5%
Commercial	1,428,183	1,163,374	-19%	9,652,646	8,437,984	-13%
TOTAL	**1,989,394**	**1,550,127**	**-22%**	**12,747,667**	**11,670,577**	**-8%**

Community and Government Relations

Gateway Airport Improving Vehicle Parking Information on Website



Preparing to travel from Gateway Airport for a trip with friends to Las Vegas? Don't gamble with your parking! Visit the Airport's website, www.gatewayairport.com, and get live, up-to-date parking availability information with a few quick clicks. PMGAA is adding new features to its website to provide even more pertinent information to assist air travelers. Flight on time? Check the website! Is there parking availability at the terminal? Check the website! What food options are offered inside the terminal? Yes, you guessed it…Check the website!

Thank you for choosing Gateway Airport. PMGAA is always striving to make your travel experience better! If you'd like to share your suggestions, please visit our website and click on the **Feedback** link.

MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | March 21, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA) was convened on Tuesday, March 21, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix*
Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community *(via audioconference)*
Vice Mayor Jeff Brown, Queen Creek
Mayor John Giles, Mesa
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney
Tony Bianchi, Planning Project Manager

1. **Call to Order** at 9:00 a.m. (Mayor Peterson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - Fiscal Year-to-Date (FYTD) Net Operating Income is $2,064,943.
   - Record setting passenger activity in January 2023! (176,267 total passengers)
   - Flair Airlines announced their Winter 2023 schedule will no longer provide service from Canadian cities Vancouver and Edmonton to Phoenix-Mesa Gateway Airport (Airport). Instead, they will re-direct their Canadian flights into Phoenix Sky Harbor.
   - The City of Mesa currently provides Aircraft Rescue and Fire Fighting (ARFF) services at Phoenix-Mesa Gateway Airport through a contract with PMGAA. The Authority is undertaking a study to evaluate if there are any significant benefits, financial or other, to providing ARFF services with ARFF-certified Authority staff instead of a third-party contractor.
   - DSV Air and Sea is a global transport and logistics company. In February they signed a lease for a 22,000 sq. ft. hangar at Gateway Airport. On March 9th a successful cargo test flight was held to familiarize company employees and contractors with the Airport's airfield and to ensure the large Boeing 747 aircraft can operate safely on the Airport's taxiways and ramp area.
   - The City of Mesa is working to construct roadway and utility infrastructure to allow for both the Gulfstream development and the first 100 acres of Gateway***East***'s development.

DRAFT

- In FY2022, PMGAA submitted a grant request for $20MM as part of the Bipartisan Infrastructure Law (BIL) Airport Terminal Program and received $14.4 MM; creating a $6MM delta. PMGAA is already investing $8MM into the terminal project. In FY2023, PMGAA submitted a phase II grant request for the remaining $6MM needed to complete the project. PMGAA was not awarded a grant. PMGAA is now working with the Arizona Legislature on a bill requesting a $6MM infrastructure grant from the state to fill the void for the funds the federal government was unable to provide.
- On February 21, 2023, SkyBridge Arizona held a groundbreaking event for the first of two 250,000 sq. ft. industrial buildings. These two large buildings are being built to accommodate both single and multiple tenants. SkyBridge Arizona is also under construction on a new 129-room hotel and is working on approximately $40MM in horizontal infrastructure.
- Gulfstream Aerospace has established a base at the Airport and is leasing over 100,00 sq. ft. of hangar space while their new 225,000 sq. ft. West Coast Service Center is being constructed. They have already hired approximately 100 local employees.
- Virgin Galactic is leasing two of the three hangars in the Gateway Executive Airpark located at the north end of the airfield. Virgin Galactic intends to use the hangars as a final assembly manufacturing facility for its spaceships. Substantial completion of these hangars is expected by the end of 2023/beginning of 2024.
- Construction of the underground utilities for the Airport's new 30,000 sq. ft. five-gate terminal addition continues. Gone is the 10,000 sq. ft. portable four-gate facility that was constructed in 2008. During construction a 6,000+ sq. ft. temporary terminal facility has been erected to serve as a hold room for three-gates.
- Gateway Airport is continuing its expansion of the Alpha Apron. Phase IV is an additional 250,000 sq. ft. of concrete to increase parking for larger and heavier aircraft. Alpha Apron Phase III was completed last year. Phase IV expansion will be complete at the end of April 2023.
- Center Runway Reconstruction began October 3, 2022 and is anticipated to be completed by the end of April 2023.
- PMGAA has completed construction of two Taxiway Charlie connectors for Gulfstream. This project will provide for the efficient flow of aircraft to and from the airfield and Gulfstream's new facility.
- The Rental Car Care Facility, where all rental vehicles are maintained, washed, and vacuumed will undergo updates beginning in the spring of 2023 and will take approximately nine to twelve months to complete. Customer Facility Charge (CFC) funds are fees assessed to passengers renting cars at the Airport. The CFC amount is $3.50 per rental day. These funds go into a dedicated account and can only be used to improve the infrastructure and facilities for rental car operations. The $8MM project to update the Rental Car Care Facility is funded by CFCs.
- The Authority has purchased three new 50,000-gallon Jet-A fuel storage tanks that will be delivered in August. This additional fuel storage capacity will provide the Airport with approximately seven days of on-Airport fuel storage.

6. **Presentation: Gateway Tomorrow Introductory Overview –** Tony Bianchi, Planning Project Manager
   - Gateway Tomorrow is a planning initiative designed to reset and refine the vision for a future commercial passenger terminal campus on the east side of Airport. The goal of this project is to develop a vision that will provide guidance to PMGAA and its stakeholders in the future decision-making process for the relocation of the passenger terminal and support facilities from the west side

of the Airport to the east side. As part of the Terminal Analysis, there are three main components being considered.

1. Landside: roadside circulation, curb front, parking, ground transportation and rental car facilities
2. Terminal: ticketing, security, waiting areas, concessions, baggage services
3. Airside: gates, aircraft access, support services, fueling

7. Consent Agenda

a) **Minutes** of the Board Meeting held on **February 21, 2023**.

b) **Resolution No. 23-08 –** Authorizing the purchase of four (4) Aircraft Ground Power Units (GPU) and four (4) Preconditioned Air Units (PCAU) from **ITW GSE, Inc. (ITW)** in an amount not to exceed $617,852 under CIP 1240. The amount proposed includes an extended warranty.

c) **Resolution No. 23-09 –** Authorizing an Amendment of the FY23 Capital Budget to provide $438,891 in funding for the Transportation Security Administration (TSA) In-Line Checked Baggage System Design under CIP 1265 subject to receipt of a **TSA Other Transaction Agreement (OTA) Grant**.

d) **Resolution No. 23-10 –** Authorizing an Agreement with **Studdiford Technical Solutions, LLC (Studdiford)** for Professional Engineering Services, for the In-Line Checked Baggage System Design, in an amount not to exceed $438,891 under CIP 1265 subject to receipt of a TSA OTA grant.

e) **Resolution No. 23-11 –** Authorizing a contract with **CliftonLarsonAllen, LLP** for auditor services in an amount not to exceed $218,225 for a period of five (5) years which includes (2) one year renewal options.

f) **Resolution No. 23-12 –** Authorizing Amendment 1 of the Development Lease Agreement with **SKYPLUS HOTELS, CORP**, an Arizona Corporation.

g) **Resolution No. 23-13 –** Authorizing the procurement of server equipment from **Dell Marketing, L.P. (Dell)** in an amount not to exceed $53,795.

Mayor Chip Wilson moved to approve the Consent Agenda.
Vice Mayor Jeff Brown seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 23-14** Adopting the proposed **Operating Budget, Capital Budget, Debt Service Budget**, and **Member Government Contributions** for the fiscal year ending June 30, 2024..

Mayor John Giles moved to approve Resolution No. 23-14.
Mayor Chip Wilson seconded the motion.
The motion was carried unanimously.

9. **Board Member Comments/Announcements.**

Lt. Governor Antone inquired about the relocation of the display case of Indian heritage artifacts. The case was originally located near what is now a construction area for the terminal modernization project. The display case has been successfully relocated to a new, high-traffic location near O.H.S.O. Brewery.

10. **Next Meeting: Tuesday, April 18, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

11. **Adjournment.**
    The meeting adjourned at 9:43 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-15

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Addition to section 5.8 Fire Equipment - Rules & Regulations**
Date:	**March 2, 2023**

Proposed Motion
To approve additional changes to the "Airport Rules and Regulations."

Narrative
The "Airport Rules and Regulations" is reviewed annually to ensure consistency and effectiveness and to keep our organization up to date with industry best practices.

Pending approval, the "Airport Rules and Regulations" revision is summarized as follows:

Chapter 5 – Fueling, Fire and Environmental Safety, section: 5.8 Fire Equipment, added *New hangar construction which requires fire suppression shall be free of perfluoroalkyl and polyfluoroalkyl substances (PFAS) unless otherwise approved by the Executive Director.*

The public notice with summary of changes to the "Airport Rules and Regulations" was posted and available to view on our www.gatewayairport.com website and a letter was sent to our tenants on March 2, 2023, notifying them of our proposed revisions and to allow our tenants and other users of Phoenix-Mesa Gateway Airport a 30-day review and comment period. That period concludes on April 3, 2023. In the interest of accuracy and transparency, an inadvertent 6-day gap in posting occurred on the website between March 21, 2023 and March 27, 2023.

Attachment
Revised "Airport Rules and Regulations"

RESOLUTION NO. 23-15

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to amend the Airport Rules and Regulations;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby amends the Airport Rules and Regulations. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of April, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

Airport Rules and Regulations

2023

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CHAPTER 1: PURPOSE, SCOPE & AUTHORITY

1.1 Purpose and Scope

These Rules and Regulations have been adopted and approved by resolution of the Phoenix-Mesa Gateway Airport Authority (PMGAA) and apply to the geographical property known as Phoenix-Mesa Gateway Airport. The provisions of this document are intended for the safe, orderly, and efficient operation of Phoenix-Mesa Gateway Airport, hereafter referred to as "Airport".

1.2 Authority

On May 19, 1994, the City of Mesa, Towns of Queen Creek, and Gilbert created the Williams Gateway Airport Authority, later renamed the Phoenix-Mesa Gateway Airport Authority ("PMGAA"), a Joint Powers Airport Authority, pursuant to Arizona Revised Statutes (A.R.S) Title 11, Chapter 7, Article 3 and Title 28, Chapter 25, Article 8. The Gila River Indian Community, City of Phoenix, and City of Apache Junction joined the Airport Authority in 1995, 2006 and 2013 respectively. PMGAA was formed to develop, reuse, operate, and maintain the Airport property and facilities at the former Williams Air Force Base.

With the August 1995 Record of Decision, the U.S. Air Force confirmed that PMGAA would receive, at no cost, nearly 3,000 acres of land, with three runways (10,400-foot, 10,200-foot, and 9,300-foot), 120 buildings or facilities (such as navigation aids), and the improvements thereon. A long-term lease with the U.S. Air Force was executed on January 16, 1996. Fee conveyance for the majority of the property occurred on April 29, 1998. Through the Joint Powers Airport Authority legislation and subsequent property conveyance, PMGAA is entitled to adopt and enforce these Rules and Regulations governing the safe operation of activities on the Airport.

The Rules and Regulations, Airport Minimum Standards and Airport Rates and Charges are all part of the Airport's governing documents. The administration of the terms of each of the documents independently and as a whole, shall be under the authority, responsibility, administration and control of the Executive Director/CEO or designee.

1.3 Compliance

All persons on any part of the property comprising the Airport shall be governed by these Rules and Regulations and by other directives of the Executive Director/CEO or designee relative to the use or occupation of any part of the property comprising the Airport. Permission granted to any person by the Executive Director/CEO directly or indirectly,

expressed or implied, to enter upon or use the Airport or any part thereof is conditioned upon compliance with these Rules and Regulations. Entry upon or onto the Airport by any person shall be deemed to constitute an agreement by such person to comply with such Rules and Regulations.

1.4 Enforcement

a. The Executive Director/CEO is empowered to enforce these Rules and Regulations through Airport staff and the City of Mesa Police Department. All persons in the Airport shall respond to directives issued by Airport Operations personnel, under the direction of the Executive Director/CEO, relative to the enforcement of these Rules and Regulations. Violations of Rules and Regulations may result in different forms of action including but not limited to verbal or in writing such as a Notice of Violation (NOV) issued by Airport Operations personnel.

b. The Executive Director/CEO or designee may remove or evict from the Airport premises any person who knowingly, willfully or recklessly violates any rule or regulation prescribed herein, or any rule or regulation in effect by the federal government or the State of Arizona and may deny use of the Airport and its facilities to any such person if it is determined that such denial is in the public interest, notwithstanding any contractual arrangements.

c. If any provision of these Rules and Regulations is held to be invalid, the remainder of these Rules and Regulations shall remain in full force and effect. Future amendments, additions, deletions or corrections to these Rules and Regulations will be incorporated into the document as required and as directed by PMGAA.

d. Any person who feels these Rules and Regulations have been unjustly applied or enforced shall comply with the directives of PMGAA until such matter is resolved. Concerns regarding any enforcement practice shall be submitted in writing to the Executive Director/CEO within seven (7) days of the date of occurrence along with a description of the situation, the actions taken by Airport staff, and the desired resolution.

1.5 Variance

a. Any variance of the literal requirements of these Rules and Regulations may be granted by the Executive Director/CEO when strict enforcement is impractical, results in unnecessary hardship, or is contrary to the safety of flight operations. The granted variance shall result in substantial justice and is in accordance with the spirit of the Rules and Regulations.

b. When an emergency exists at the Airport, the Executive Director/CEO or designee is empowered to issue directives and take such action as necessary to protect people, property and assets and promote the safe operation of the Airport. Such directives and actions of the Executive Director/CEO or designee have the power of regulation as long as the emergency exists.

c. PMGAA reserves the right to revoke, cancel or change any and all of these Rules and Regulations at any regular or special Board of Directors (Board) meeting with notification as required under A.R.S. All changes issued from time to time shall be considered as addenda to these Rules and Regulations. Future amendments, additions, deletions or corrections to these Rules and Regulations will be incorporated into the document as required and as directed by PMGAA.

1.6 Adoption of Federal and Local Regulations

a. Title 14, Code of Federal Regulations (CFR) Federal Aviation Regulations(FAA), Title 49, CFR (Transportation Security Administration Regulations), Title 40, CFR (Federal Environmental Regulations), Title 21, CFR (Food and Drug Administration), A.R.S Title 28 (Transportation), A.R.S Title 49 (Environment), Maricopa County Air Pollution Control Regulations, City of Mesa Fire Code, and other compliance documents required by Federal, State, or local government, whether presently or hereafter effective, are hereby referred to, adopted, and made part of these Rules and Regulations as though fully set forth and incorporated herein, as each may be amended from time to time.

b. Federal, State, or local laws or ordinances, in the event of any conflict, supersede PMGAA Rules and Regulations.

c. The Rules and Regulations shall in no way supersede or abrogate regulations set forth in FAA Federal Aviation Regulation (FAR) Part 139, Certification and Operation of Airports, nor Transportation Security Administration (TSA) Part 1542, Airport Security, as established and approved for PMGAA.

1.7 Waiver of Liability

Any permission granted by the Executive Director/CEO to use the Airport and its facilities, or to fly to, from, or over the same shall be at all times conditioned upon the assumption of full responsibility and risk associated therewith. It shall be a further condition thereof that each person, as consideration of the use of the Airport and its facilities, shall at all times indemnify PMGAA, the Board, the Executive Director/CEO, and employees from and

against any and all liability, responsibility, loss, or damage, resulting to any such person or caused by or on his behalf, and incident to the manner in which the Airport is operated, constructed, or maintained, or served from within or without, or used from without. The use of the Airport by any person for any purpose, or the paying of fees thereof for the taking off or landing aircraft therein shall be itself an acknowledgment that such person accepts such privileges on the conditions herein set forth.

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CHAPTER 2: GENERAL RULES AND REGULATIONS

2.1 Abandonment of Property

No person shall abandon any personal property at the Airport. If not claimed by the owner within seven (7) days, such articles will be handled in accordance with A.R.S. Title 44, Chapter 3.

2.2 Accident Reporting

Accidents resulting in damage to property, injury requiring professional medical treatment, or interference with normal operations must be reported to Airport Operations as soon as possible after the occurrence.

2.3 Advertisements & Printed Materials

Advertisements and other printed materials shall not be posted, distributed, displayed, or circulated at the Airport without the express written consent of the Executive Director/CEO, unless posted in areas specifically authorized for advertisements. The authorization may include time constraints as well as limiting the number of persons distributing the printed materials.

2.4 Alcohol

No person shall drink any intoxicating liquor upon any portion of the Airport open to the public, except in such restaurant or other place as shall be properly designated and licensed for on-sale liquor dispensing.

2.5 Animals

a. Animals other than those required for American with Disabilities Act (ADA) assistance or law enforcement dogs, are not allowed within the Airport Restricted Area unless being transferred or shipped, and/or under the control of their owner or handler by leash, harness, restraining strap, or cage. Leashes, harnesses, and straps shall not exceed six (6) feet.

b. No person shall enter any public building with any animal, except animals required for assistance or when such animals are leashed or containerized for air shipment.

c. Owners or handlers are responsible for the immediate removal and disposal of animal waste.

d. No person shall feed or engage in any other act to encourage the congregation of any animals on the Airport.

2.6 Bicycles, Rollerblading and Skateboarding

a. Bicycles within the Airport Restricted Area shall only be operated by Airport or tenant employees in the performance of their duties and shall not be operated within 50 feet of an aircraft under power.

b. Bicycle operators within the Airport Restricted Area must conform to all posted and non-posted rules and regulations regarding the use of vehicles.

c. Skateboarding and rollerblading are not permitted within the Airport Restricted Area.

2.7 Commercial Activity

Commercial activity of any kind requires the express written permission of the Executive Director/CEO through a specifically authorized lease, sublease, operating agreement, license, permit or written temporary permission and the payment of fees, as required.

2.8 Commercial Photography

a. No person shall take a still, motion, or sound picture on the Airport for commercial purposes without the permission of the Executive Director/CEO and the payment of fees, as required. The Executive Director/CEO may allow any of the following to take pictures on the Airport for commercial purposes:

   1. Professional photographers and motion picture cameramen photographing events on the Airport as representatives of bona fide news organizations.

   2. Professional photographers and motion picture cameramen photographing events at the Airport for non-profit exhibition, to stimulate interest in air commerce or travel, or for non-profit educational purposes.

   3. Professional photographers photographing scenes on the Airport for general artistic purposes.

   4. Aviation photographers photographing aircraft in public or designated areas.

b. No person shall take a still, motion, or sound picture in any area exclusively leased to an Airport tenant without the permission of the tenant and coordination with the Executive Director/CEO's Office.

c. Any approved activity within the Airport Restricted Area shall have proper escort.

2.9 Fees

Fees, rates and charges shall be established, scheduled and published from time to time, by PMGAA and where applicable, paid to PMGAA by users of the Airport.

2.10 Hunting

Hunting on the Airport is prohibited, with the exception of wildlife control measures undertaken to further aviation safety in accordance with the Airport's approved wildlife management plan.

2.11 Loitering

No person shall loiter in Airport buildings or on Airport property. This includes occupying passenger terminal buildings or property in excess of 24 hours prior to a ticketed flight unless authorized by the Executive Director/ CEO.

2.12 Lost and Found Articles

Lost and found articles shall be deposited with Airport Operations. Such articles will be handled in accordance with A.R.S. Title 44, Chapter 3, Section 1.

2.13 Obstruction

No person, except law enforcement officers, firefighting personnel, TSA, FAA and PMGAA personnel may intentionally obstruct, delay, physically disturb or interfere with the free movement of any other person on the public areas of the Airport, unless doing so in accordance with the Airport's security challenge procedures.

2.14 Overnight Camping

Overnight camping, including occupancy of vehicles, on the Airport is prohibited unless authorized by the Executive Director/CEO.

2.15 Permits

Permits and licenses authorizing certain activities on the Airport shall be issued and revoked at the discretion of the Executive Director/CEO.

2.16 Preservation of Property

a. No person shall destroy or cause to be destroyed, injure, damage, deface, or disturb in any way, property of any nature located on the Airport. Any person causing or responsible for such injury, destruction, damage, or disturbance shall report such damage to Airport Operations and shall reimburse PMGAA the full amount of repair

or replacement of the property.

b. No person shall take or use any aircraft, aircraft parts, instruments, or tools owned, controlled, or operated by any person while on the Airport or within its hangars, except with the written consent of the owner or operator thereof.

2.17 Public Demonstrations

Public demonstration, such as picketing and other peaceful action, is permitted on Airport property provided the sponsor obtains written permission from the Executive Director/CEO or authorized designee and complies with all PMGAA Rules and Regulations, with emphasis to Sections 2.12 Obstruction and 2.22 Use of Public Airport Facilities.

2.18 Signage

Signage standards are established by PMGAA in compliance with the City of Mesa Sign Code.

a. No sign, advertisement or notice shall be displayed on the outside of any structure on the Airport or on Airport property unless authorized under the Airport Design Guidelines.

b. Roadway and directional signage shall be in compliance with City of Mesa traffic control, and no roadway signage shall be displayed unless authorized by the Executive Director/CEO.

c. No person shall display solicitations, advertising, or other signs on the Airport property, including the property within the roadway easements, without the authorization of the Executive Director/CEO.

2.19 Solicitation

No person shall solicit funds or other items to the public on the Airport without the express written approval of the Executive Director/CEO.

2.20 Smoking

In accordance with the Smoke-Free Arizona Act and Mesa City Code, Title 6, Chapter 11, smoking is not permitted: 1) in any public place, including any workplace; 2) at or within 20 feet from building entrances; 3) in designated 'no smoking' areas posted as such by PMGAA; or 4) at other locations through which public movement can be anticipated. In addition, PMGAA has designated aircraft parking ramps as smoke-free.

2.21 Storage of Equipment or Property

Storage of equipment or property not used for aviation or other approved operations or activity on the Airport is prohibited unless specifically provided for by lease or other contractual agreement. This includes recreational vehicles (boats, motor homes, personal watercraft, etc.) and other motor vehicles not specifically used for the authorized operation.

2.22 Tampering with Aircraft

No person shall interfere or tamper with any aircraft or put in motion the engine of such aircraft, or use any aircraft, aircraft parts, instruments, or tools, without permission of the owner or specific direction of the Executive Director/CEO or designee.

2.23 Use of Public Airport Facilities

No person(s), firm(s), association(s), or corporation(s) shall sponsor, hold, permit or otherwise carry on any activity that would impact the operation of the Airport without first obtaining written permission from the Executive Director/CEO and complying with all the terms and conditions of such authorization. In the event approval is given, written evidence of insurance covering all injury, damages, or claims that might result from such activities shall be submitted to the Airport.

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CHAPTER 3: AIRCRAFT OPERATIONS

3.1 Accidents & Disabled Aircraft

a. Persons involved in aircraft accidents or incidents on the Airport shall make a full report thereof to the Air Traffic Control staff or Airport Operations as soon as practical. The pilot or operator involved in an accident-causing personal injury or property damage may be requested to make a written report concerning said accident.

b. Access to aircraft accident and incident scenes shall be controlled by a designated Incident Commander. Persons are not authorized to enter an accident or incident scene without the permission of the Incident Commander.

c. The pilot, aircraft owner, lessee, or operator is responsible for the prompt removal of the disabled aircraft or parts thereof as directed by the Executive Director/CEO, subject to accident investigation requirements. The Executive Director/CEO or designee is authorized to remove or relocate a disabled aircraft from any location on the Airport at the expense of the owner/operator.

3.2 Aircraft/Airport Operations during Hours of Tower Closure

After the published hours of the Air Traffic Control Tower, all aircraft/vehicles operating within the movement area must broadcast their intentions on the Common Traffic Advisory Frequency (CTAF) in accordance with suggested procedures published in the Airman's Information Manual, FAR's, and FAA Advisory Circulars.

3.3 Airport Closures and Restrictions

In the event that the Executive Director/CEO believes that the conditions of the Airport or any part thereof are unsafe for landings and take-offs, it shall be within their authority to close or restrict all or part of the Airport and issue a Notice to Airmen (NOTAM) indicating so.

3.4 Based Aircraft Registration

The owner and/or operator of aircraft based on the Airport's ramp area shall execute a written agreement with PMGAA stating, among other things, the based aircraft status, aircraft identification, and compliance with aircraft parking fees. Aircraft based at the Airport but within a tenant's leasehold shall be reported by the tenant quarterly or upon request by the Executive Director/CEO. Reports shall be detailed (including: Registration/N Number, names, address, and phone number of owner) of all based aircraft on the Airport in a form approved by the Airport Authority.

3.5 Engine Run-ups

a. Aircraft engine run-ups above ground idle shall only be conducted at the engine run-up areas adjacent to each runway end or within those areas designated by the Executive Director/CEO.

b. No aircraft engine shall be started or run unless a qualified, certificated pilot or mechanic is attending the aircraft controls.

c. Aircraft engine run-ups shall not be conducted in such positions that the path of the propeller wash or jet blast may endanger persons, structures, or property. In the event that the path of the propeller wash or jet blast may cross a marked service road, a safety flagger is required.

d. Aircraft engine maintenance run-ups are not authorized between the hours of 2000 (8:00 pm) and 0800 (8:00 am) unless: 1) they are conducted with Airport approved sound suppression devices; or 2) are performed in conjunction with an air ambulance flight; or 3) are coordinated with Airport Operations prior to commencement 4) coordinated with ATC when conducted in the movement area.

3.6 Flight Demonstrations

a. Demonstrations, including test flights or ground demonstrations other than standard maintenance test flights shall not be conducted on the Airport without the express written consent of the Executive Director/CEO.

b. PMGAA specifically reserves the right to temporarily restrict or control activities within aircraft operating areas and public areas of the Airport for purposes of aerial and ground demonstrations or for any other public purpose.

3.7 Fly Friendly Procedures

Aircraft operators shall, whenever possible, use procedures and flight patterns that help mitigate aircraft noise. PMGAA supports the use of the National Business Aviation Association (NBAA) and Aircraft Owners and Pilots Association (AOPA) noise abatement procedures. The Airport's published Fly Friendly procedures are described in Appendix B.

3.8 General Operating Rules

a. No aircraft shall be operated on the Airport if such aircraft is constructed, equipped, or loaded as to endanger persons or property.

b. No aircraft shall be operated on the Airport in a careless or negligent manner, in disregard of the rights and safety of others, without due caution, or at a speed or manner that is likely to endanger persons or property.

c. No aircraft shall be operated on the Airport while the pilot, or other persons aboard controlling any part of the operation, is under the influence of alcohol or drugs.

d. Taxiways, apron, or ramp areas shall not be used for take-offs and landings of any type aircraft without the appropriate clearance from the Air Traffic Control Tower, whenever the Tower is in operation. Aircraft operating during the hours the Tower is not operating shall comply with appropriate FAA regulations and Advisory Circulars.

e. No aircraft engine shall be operated inside any aircraft hangar or within 25 feet of any opening to a hangar or abuilding.

f. Unmanned Aerial Vehicle (UAV) operations shall comply with all FAA Part 107 regulations.

3.9 Helicopters

Helicopters shall not be operated with rotors turning unless there is a clear area of at least 25 feet in all directions from the outer tips of the rotor, unless being fueled under established procedures.

3.10 Instructor and Student Responsibilities

Flight instructors shall fully acquaint their students with these Rules and Regulations and shall be responsible for the conduct of the students under their direction during dual instruction. When a student is solo, it shall be the sole responsibility of the student to observe and abide by these rules.

3.11 Parking of Aircraft

a. Aircraft parking shall be restricted to approved parking areas designated by Airport Operations and Maintenance and/or Gateway Aviation Services Director or completely within an exclusive leasehold area with the permission of the leasehold tenant.

b. No aircraft shall be parked or staged within marked service roads, or fire lanes, or in a manner as to interfere with taxiing aircraft, or in a manner that blocks free movement

of aircraft or emergency vehicles or hinders access to any building or structure.

c. Aircraft parked or stored in unauthorized areas or which present an operational problem or safety hazard to any area of the Airport may be towed or relocated to other Airport areas at the discretion of the Executive Director/CEO and at the operator's expense.

d. Derelict or non-flyable aircraft shall not be stored on the Airport's parking ramp or on property that has not been specifically leased or designated by the Executive Director/CEO for such purpose.

3.12 Refusal of Clearance

The Executive Director/CEO or designee may delay or restrict any flights or the conduct of other aviation-related operations at the Airport and may notify Air Traffic Control to refuse take-off clearance to any aircraft for any reason the Executive Director/CEO or designee reasonably believes is in the best interest of the public or essential to the safe operation of the Airport.

3.13 Specialized Aeronautical Activities

Hot air balloon operations, ultra-light aircraft operations, banner-tow operations, and parachute drops mixing with commercial, military, and other jet activities can create a hazardous environment. Such specialized activities require prior written approval from the Executive Director/CEO.

3.14 Taxiing or Towing of Aircraft

a. No person shall taxi an aircraft into or out of an enclosed hangar under its own power.

b. All aircraft taxiing or under tow on any part of the ramp, apron, or taxiways shall proceed with aircraft position lights on at night and during periods of low visibility.

c. When the Air Traffic Control Tower is in operation, aircraft shall not be taxied, towed, or otherwise moved on any part of the movement area until specifically cleared to do so.

d. No aircraft shall be taxied, or engines operated at the Airport where the exhaust or propeller blast may cause injury to persons or damage to property. If it is impossible to taxi such aircraft in compliance with the above, then the engine(s) must be shut off and the aircraft towed to the desired destination.

No person shall tow an aircraft on airport movement area unless such person has passed an approved Airport training program, receives recurrent training, has been issued and is in possession of an Airport security badge with the applicable endorsement.

3.15 Washing and Maintenance

a. Washing and maintenance of aircraft or other Airport related equipment shall only be conducted in accordance with environmental regulations and at approved wash racks or other areas designated by the Executive Director/CEO, or within specific tenant areas where such activity is permitted under lease or agreement.

b. Aircraft maintenance other than minor maintenance as defined by FAA is prohibited on the ramp areas unless specifically authorized by Airport Operations or the Airport Duty Manager.

3.16 Weight Bearing Capacities

Aircraft exceeding the published weight bearing capacity of any runway, taxiway, or apron area are prohibited from operating on those areas without the express written approval of the Executive Director/CEO.

3.17 Deicing

a. Air Carriers must submit a Deice Plan by November 1st of each year.

b. Air Carriers using deicing and anti-icing chemicals must be in accordance with the Storm Water Pollution Prevention Plan and their Deice Plan.

3.18 Terminal Common Use Facility

Designated Common Use Gates, hardstand positions, and RON facilities for scheduled and non-scheduled flight operations by all carriers shall be managed and approved by Airport Operations in the best interests of facility efficiency. Aircraft Operators using the Common Use Facility shall comply with the Common Use Facility Operating Procedures.

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CHAPTER 4: VEHICLE OPERATIONS

4.1 City of Mesa Traffic Ordinances

City of Mesa traffic ordinances shall apply to all public roadways on the Airport and are enforced through the City of Mesa.

4.2 Emergency Right-of-Way

Upon the approach of police, ambulance, fire department, Airport or other emergency vehicle giving an audible or visual signal that it is on an emergency call, each person operating another vehicle on any road inside the Airport Restricted Area shall immediately move out of the path of the approaching emergency vehicle without crossing into the controlled movement area. Stay clear of all intersections and stay there until the emergency vehicle has stopped or passes, unless otherwise directed by an emergency service worker.

4.3 Endangerment

No person shall operate a vehicle on the Airport that is constructed, equipped, or loaded in such a physical or mechanical condition as to endanger persons or property.

4.4 Equipment

No person shall operate a vehicle on the Airport unless the vehicle is in sound mechanical condition with adequate safety equipment.

4.5 Insurance

All motor vehicles operated on the Airport must have liability insurance consistent with the State of Arizona motor vehicle insurance laws.

4.6 Motor Vehicle Accident Reporting

Each operator of a motor vehicle involved in an accident on the Airport that results in damage to property or personal injury shall report it to Airport Operations as soon as possible after the accident. The report must include the name and address of the person reporting. Copies of reports taken by City of Mesa Police are acceptable for incidents that occur in the public areas of the Airport.

4.7 Movement Area Operations

a. Prior to entering the aircraft movement area all vehicles shall yield right-of-way to

all taxiing aircraft and aircraft under tow.

b. No person shall operate a vehicle in the movement area unless prior permission has been obtained from Airport Operations and the vehicle is equipped with a two-way radio in communication with and clearance has been received from the Air Traffic Control Tower, unless under the control of an authorized escort.

c. No vehicle shall enter the movement area unless equipped with an appropriately sized flashing or steady-burning yellow beacon, mounted on the uppermost part of the vehicle such that it is conspicuous from any direction including from the air. An orange and white- checkered flag may be used in lieu of the flashing beacon for daytime activities. The flag shall be mounted so that it is conspicuous from any direction.

4.8 Moving of Motor Vehicles

The Executive Director/CEO or designee has the authority to tow or otherwise move any motor vehicle on the Airport property for reasons of operational necessity, safety, security, abandonment, illegal or unauthorized or improper parking or police investigation. PMGAA may charge a reasonable amount for the moving service and for the storage of the vehicle, if any. The vehicle may be subject to a lien for that charge.

4.9 Parking

a. The Executive Director/CEO or designee are authorized to reserve all or any part of vehicle parking lots and other areas not under lease or permit for use as they may designate, and to indicate any restrictions by appropriate markings and/or signs.

b. No person shall park a vehicle in any parking area without the express or implied consent of PMGAA. All areas designated for vehicle parking are subject to City of Mesa Code, Title 10 requirements.

c. Vehicle parking areas are intended for use by a full-size passenger automobile (19 feet in length maximum). Vehicles exceeding 19 feet shall park in designated areas.

d. Where appropriate signs and/or markings have been installed, no person shall park or stand a motor vehicle on the Airport except in an area specifically designated for parking or standing. No vehicles shall be loaded or unloaded in parking areas other than those designated by PMGAA for such activities (i.e., designated loading zones, loading areas, etc.). Unauthorized vehicles in designated loading areas or areas with signs/markings prohibiting parking/ standing a motor vehicle may be subject to tow at the owner's sole cost and expense.

e. Vehicles parked in any authorized parking area shall park in such a manner as to comply with all posted and/or painted lines, signs, and rules.

f. Tenant ramp vehicles and equipment shall be only parked within the tenant leasehold areas or in approved parking stalls. Outside storage of vehicles or equipment outside of the leasehold premises area is prohibited.

g. Passenger vehicle parking areas shall only be used for parking vehicles no longer than a full-size passenger automobile, (which excludes commercial vehicles), only in the designated and entirely within the painted and striped parking stall lines. No double parking is permitted.

h. No person shall park or stand a motor vehicle on the Airport within 10 feet of a fire hydrant.

i. Privately owned vehicles are not authorized to park within the Airport Restricted Area unless prior approval has been obtained from Airport Operations, through the issuance of a PMGAA issued Vehicle Identification Permit. Such permit shall be displayed at all times, in a conspicuous location.

j. Vehicles parked in the Airport parking lots, which do not belong to passengers, Airport employees, Airport tenants, or Airport/Tenant customers are subject to tow and storage at the owner's expense (Mesa City Code, Title 10, Chapter 9). Illegally parked vehicles are subject to parking charges as published in the current Rates & Charges.

k. Tenant employees shall utilize designated parking locations identified in lease or other agreement.

l. Lessee and its invitees shall obey all signs and motor vehicle codes.

m. Every person using the parking areas shall park and then lock his/her own vehicle. PMGAA will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking areas.

n. PMGAA reserves the right to refuse the use of any parking area to any person or entity that willfully refuses to comply with these applicable parking rules, Airport regulations, laws, and or agreements.

o. Such parking use as is herein provided is intended merely as a license only, and no bailment is intended or shall be created hereby.

p. The speed limit in parking areas is five (5) miles per hour.

q. The maintenance or washing of vehicles parked on the Airport is prohibited, except in designated wash areas.

r. Parking is prohibited in common areas not designated for parking, areas not striped for parking, drive aisles, loading zones, cross hatched areas, illegal parking areas, in front of loading doors or ramps, and or any entrance or exit to or from the Airport unless authorized by the Executive Director/CEO or designee.

s. In the event that any party fails to comply with the Parking Regulations hereinabove, PMGAA shall cause the vehicle in violation to be towed off the premises at the owner's sole cost and expense, without any liability or cost to PMGAA whatsoever.

4.10 Repair of Motor Vehicles

Except for persons authorized by the Executive Director/CEO or Airport Duty Manager and for minor repairs necessary to move the vehicle from the Airport, no person shall repair a motor vehicle on a road or in a parking area of the Airport.

4.11 Restricted Area Operations

a. No person shall operate a motor vehicle within the Airport Restricted Area without a valid driver's license, and if applicable, proper Airport Driver Endorsement on their security badge unless under the control of an authorized escort. The Airport Driver Endorsement must be presented upon the request of any Airport Operations Staff.

b. No person shall operate a vehicle within the Airport Restricted Area unless their presence is specifically required for Airport business or services.

c. The Executive Director/CEO or designee has the authority to deny, restrict, or cancel the privilege of any motor vehicle operator from operating within the Airport Restricted Area.

d. No person shall operate a motor vehicle at a speed:

1. Of more than 25 mph on any marked service road
2. Of more than 15 miles per hour on any aircraft apron or ramp
3. Of more than five (5) miles per hour around aircraft
4. That could endanger any aircraft, vehicle, or person

e. Airport and aircraft support vehicles and construction vehicles driving or operating within the Airport Restricted Area shall display the company name or logo; a minimum of four (4) inches high on each side of the vehicle.

f. All vehicles operating on service roads and non-movement areas shall be equipped with an amber rotating beacon, or yellow flashing or steady burning beacon while operating in the Airport Restricted Area. Vehicles without such equipment shall be under continuous escort. Construction vehicles shall display an orange and white checkered flag or amber rotating beacon during the daytime operations, and an amber rotating beacon or yellow flashing or steady burning beacon during nighttime operations.

g. Except while in the process of servicing an aircraft or Airport facility, vehicle traffic on the apron shall use marked service roadways where designated.

h. Each person operating a motor vehicle on the Airport shall operate it so as to have it under proper control at all times, weather and traffic conditions considered.

i. Washing of vehicles at the Airport wash rack is limited to tenant company vehicles and equipment.

j. Each person operating a motor vehicle within the Airport Restricted Area shall yield the right of way to aircraft, aircraft under tow and pedestrians.

k. All ground service equipment utilized for transporting luggage or cargo shall tow no more than three baggage carts at a time.

4.12 Signs and Markings

No person shall operate a vehicle on Airport roadways unless it is operated in strict compliance with all roadway signs, markings, and speed limits prescribed by the Executive Director/CEO.

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CHAPTER 5: FUELING, FIRE AND ENVIRONMENTAL SAFETY

5.1 Aircraft Fueling Operations

a. No person shall operate as an FBO (Fixed Base Operator) or SASO (Specialized Aviation Service Operator) for the purpose of selling fuel for commercial revenue.

b. No person shall operate a fuel truck or fuel transfer vehicle within the Air Operations Area unless such person has passed an approved Airport training program, receives recurrent training, is issued an Airport security badge with a driver and fueling or self-fueling endorsement, and complies with the provisions outlined in PMGAA Aviation Fuel Storage, Handling and Dispensing Guidelines.

c. No person shall fuel/defuel aircraft on PMGAA property unless they are an employee of; 1) an approved on-Airport Fixed Base Operator; or 2) an aircraft operator fueling its airport-based aircraft at its based location. Fueling/defueling of non-based aircraft or aircraft not located at its based location is prohibited, unless approved in writing by the Executive Director/CEO.

   During the fueling of an aircraft, the dispensing apparatus and the aircraft must be bonded in accordance with City of Mesa Code, Uniform Fire Code Standards Section 24-1, NFPA 407 Regulations and ATA 103 Standards.

d. Fuel service vehicles are prohibited from parking within 50 feet of, or within a building.

e. No person shall fuel or defuel an aircraft on the Airport while:

   1. The aircraft is in a hangar or an enclosed space.

   2. The aircraft fuel system vents or fuel tank openings are closer than 25 feet to any terminal building, hangar, service building or enclosed passenger concourse other than a loading walkway.

   3. The aircraft vent or tank openings are within 50 feet of any ventilation air- intake to any boiler, heater, or incinerator room.

   4. Passengers are in the aircraft, unless a passenger loading ramp is in place at the cabin door, the door is open, and a cabin attendant is at or near the door.

f. No person shall start the engine of an aircraft on the Airport if there is any gasoline or other volatile flammable liquid on the ground underneath the aircraft.

g. Each person engaged in fueling or defueling on the Airport shall exercise care to prevent the overflow of fuel and must have readily accessible and adequate fire extinguishers.

h. No person shall smoke or use any material that is likely to cause a spark or be a source of ignition within 50 feet of an aircraft being fueled or defueled.

i. Each hose, funnel, or appurtenance used in fueling or defueling an aircraft on the Airport must be maintained in a safe, sound, and non-leaking condition and must be properly electrically bonded to prevent ignition of volatile liquids.

j. Fueling activities shall cease when lightning discharges occur within five (5) miles of the Airport.

5.2 Aircraft Fuel Storage Facility Requirements

Aircraft fuel storage facilities shall be permitted only if the facility is constructed and maintained in accordance with these regulations and the following: The aircraft fuel storage area is for noncommercial, private use only by the owner or aircraft operator. Aircraft fuel storage facilities which refuel aircraft, in accordance with the provisions of PMGAA Rules & Regulations and PMGAA Minimum Standards, may dispense permitted fuels as approved in writing by the Executive Director/CEO. Aircraft fuel storage areas shall only be constructed after written approval of the Executive Director/CEO and after issuance of all applicable permits. The fuel storage area shall not be approved and operated except in conjunction with aircraft storage that meets the requirements of these regulations. In the event there is a requirement for separate aviation fuel types, there shall be a maximum of two (2) aircraft fuel storage areas on each building site. Total aircraft fuel storage of Jet A shall not exceed 25,000 gallons. Total aircraft fuel storage of 100LL Avgas shall not exceed 12,000 gallons. Fuel storage areas will be fenced, with gates and warning placards, prohibiting unauthorized access.

5.3 Inspection of Fuel Facilities, Records, Meter Readings, and Reporting

a. PMGAA shall have a right of access onto private property at the airport for the purpose of inspecting fuel facilities and equipment. Fuel storage and dispensing records shall be subject to inspection by PMGAA upon reasonable notice. Such inspection may include, but not be limited to, taking meter readings, reviewing, and inspecting fuel storage records, fueling apparatus, training records, emergency equipment, and any and all material for safe fuel handling.

b. Not later than the last day of each month, the operator of the fuel storage area shall submit to PMGAA, in a form acceptable to the Executive Director/CEO, a monthly fuel inventory reconciliation report for the immediately preceding month. At a minimum, the report shall include:

   1. The type and amount of fuel received, spilled, leaked, de-fueled from aircraft or otherwise accounted for from the fuel storage area.

c. At the time of submission of the monthly fuel inventory reconciliation report, each operator of a fuel storage area shall remit to PMGAA, in a form acceptable to the Executive Director/CEO, all applicable fees then due under the Airport Rates and Fees Schedule.

d. The operator of the fuel storage area shall comply with, at the operator's expense; all PMGAA, local, state, and federal regulations, including but not limited to observed testing and submission of annual reports to the appropriate authorities and PMGAA.

5.4 Self-Fueling Operations-Aircraft

a. Individuals desiring to self-fuel their own aircraft shall receive instruction from PMGAA and obtain a permit authorizing such operations unless using an approved self-service fuel island.

b. Gravity feed fueling shall not be permitted from a container with a capacity of more than five gallons. Plastic containers shall not be used for fuel dispensing due to static discharge potential.

c. Fueling hoses shall be approved for flammable liquids and shall be maintained in accordance with nationally recognized standards.

d. Fueling nozzles shall be equipped with a deadman flow control valve. Notches or latches in the nozzle handle that could allow the valve to be locked open are prohibited.

e. An approved portable fire extinguisher having a minimum classification of 40: B shall be provided and maintained within 50 feet of all self-fueling operations.

f. Aircraft shall not be occupied during self-fueling or defueling operations.

g. Aircraft being self-fueled or defueled shall have the battery and ignition switches in the "off" position.

h. Battery chargers shall not be connected, disconnected, or operated during self-fueling or defueling operations.

i. The fueling nozzle shall be bonded with a nozzle bond cable having a clip or plug to a metallic component of the aircraft that is metallically connected to the tank filler port. The bond connection shall be made before the filler cap is removed. If there is no plug receptacle or means for attaching a clip, the operator shall touch the filler cap with the nozzle spout before removing the cap so as to equalize the potential between the nozzle and the filler port. The spout shall be kept in contact with the filler neck until the fueling is completed.

j. When a funnel is used in aircraft self-fueling, it shall be kept in contact with the filler neck as well as the fueling nozzle spout or the supply container to avoid the possibility of a spark at the fill opening. Only metal funnels shall be used.

k. Self-fueling operations shall comply with all other rules and regulations regarding aircraft fueling operations.

5.5 Self-Fueling Operations- Automotive Vehicles and Equipment

Automotive and equipment other than Refueling Service Vehicles and Tank Vehicles shall be refueled by authorized persons only at prescribed refueling stations and from dispensing systems that are approved by the Executive Director/CEO. “Motor gasoline (MOGAS)”, as defined in ASTM Specification D 4814 or Federal Specification VV-G-1690C, is characterized as blended to form a fuel suitable for use in spark-ignition engines. Motor fuel includes diesel and conventional gasoline; all types of oxygenated gasoline, including gasohol; and reformulated gasoline, but excludes aviation gasoline. Any person seeking to perform MOGAS self-fueling operations at the Airport shall comply with all applicable requirements concerning such activities as set forth in this policy and all Local, State, and Federal laws.

5.6 Parking of Aircraft Fuel Service Vehicles

Aircraft fuel service vehicles shall not be parked inside any buildings, except for approved vehicle maintenance and repair facilities. Such vehicles may only be parked in areas authorized by the Executive Director/CEO.

5.7 Explosives & Other Hazardous Materials

Explosives and other hazardous materials not acceptable for transportation under applicable federal regulations are not permitted on the Airport. Hazardous materials that pose a present or potential hazard to human health and safety or to the environment if

released are also prohibited. Class 1 explosives, Class A poisons and radioactive materials as defined in the latest edition of the Emergency Response Guidebook are not permitted anywhere on the Airport, except as approved in writing by the Executive Director/CEO.

5.8 Fire Equipment

Airport fire extinguishers and Airport fire protection systems shall not be tampered with at any time, relocated nor used for any purpose other than firefighting or fire prevention. All tenants shall supply and maintain such adequate and readily accessible fire extinguishers within their leaseholds as may be required by the City of Mesa Fire Department. New hangar construction which requires fire suppression shall be free of perfluoroalkyl and polyfluoroalkyl substances (PFAS) unless otherwise approved by the Executive Director.

5.9 Hazardous Material Spills

a. Whenever a hazardous material spill or leak occurs, the owner of the material or equipment involved in such spill or leak shall take immediate steps necessary to ensure discovery, containment, and clean-up of such release and notify the Mesa Fire Department and Airport Operations of the occurrence. Charges may be assessed by the Executive Director/CEO for cleanup services including, but not limited to, reimbursement of labor, equipment, and materials.

b. Fuel spills greater than 10 feet in any dimension, covering an area of over 50 square feet, greater than five (5) gallons, or continuous in nature shall be immediately reported to City of Mesa Fire Department and Airport Operations.

5.10 Open Flames

a. No person shall start any open fire of any type on any part of the Airport without advance written permission from the Executive Director/CEO.

b. No person shall operate a flame or spark-producing device on any part of the Airport except in areas within leased premises specifically designated for such use unless a permit from the City of Mesa Fire Marshall or other appropriate official has first been obtained. No permit shall be issued for operations within any aircraft hangar, any fuel storage area, or upon any components of the fuel distribution system unless the work is required for the repair of such areas or hangars. Where such repair is required, permission shall first be obtained from the City of Mesa Fire Marshall and shall be subject to conditions as he/she may impose.

c. Every person observing any unattended or uncontrolled fire on Airport premises shall immediately report it to 9-1-1. No person shall make any regulation or order, written or verbal, which would require any person to take unnecessary delaying action prior to reporting such a fire.

5.11 Storm Water Discharge

All storm water discharge requirements, including applying for, paying for, and obtaining the required Arizona Pollutant Discharge Elimination System (AZPDES) Storm Water Permit are the responsibility of each tenant or authorized contractor that will cause, create, or develop an industrial discharge at any location on the Phoenix-Mesa Gateway Airport property. All Tenants are responsible for determining their industrial status through the Arizona Department of Environmental Quality (ADEQ), filing the appropriate forms (i.e., Notice of Intent), and completing the applicable section of their Lease documentation pertaining to Environmental Compliance. All Tenants are responsible for compliance with the Storm Water Control Measures as outlined in PMGAA Storm Water Pollution Prevention Plan (SWPPP).

5.12 Volatile Compounds

a. No person shall use a flammable volatile liquid having a flash point of less than 100 degrees Fahrenheit for cleaning purposes in a hangar or other building on the Airport unless it is approved by the City of Mesa Fire Department.

b. No fuel, oil, grease, flammable liquids, or contaminants of any kind including detergents used to wash aircraft or other surfaces, shall be allowed to flow into any sewer system, storm drain, or open water area without a separator.

c. No person, tenant, or company shall store any cylinders of compressed flammable gas inside any building except as may be permitted under applicable NFPA standards and the City of Mesa Fire Code.

d. No person shall store lubricating oils or other flammable materials except in appropriate storage cabinets suited for such use.

5.13 Dust Control

All tenants and personnel performing any type of ground disturbing activities(s) shall minimize the amount of dust generated from said activity by spraying clean water on the source or by using a dust palliative. Tenants creating any dust-generating activity may need to apply for a Maricopa County Air Quality Dust Control Permit at their expense.

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CHAPTER 6: LEASES & TENANT OPERATIONS

6.1 Condition of Tenancy

All Airport tenants must acknowledge through their lease or operating agreement that they will comply with these Rules and Regulations and appropriate minimum standards as a condition of tenancy or operation on the Airport.

6.2 Damage

Tenants and lessees, in addition to any terms that may be contained in their lease agreement, shall be fully responsible for all damages to buildings, equipment, real property, appurtenances, or other improvements in the ownership or custody of PMGAA, caused in whole, or in part, by their employees, agents, customers, visitors, suppliers, or persons with whom they may do business.

6.3 Design Guidelines

All facilities developed on the Airport shall conform to PMGAA Design Guidelines, Landscape Master Plan, and other pertinent standards, guidelines, or requirements.

6.4 Employees

Tenants are responsible for ensuring their employees are familiar with and comply with these Rules and Regulations, applicable minimum standards, and appropriate portions of their lease or other agreement with PMGAA. Tenants are also responsible for ensuring their employees and contractors meet physical and mental standards necessary for the safe conduct of the employee's job tasks.

6.5 Fire Equipment

Tenants are responsible for supplying and maintaining any required fire equipment on a tenant's premises unless specifically excluded in their lease agreement.

6.6 Floor Care

Each person to whom space on or at the Airport is leased, assigned, or made available for use shall keep the space free and clear of oil, grease, or other foreign materials that could cause a fire hazard or otherwise unsafe condition, or damage to the flooring material.

6.7 Free of Debris

Tenants shall keep hangars, shops, offices, other buildings, and areas adjacent thereto free of waste material, rubbish, junk, landscaping litter and flammable material. Tenants shall clear FOD in the AOA generated from their premises, vehicles, or equipment.

6.8 Hangar Storage

a. Aircraft hangars shall be used for aeronautical purposes or be available for use for an aeronautical purpose. Aircraft hangars shall remain in compliance with FAA policy, specifically 81 FR 38906 Policy on the Non-Aeronautical use of Airport Hangars, and all occupancy shall be subject to and in compliance with the City of Mesa Building Code, City of Mesa Fire Code, and Airport Rules and Regulations (collectively "Code") at all times.

b. The incidental storage of the aircraft owner's personal property related to the use, care, maintenance, and storage of an aircraft is permitted, provided that all non-aviation related items shall not obstruct any aircraft ingress and egress to the aircraft hangar or right of way thereto.

c. Preventative maintenance of an aircraft by the aircraft owner or properly licensed mechanic is permitted, provided that such activity creates no hazard or nuisance to the hangar facility or to Airport property.

d. Storage of aircraft parts, equipment, and supplies that relate to the aircraft owner's airworthy aircraft are permitted, provided that such storage of materials creates no hazard or nuisance to the hangar facility or to Airport property.

e. This section applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at the occupant's own expense while holding a ground lease. When land designated for aeronautical use is made available for construction of hangars, the hangars built on the land are subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.

f. The following activities or items shall be prohibited in an aircraft hangar:

1. The storage of any vehicle, boat, or recreational vehicle that impedes with the storage or movement of the aircraft.

2. No aircraft hangar shall be used for any residential purposes.

3. Storage of ammunition or explosives in any quantity is strictly prohibited.

6.9 Insurance

The Executive Director/CEO shall establish insurance requirements as a condition of operating on the Airport for all persons engaging in activities and business on the Airport. These requirements may vary among different types of service providers and may be periodically adjusted to ensure that PMGAA, passengers and the interests of the public are adequately protected. Continuous proof of proper insurance and business licensing shall be provided to PMGAA as a condition of operating at or on the Airport.

6.10 Marking of Paved Areas

Other than as provided in tenant leases, no surface painting or marking of any paved area on Airport property shall be permitted without submission of measured drawings and written permission from the Executive Director/CEO.

6.11 Preservation of Property

No person or tenant shall destroy, injure, deface, or disturb any building (except hangar 24 or the ASR), sign, fence, or other structure, tree, lawn, or other property on the Airport; nor alter, make additions to, or erect any building or sign or make any excavations on the Airport without the approval of the Executive Director/CEO.

6.12 Regulation of Commercial Activities

a. No person shall occupy or rent space, carry on any business, commercial operations, or other form of revenue-producing activity on the Airport without first obtaining a written contract, lease agreement or permit authorizing such activity, from the Executive Director/CEO.

b. The Airport Minimum Standards shall be met and maintained at all times by any individual, group of persons, business, or enterprise desiring to provide such commercial services or commodities at or on the Airport.

6.13 Storage and Equipment

No tenant or lessee of a hangar, shop facility, or other operational area specified by the Executive Director/CEO on the Airport shall store or stack equipment or material in a manner to be unsightly or constitute a hazard to persons or property. Areas of equipment storage shall be kept free of litter, trash, refuse, waste, rubbish, and debris.

6.14 Structural and Decorative Changes

Structural and decorative changes to any building, ramp, or other structure on the Airport require written approval of the Executive Director/CEO and must comply with local building codes and inspections and Airport Design Guidelines.

6.15 Trash Containers

Tenants shall place and maintain trash receptacles in the public areas of their premises, and other areas where necessary to promote and encourage the proper disposal of trash. All exterior trash receptacles on the Airport shall be sufficiently covered to prevent the inadvertent discharge of trash onto the Airport and prevent access by wildlife. The Airport encourages tenants to participate in recycling trash. Acceptable recyclable trash items are listed under the City of Mesa's Blue Barrel Recycling Program.

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CHAPTER 7: SECURITY REQUIREMENTS

7.1 Aircraft Security

When the condition or mission of an aircraft requires security guards or police officers, the owner or operator of the aircraft must coordinate this requirement with Airport Operations. The owner or operator of the aircraft is responsible for obtaining and paying security service personnel.

7.2 Airport Security Program

All persons using the Airport are subject to the Airport Security Program pursuant to TSA Regulation Part 1542.

7.3 Air Carrier

Air carrier tenants required to have a TSA approved Aircraft Operator Standard Security Program (AOSSP) shall maintain a current copy at the Airport.

7.4 Aviation Repair Station

Aviation Repair Stations covered under FAR Part 145 subject to TSA Security Directives shall maintain a security coordinator at all times.

7.5 Challenge

All persons who are provided access to the Airport Restricted Area shall reasonably challenge any person not displaying proper identification media while in the Airport Restricted Area. Any person challenged to display an approved Airport identification media shall do so immediately upon request. Challengers are not expected to place themselves or others in a dangerous situation and shall not approach when they feel making a verbal challenge would do so, but rather the challenger is obligated to notify Airport Operations or the Mesa Police Department in such instances.

7.6 Doors and Gates

a. At no time shall any Airport Restricted Area access gate be left open and unattended in a manner that would allow unauthorized access.

b. Security doors leading into the Airport Restricted Area shall be kept locked as required by the Airport Security Program.

c. Automated vehicle gates are for vehicle access only. No pedestrians shall use an

automated vehicle gate for pedestrian access.

d. Tenants shall be responsible for doors and gates located in their leased areas. Security gates leading into the Airport Restricted Area shall be controlled and monitored by the Airport Access and Monitoring System.

7.7 Employee Access Investigations

a. Employee access investigations in accordance with TSA Part 1542 and the Airport Security Program shall be conducted by employers for each employee. Certification of completion of the access investigation is required prior to PMGAA issuing any access materials.

b. The Airport Security Coordinator, or his/her designee, may deny issuance of an ID badge based on an applicant's conviction for a non-disqualifying offense if the offense occurred on Airport property and the offense interfered with or threatened the property, safety, comfort, efficiency or security of passengers, employees, tenants, or Airport operations.

c. Any person applying for identification media, covered under 49 C.F.R. 1542.209, who is charged with a Disqualifying Crime and awaiting a final judicial disposition will be denied issuance of an ID badge until a final judicial disposition is made and documentation is provided for review.

d. PMGAA reserves the right, and makes the final determination, whether to grant, deny, or revoke an ID media and access media at any time when an individual jeopardizes the security of the airport or compliance with the Airport Security Program.

e. Applicants with active warrants shall not be issued identification media until charges are adjudicated and applicant is fully vetted according to the Airport Security Plan.

7.8 Escorting

No person shall escort or allow non-badged persons access to the AOA or other secure areas without first complying with requirements of the Airport Security Plan.

7.9 General Aviation Aircraft

General Aviation aircraft are prohibited from entering the commercial passenger or cargo areas of the Airport unless otherwise coordinated in advance with Airport Operations and the Air Traffic Control Tower.

7.10 Identification Media and Access Cards

a. Identification media and access cards issued by PMGAA are property of PMGAA and must be surrendered upon the request of Airport Operations personnel or Mesa Police.

b. No person shall loan or provide Airport identification media or access cards to anyone other than to whom the media was issued.

c. PMGAA-issued or approved identification media must be properly displayed on the outermost garment, above the waist, at all times while within the Airport Restricted Area.

d. PMGAA-issued or approved identification media shall not be mutilated or altered from its original form in any way, nor shall any such media be reproduced or copied in such a manner as to degrade the security of the identification system.

e. PMGAA-issued or approved identification media shall not be duplicated, photocopied, posted or likeness otherwise distributed.

7.11 Restricted Areas

a. Only those persons specifically authorized by Airport Operations with proper personnel and vehicle identification are allowed access to the Airport Restricted Area, Air Operations Area (AOA) or Security Identification Display Area (SIDA) unless otherwise provided for under the Airport Security Program.

b. Pedestrians or motor vehicle operators observed in areas other than those designated for public use without authorization by the Executive Director/CEO will be considered trespassing and subject to arrest.

7.12 Security Fence Line

A minimum clear area of six (6) feet shall be kept between the security fence line and any object that may be used to conceal persons along the fence line or that would aid any individual in gaining access to the Airport Restricted Area unless specifically approved by the Executive Director/CEO.

7.13 Security Screening

All persons approaching or entering the sterile area are subject to security screening.

7.14 Tailgating/ Piggybacking

No person or vehicle shall enter the Airport Restricted Area through an access portal that was opened for or by an authorized person or vehicle unless under the direct escort and control of that authorized person. All persons and vehicles using any airfield access gate

or secured door, or gate shall ensure the gate or door is secured behind them prior to leaving the area to prevent unauthorized access.

7.15 Tenant Security

Tenants and tenant employees are responsible for safeguarding doors, gates, and other forms of passageways between Airport Restricted Areas and public areas. Tenants are responsible for safeguarding aircraft and other private property entrusted to their care within the Airport Restricted Area or other locations on their leased premises.

7.16 Violation of Security Regulations

Violation of security regulations may result in the immediate revocation of security privileges, revocation of access media, and denial of future entry into the Airport Restricted Area. Any fines levied against PMGAA for security violations will be charged to the offending individual and tenant.

7.17 Weapons

No person, except a peace officer, authorized air carrier employee, authorized Airport

employee, or a member of an armed force of the United States on official duty, shall carry any weapon, explosive, or flammable material on or about his person, openly or concealed, in the Airport Restricted Area without the written permission of the Executive Director/CEO. This section shall not apply to persons carrying firearms in cases, broken down or unloaded, when said firearms are being transported by air. No person shall furnish, give, sell, or trade a weapon on the Airport.

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CHAPTER 8: SPECIAL EVENTS

8.1 Authorization

Specialized events require advance written coordination, regulation, and authorization by the Executive Director/CEO prior to the public disclosure or advertisement of the event. The authorization will be in the form of a letter of authorization from the Executive Director/CEO to the special event sponsor in which the sponsor is recognized as involved in the planning process for a specific type of event. Certain activities shall require an executed lease, operating agreement, deposit or permit with PMGAA. A City of Mesa event permit may also be required as determined by the City of Mesa.

8.2 Aviation Activities

a. A special event that involves aerobatic maneuvers by aircraft must be coordinated in advance with Airport Operations and the local FAA Flight Standards District Office.

b. Special events involving aerial activities that are not of a routine nature for the Airport will require the designation and approval of an "air boss" who is experienced in directing and controlling the aerial activities planned for the event.

8.3 Closures or Restrictions

All runway, taxiway, ramp area, landside, or public area closures or restrictions must be coordinated with Airport Operations and other users of the Airport well in advance of the event.

8.4 Coordination

The sponsor shall make arrangements for such things as auto towing, garbage pickup, and refuse cleanup for any and all persons attending or associated with the event. If the special event is expected to attract an attendance of 500 persons or more, the sponsor must coordinate road and highway impacts with City of Mesa Police, Maricopa County Sheriff's office, and Arizona Department of Public Safety or other affected jurisdictions. In addition, the sponsor shall coordinate public safety impacts with City of Mesa Police and Fire and arrange any necessary protection (security, ambulance, fire protection, Aircraft Rescue and Fire Fighting support). Air traffic impacts shall be coordinated and approved by the Air Traffic Control Tower Manager.

8.5 Damages

Event sponsors shall pay for all direct expenses related to the special activity and

compensate PMGAA for damaged property. If the sponsor fails to adequately perform trash and litter clean-up of the Airport or repair damaged property in a timely fashion as determined by Airport Operations, PMGAA may perform these functions and charge the sponsor accordingly.

8.6 Fees

The event sponsor shall provide a written disclosure of all special event fees charged to the public to the Executive Director/CEO. In addition, when fees are charged, the sponsor shall pay fees to PMGAA as specified by Lease or Operating Agreement.

8.7 Insurance

The special event sponsor will be required to obtain liability insurance for the event in an amount determined by the Executive Director/CEO. The sponsor shall provide proof of insurance policy identifying PMGAA as a “named insured” for the event.

8.8 Normal Ingress/Egress

All special events must be planned to accommodate the normal ingress and egress of motor vehicles for those persons involved in passenger carrier flights, general aviation users of the Airport, air ambulance, or business activities normally conducted at or on the Airport.

8.9 Plans

In addition to the required coordination elements, the sponsor shall prepare and present to the Executive Director/CEO written plans to handle adverse weather, dust, hazardous materials spills, emergency services, and public protection.

8.10 Special events

Special events include air shows, balloon festivals, air races, fly-ins, parachute team demonstrations, static displays for the public, aerobatic events, filming for television, movies, or commercials, and other events or activities not normally associated with the daily operation of the Airport.

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CHAPTER 9: GROUND TRANSPORTATION

9.1 Ground Transportation General Authority

a. PMGAA has established ground transportation operating procedures for all Ground Transportation Providers subject to A.R.S, Title 28, Chapter 30 operating at the Airport. These operating procedures are to ensure the most fair and consistent ground transportation service. They will provide the public with the safe and convenient passenger movement.

b. It is imperative that all Ground Transportation Providers abide by the terms of the Airport license agreement and these Airport Rules and Regulations. Ground Transportation Providers are subject to on site supervision and direction by any personnel designated by the Airport Executive Director/CEO. Any person who violates these rules and regulations will, at the discretion of the Authority or its authorized representative, be denied use of the Airport and its facilities.

c. The ground transportation rules and regulations contained herein supersede and cancel all other previous ground transportation rules and regulations set forth by the Authority and its facilities.

9.2 Ground Transportation Provider Insurance Requirements

a. Before commencing ground transportation operations at the Airport, Ground Transportation Providers shall submit to the Authority an original certificate of motor vehicle insurance with a reputable insurance company or companies evidencing PMGAA's minimum policy limits and which names PMGAA as the certificate holder and as additionally insured by endorsement. The Airport shall be notified 30 days prior to cancellation or non-renewal of said endorsement.

b. Vehicle insurance shall cover all automobiles owned, leased, hired, rented, borrowed, or otherwise used by or on behalf of the Ground Transportation Provider.

c. PMGAA, its officers, officials, agents, employees, and volunteers are to be listed as additional insured with respect to liability arising out of: activities performed by, or on behalf of, the commercial operator including automobiles owned, leased, hired, or borrowed by the Operator.

d. PMGAA, its officers, officials, agents, employees, and volunteers shall be additional insured to the full limits of liability purchased by the Ground Transportation Provider even if those limits of liability are in excess of those required by permit.

e. Proof of insurance shall be available in each vehicle and provided when requested.

9.3 Conditions of Ground Transportation Provider

a. All Ground Transportation Provider vehicles shall be properly identifiable with company name logo or trade dress visible within 50 feet in front of the vehicle to enable passengers to identify the company name and address. Magnetic removable placards are not permitted.

b. All Ground Transportation Provider vehicles shall be validly registered in a state and must be able to produce proof of registration upon request. Ground Transportation Providers must provide proof of registration with the Arizona Department of Transportation if registration if required by A.R.S. Title 28, Chapter30.

c. Every vehicle shall be structurally sound and maintained in such good condition as to provide for the safety of the public in accordance with each and every applicable requirement of A.R.S. Title 28 and Title 49.

d. All Ground Transportation Provider vehicles serving the Airport shall be properly maintained and operated in a clean, safe, and businesslike manner at the sole discretion of the Authority or its representative. Vehicles are subject to inspection by Airport Operations staff.

1. Air conditioners will be operated at all times when temperatures reach 85 degrees Fahrenheit or upon passenger request.

2. Heaters will be operated upon passenger request and sufficiently heat the interior of the vehicle.

3. Exterior paint shall be maintained free of oxidation and rust.

4. Vehicle shall be free of any sheet metal damage.

5. Vehicle shall be free of dirt, trash, and debris.

6. The exterior of each vehicle in service shall be kept clean from road dust, mud, and grime.

7. The interior of each vehicle in service shall not contain offensive odors.

8. All vehicle interiors, trunk space and exteriors shall be kept clean and free of any damage. All vehicles shall have matching hubcaps and door handles.

Trunks shall be kept clean and empty to accommodate passenger luggage.

9. All glass, including windshields shall be free of cracks and chips ¼ inch or larger.

9.4 Ground Transportation Provider Vehicle Driver Requirements

a. All drivers shall meet all Federal, State, and City requirements. Drivers shall possess a valid state issued driver's license, knowledge of the area and streets, ability to speak, read, and understand the English language.

b. All drivers operating Ground Transportation Provider vehicles must display or present valid company identification upon request.

c. Driver's Airport operating privileges may be revoked at the discretion of a representative of the Authority.

d. Drivers shall at all times be courteous, professional, and informative when interacting with passengers, airport staff, and other drivers. Customer complaints relating to a driver's failure to meet the foregoing standards of conduct may provide grounds for the termination of the driver's operating privileges at the Airport.

e. Drivers will contact their company's Supervision for complaints regarding other drivers of the same company and will refrain from making contact with drivers of other companies.

f. Drivers shall not engage in any physical fighting or loud, boisterous verbal disputes while on the Airport. If a dispute develops between a driver and a passenger, or another driver, the driver should immediately contact airport staff to resolve the dispute.

g. All drivers operating commercial vehicles at the Airport shall be clean and neat in their personal appearance and shall be courteous to passengers loading or unloading at the Airport.

h. All drivers must carry vehicle registration and insurance in vehicle at all times.

9.5 Regulations and Licenses

a. The Ground Transportation Provider shall comply with all applicable local, state, and federal regulations and abide by the Rules and Regulations of the Authority now in effect, or that may be promulgated from time to time, including but not limited to the utilization of loading zones, queuing areas, and other such traffic control arrangements as designated by Airport Management. The Ground Transportation Provider will provide the Authority with current copies of all applicable licenses from state or local authorities

for areas the Operator proposes to serve.

b. The Ground Transportation Provider shall secure and pay the costs of all required licenses, supplementary equipment, permits, franchises, both of its employees and vehicles. The Operator will pay all taxes, fees, licenses, and moneys required by the Federal, state, or local governments for its operations at the Airport.

c. The Ground Transportation Provider shall maintain and operate its service in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, and Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title 6 of the Civil Rights Act of 1964, as said regulations may be amended.

d. No Ground Transportation Provider vehicle operator shall engage in the business of picking up passengers at the Airport terminal without first obtaining a Ground Transportation License Agreement from the airport authority. A Ground Transportation License shall not be issued until the owner has completed an application form provided by PMGAA.

e. Ground Transportation Providers that are not licensed through the Airport and that attempt to pick-up passengers in any terminal related areas are subject to eviction without loading their client and may face criminal trespass charges.

Ground Transportation Providers shall pay license fees and report activity to the Airport Authority pursuant to the License Agreement. Fees will be based on either a one-time annual fee for each registered vehicle or a trip fee for each trip at the Airport Passenger Terminal, provided that the Ground Transportation Provider utilizes a GPS tracking/reporting application which is approved by the Airport Executive Director/CEO.

9.6 Access and Parking

a. All Ground Transportation Provider drivers shall operate their vehicles in a safe manner while operating at the Airport property. Excessive speed and / or reckless driving are strictly prohibited. Drivers will refrain from blocking crosswalks or thru lanes at all times.

b. All Ground Transportation Provider vehicles desiring to drop off passengers shall be permitted to use the designated passenger loading/unloading zone of the Airport terminal curbside for active unloading of passengers and their baggage. No parking shall be allowed in this area. Vehicles may be cited and towed away. Drivers are not

permitted to leave their vehicle unattended on the terminal curbside at anytime

c. Baggage delivery service vehicles must use the designated area for both loading and unloading baggage and are responsible for any charges incurred

d. Ground Transportation Provider vehicles not having a valid Ground Transportation License with the Airport are authorized to enter Airport property to discharge passengers only in accordance with this paragraph.

e. Ground Transportation Provider with a prior reservation from a passenger awaiting pick up may proceed to the designated area to await their client and are responsible for any charges incurred. When picking up a pre-arranged assisted needed passenger, Ground Transportation Provider may pick up their client at the terminal curbside provided the passenger is ready to load. Waiting along the curbside is strictly prohibited.

f. Passenger pick up by licensed pre-arranged shuttle operators is permitted only in the shuttle queue. Pre-arranged shuttle operators arriving early may stage in the Airport designated lot until the scheduled arrival time or actual arrival.

g. Passenger pick up by licensed Ground Transportation Provider vehicles other than taxicab or pre-arranged shuttle operators to include sedan/VIP type vehicles is permitted only in the designated parking lots, or along the terminal curbside provided the passenger is ready for pick up. Drivers of these vehicles shall be responsible for any charges incurred while staged in these lots. Sedan/VIP drivers parked in designated lots may meet & greet their clients inside the baggage terminal and will remain at least 15 feet away from Rental Car counters, concessionaires, and the baggage claim information counter.

h. Ground Transportation Provider vehicles shall enter the commercial vehicle queuing area only for the purpose of loading customers or passengers. Only those Ground Transportation Provider authorized vehicles shall have access to the taxi stand or pre-arranged shuttle queuing area.

i. Drivers may park in the passenger loading/unloading zones to drop off passengers only long enough to unload passengers and luggage at the curb. Vehicles left unattended will be subject to citation and/or towing enforcement.

j. There shall be no unattended vehicles parked in the queuing areas; vehicle drivers shall remain within 25 feet of their respective vehicles.

k. Limousines shall stage in designated lots. When contacted by their client and when

their client states that they are ready for pick up, operators may then proceed to the terminal curbside and load their passenger(s).

l. Buses or coaches shall stage in designated lots. When contacted by their client and when their client states that their group is ready for pick up, buses or coaches may then proceed to a place along the terminal curbside designated by the Airport operator or operations personnel.

m. Transportation Network Company vehicles may stage in designated lots. When matched with a client ready to pick up, Transportation Network Company vehicles may then proceed to the designated pick-up curb location for loading. Transportation Network Companies may not stand or wait at the curbside for clients.

n. All Pre-Arranged Ground Transportation Service Providers (limo/livery, shared ride, TNC, Peer to Peer Car Sharing, and Hotel Shuttles) are limited to a single thirty (30) minute staging time interval at the designated curbside pickup location(s) for each provider before being required to relocate until their passengers are present.

9.7 Soliciting

a. The authorized solicitation of passengers by a Ground Transportation Provider shall only be conducted by the first driver in line in the designated areas at the taxicab queue. Taxicab drivers may not refuse transportation of a passenger based on the length of transport. Driver and passenger communication shall be conducted in a courteous and professional manner. Drivers shall not make any misrepresentation of their service. Drivers shall not be loud and boisterous with/or in the presence of potential customers.

b. Soliciting passengers is an offense that may result in the loss of ground transportation Licenses. Drivers soliciting passengers or in any manner offering to transport passengers in non-designated areas may be subject to an NOV.

c. Off duty drivers are not allowed to loiter on airport premises. Any off-duty driver using a Ground Transportation Provider vehicle for personal use at the Airport shall utilize the public parking facilities and shall not load passengers.

9.8 Miscellaneous Provisions

a. The Ground Transportation Provider shall repair promptly, and at no cost to the Authority, any damages to property of the Authority, which the Operator or its representatives have caused. If repairs are not carried out promptly, the Authority shall cause repairs to be performed and bill the company for the cost.

b. No signs, posters or similar devices shall be erected, displayed, or maintained by the Ground Transportation Provider on Airport premises without prior written approval of the Authority or its representatives.

c. Solicitation of business in any manner whatsoever upon Airport property is strictly prohibited. Cruising is specifically prohibited.

d. The Authority or its representatives shall have the right to restrict drivers or vehicles from operating at the Airport in noncompliance with Airport Rules and Regulations.

e. A Ground Transportation Provider may request that specific documents provided to the Airport be treated in a confidential or proprietary (collectively, "Confidential"), provided that the Ground Transportation Provider clearly labels the documents "Confidential". The Airport will notify the Ground Transportation Provider in writing of the public records request to view the documents, or any portion of the documents marked "Confidential". The Ground Transportation Provider will have seven calendar days from the date such notice is received to obtain a court order enjoining the release of the documents marked "Confidential". If the Ground Transportation Provider does not provide the Airport with a court order enjoining release of the documents, the Airport will make the documents requested available for inspection as required under the public records law, seven (7) calendar days after the written notice to the Ground Transportation Provider is received.

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APPENDIX A: DEFINITIONS

Advisory Circular: FAA publications that outline and describe recommended standards and procedures for numerous aviation entities.

Air Operations Area (AOA): That area of the Airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. The AOA includes the active runways, taxiways, ramp and turf areas. The AOA is considered part of the Airport Restricted Area and is off-limits to the general public.

Air Traffic Control (ATC): A service operated by appropriate authority to promote the safe, orderly, and expeditious flow of air traffic on or in the vicinity of the Airport.

Air Traffic Control Tower (ATCT): The Airport traffic control tower at Phoenix-Mesa Gateway Airport.

Aircraft (also Airplane, Balloon, Blimp, Ultralight, Helicopter): Any device or contrivance now known or hereafter invented that is used or intended to be used for flight in the air.

Aircraft Maintenance: The repair, adjustment, or inspection of an aircraft by a pilot, owner, or mechanic other than the routine cleaning, upkeep, and servicing of an aircraft in preparation for flight. Minor repairs are characterized as normal, routine annual inspection with attendant maintenance, repair, calibration or adjustment or repair of aircraft and their accessories. Major repairs are characterized as major alterations to the airframe, power plant, propeller and accessories as defined in FAR Part 43.

Aircraft Operation: An aircraft takeoff, landing, touch and go (two operations), low approach and/or missed approach.

Aircraft Rescue and Fire Fighting (ARFF): The personnel, equipment, and facilities on or off the Airport dedicated to dealing with aircraft accidents/incidents and all rescue and firefighting tasks, structural fires, and other firefighting emergency activities.

Airport: Shall mean and have reference to all the areas comprising the Phoenix-Mesa Gateway Airport as now existing, or as the same may hereafter be expanded and developed, and shall include all of its buildings, facilities and appurtenances.

Airport Authority: PMGAA, a Joint Powers Airport Authority authorized under the laws of the State of Arizona, its successors, and assigns, formed pursuant to A.R.S. §28-8521, et seq.

Airport Driver Endorsement: The authority issued by Airport Operations authorizing motor vehicle operations within the Airport Restricted Area. An Airport Driver Endorsement shall mean an indication of completed airfield driver training, and so noted on an individual's Airport security identification badge.

Airport Duty Manager: The designated management representative of PMGAA during emergency incidents and after regular business hours.

Airport Executive Director/CEO (also Executive Director/CEO). The Executive Director/CEO of PMGAA or his/her designee. The term "Executive Director/CEO" as herein used, shall include persons duly designated to represent the Airport Executive Director/CEO and to act on behalf of the Airport

Airport Minimum Standards: A separate document adopted and formally approved by the Airport Authority within which are detailed provisions outlining the minimum building size, performance, or other standards acceptable by the Airport Authority for a business firm aspiring to do business at the Airport.

Airport Operations: Airport staff responsible for monitoring compliance with operations involving Airport airside and landside activities.

Airport Restricted Area(s)/ Restricted Area(s): Areas closed to access by the general public. These are limited access areas that the Executive Director/CEO, the FAA, TSA, or commercial aviation business owners have elected to restrict for purposes of security or safety. These areas include but are not limited to the Air Operations Area, Airport perimeter roadways, fenced-in areas, aircraft hangars and maintenance shops, fuel storage areas and hazardous materials storage areas.

Airport Rules and Regulations: A document adopted and formally approved by the Airport Authority within which are detailed provisions for the safe, orderly, and efficient operation of the Airport.

Airport Security Program: A program developed in accordance with TSA Part 1542 and approved by a TSA Federal Security Director outlining Airport security requirements, methods, and procedures for Phoenix-Mesa Gateway Airport.

Apron (also Ramp): Those areas designated by the Airport, both public and private/leased, designated by the Executive Director/CEO for the parking or storage of aircraft. These areas are usually restricted areas and involve activities such as enplaning and deplaning passengers, servicing aircraft, and aircraft movements.

Arizona Revised Statutes (A.R.S.): the set of books which contains the constitution and laws

enacted by the Legislature to govern the state.

Based Aircraft: Aircraft that are "operational and airworthy", which are based at an airport for a majority of the year.

Emergency Vehicles: Vehicles that are painted, marked, lighted or escorted and used by law enforcement officers (or security officers), fire department (ARFF), ambulance or other Airport officials to carry out their daily duties or used in response to an emergency situation.

Engine Run-up: The operation of an aircraft engine at power settings in excess of those power settings needed for normal taxiing of the aircraft. Engine run-ups are usually conducted at relatively high-power settings in order to determine the performance of an aircraft engine.

Escort: A person authorized by the Airport to accompany a contractor or other persons within the Airport Restricted Area(s) in accordance with all FAA safety and security regulations and Airport-specified responsibilities.

Executive Director/CEO: Executive responsible for the enforcement of these Rules and Regulations to ensure the efficient, proper, and safe operation of the Airport, but only to the extent authorized by law or properly delegated by said Airport Executive Director/CEO.

FAA: The Federal Aviation Administration.

FAR: The Federal Aviation Regulations as written, approved, and published by the FAA.

Flight Standards: FAA standards for promoting safe air transportation by certification and oversight of airmen, air operators, air agencies, and designees.

General Aviation: All categories and types of aviation/aircraft in the U.S. except for certified air carriers (under FAR Part 121 or Part 129) and Part 129 Foreign Air Carriers and Department of Defense military aircraft.

GPS Tracking/Reporting Application: Any online-enabled application, software, website, or system that is offered or used by the authorized provider and that enables a potential passenger to arrange a ride with a Ground Transportation Provider driver and utilizes Global Positioning Satellite for tracking and reporting.

Ground Transportation: Modes of vehicle transportation to facilitate the movement of passengers and visitors to and from the airport.

Ground Transportation Provider: Any entity that provides Ground Transportation services for a fee.

Hangar: Any fully or partially enclosed storage space for an aircraft.

Hazardous Material: A substance or material in a quantity or form that may pose an unreasonable risk to health or safety, or property when stored, transported, or used in commerce as defined in applicable Federal, State, and local environmental laws.

Incident Commander: The individual responsible for directing and / or controlling resources during an Airport emergency; the leader of Unified Incident Command.

Lease: A contract granting occupation or use of property during a certain period in exchange for a specified rent.

Movement Area: Those areas of the Airport under the control of the Air Traffic Control Tower including runways, taxiways, and helipads designated and made available for the landing, take-off, and taxiing of aircraft and which require a clearance from the Air Traffic Control Tower prior to entering.

Notice of Violation (NOV): An NOV is a form issued by Airport Operations personnel for violations of any rules and regulations governing the Airport.

Notice to Airmen (NOTAM): Information issued by a representative of the Executive Director/CEO, FAA, the Air Traffic Control Tower, or other authorized official advising pilots of temporary changes to published information regarding Airport facilities, conditions, or other items that may affect safe flight.

Operating Agreement: A contract granting short-term occupation or use of Airport facilities (i.e., runways, taxiways) during a certain period in exchange for specified rent and/or fees. Operating agreements are used for, but not limited to, flight-testing and flight training operations.

Park or Parking: The standing of an aircraft or vehicle whether occupied or not.

Permit: A written authorization issued by the Airport Authority that allows specific activities or the temporary use or occupancy of certain areas or facilities at the Airport.

Person: Shall mean an individual, firm, general or limited partnership, corporation, company, limited liability partnership, trust, association, or any trustee, receiver, assignee, or similar representative thereof leasing, subleasing, making application for, or using any land or facility at the Airport.

Rates and Charges: Airport fee structure approved by the Board for use of airport infrastructure, facilities, and equipment.

Secured Area: That portion of the Airport where domestic air carriers and foreign air carriers enplane and deplane passengers and sort and load baggage and any adjacent areas that are not separated by adequate security measures.

Security Identification Display Area (SIDA): That portion of the Air Operations Area (AOA) where each person is required by federal law to continuously display, on an outermost garment, an Airport-approved identification badge. Any person observed in the SIDA not displaying the identification badge and not accompanied by an Airport-approved escort must be promptly reported to a security officer or other designated authority.

Soliciting: The act of entreating, enticing, or otherwise requesting money, business, or exchange of goods/ services outside of authorized areas.

Sterile Area: The portion of the Airport defined in the Airport Security Program that provides passengers access to board aircraft and to which the TSA generally controls the access through the screening of persons and property.

Transportation Network Company (TNC): An entity that has been issued a permit by the State of Arizona that operates in the State of Arizona, that uses a digital network or software application to connect passenger(s) to transportation network services provided by transportation network drivers, and that may but is not deemed to own, operate of control a personal motor vehicle of a transportation network driver.

TSA: The Transportation Security Administration.

UAV: Term is used interchangeably with Unmanned Aerial System (UAS) and Drone. An unmanned aerial vehicle (UAV) is an aircraft without a human pilot on board. UAV's have a ground-based controller, and a system of communications between the two. Civil UAV operations are regulated under FAA Part 107.

Vehicle: Shall mean all conveyances, except aircraft.

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APPENDIX B: FLY FRIENDLY NOISE ABATEMENT PROCEDURES

Unless otherwise directed by the Tower, please comply with the following:

1. Runway 30 is designated as the "calm wind" runway.
2. Use best rate of climb, consistent with safety.
3. Runway 12C/30C or 12L/30R for jet aircraft pattern work (1700' AGL – above ground level) is preferred. When using Runway 30C or 30R, start right crosswind turns as soon as practical to avoid residential areas north of the Airport (complete turns within 3.5 DME).
4. On departure from 30L, left turn after end of runway to minimize low overflights of the Gateway Campus.
5. Military aircraft terminate afterburner use when safe to do so.
6. Jets are requested to use NBAA Standard Noise Abatement Departure or comparable aircraft manufacturer procedures.
7. Propeller aircraft are requested to use AOPA Noise Awareness Steps.
8. Helicopter traffic: please avoid low overflights of the Gateway Campus. Use a Northwest or Southwest arrival-departure corridor.
9. Compliance with the Fly Friendly procedures is at the pilot's discretion.

SAFETY ALWAYS COMES FIRST

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-16

To:	**Board of Directors**
From:	**Brian Lehrich, MAcc, CPA, Finance Director**
Through:	**Chuck Odom, Chief Financial Officer**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Authorizing Applications and Acceptance of Grants**
Date:	**April 18, 2023**

Proposed Motion

To authorize the filing of grant applications including agreeing to all understandings and assurances contained therein; and, authorizing the acceptance and execution of any Federal Aviation Administration (FAA) or other Federal agency, State of Arizona, Arizona County or Arizona Local Municipal grant offer(s), applied for or received between July 1, 2023 and June 30, 2024 by the Chair of the Authority, the Executive Director/CEO, Deputy Director/COO or Chief Financial Officer/CFO.

Narrative

The FAA and Arizona Department of Transportation received the Phoenix-Mesa Gateway Airport Authority (PMGAA) Airport Capital Improvement Program (fiscal years 2021-2025 and preceding years) in accordance with the Airport Master Plan. The Federal Government, State of Arizona, Arizona Counties or Arizona Local Municipalities may offer PMGAA a grant or multiple grants for capital improvements or other projects at any time during the year that will support the priorities of the PMGAA.

Staff requests authority to prepare grant applications and submit for capital planning, design, construction or other projects that will support the priorities of PMGAA. PMGAA further requests authority to accept offer(s) received, agree to accomplish the described development or scope, and comply with the terms and conditions of the grant agreement(s), including maintaining compliance with the assurances made as part of the project application(s).

Fiscal Impact

Grants from the agencies make the Capital Improvement Program at the Airport financially feasible and leverage funding.

Attachment(s)

N/A

RESOLUTION NO. 23-16

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the filing of grant applications including agreeing to all understandings and assurances contained therein; and, authorizing the acceptance and execution of any Federal Aviation Administration (FAA) or other Federal agency, State of Arizona, Arizona County or Arizona Local Municipal grant offer(s), applied for or received between July 1, 2023 and June 30, 2024 by the Chair of the Authority, the Executive Director/CEO, Deputy Director/COO or Chief Financial Officer/CFO;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the filing of grant applications including agreeing to all understandings and assurances contained therein; and, authorizing the acceptance and execution of any Federal Aviation Administration (FAA) or other Federal agency, State of Arizona, Arizona County or Arizona Local Municipal grant offer(s), applied for or received between July 1, 2023 and June 30, 2024 by the Chair of the Authority, the Executive Director/CEO, Deputy Director/COO or Chief Financial Officer/CFO. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of April, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-17

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Remote Transmitter and Receiver Building Relocation – Arizona West Builders and Communications, Inc. – CIP 1219**
Date:	**April 18, 2023**

Proposed Motion

To authorize a Contract with Arizona West Builders and Communications, Inc. (Arizona West) for Design and Construction Services for the Remote Transmitter and Receiver (RTR) Building Relocation in an amount not to exceed $1,167,755.52 under CIP 1219.

Narrative

Over the last couple of years, interest in private development at Phoenix-Mesa Gateway Airport has gained momentum and there are several projects under construction in the southern portion of the east side of the airport. With the construction of the large Gulfstream Service Center and other proposed improvements by The Boyer Company, PMGAA staff determined that the RTR Building would have to be relocated to a site away from the east side improvements, and closer to the new Air Traffic Control Tower.

This project will include design and construction of the building, and will include new antenna cabling and equipment racks, HVAC Systems, static dissipative flooring, electrical system including UPS and emergency backup generation, security systems to include access controls, systems monitoring, complete electrical grounding, grading, paving, and general site landscaping.

The Request for Proposal (RFP), Solicitation 2023-019-RFP was issued on January 25, 2023, and advertised in the Arizona Business Gazette on 1/26, 2/2, 2/9 and 2/16/23. The Notice of RFP was also posted on the AzAA, ACC, ACI-NA and SWAAAE Websites, as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFP was emailed to a list of over 80 prospective firms. Airport staff received two (2) proposals:

Arizona West Builders and Communications, Inc.
Desert Services International, Inc.

After reviewing the submitted proposals, the Evaluation Panel selected Arizona West as the firm that best satisfied the requirements, based on qualifications of the firm, Project Team experience, project understanding and approach to performing the required services.

Fiscal Impact

This project is included in the FY23 Capital Budget utilizing PMGAA Non-grant funding under CIP 1219.

Attachment(s): Contract

RESOLUTION NO. 23-17

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Contract with Arizona West Builders and Communications, Inc. (Arizona West) for Design and Construction Services for the Remote Transmitter and Receiver (RTR) Building Relocation in an amount not to exceed $1,167,755.52 under CIP 1219;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Contract with Arizona West Builders and Communications, Inc. (Arizona West) for Design and Construction Services for the Remote Transmitter and Receiver (RTR) Building Relocation in an amount not to exceed $1,167,755.52 under CIP 1219. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 18th day of April, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PROJECT CONTRACT

A. EFFECTIVE DATE:

This Contract is entered into by and between the Owner and the Contractor for design, construction, and procurement of the Project and shall be effective as of the date signed by Owner**.**

B. OWNER:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona
5835 South Sossaman Road
Mesa, Arizona 85212-6014
Phone: 480.988.7600
Fax: 480.988.7641

C. CONTRACTOR:

Arizona West Builders and Communications, Inc.
7515 S. Atwood
Mesa, AZ 85212
Phone: 602.919.1714

D. DESIGN ENGINEER:

Larson Associates Architects, Inc.
3807 N. 24th Street, Suite 100
Phoenix, AZ 85016
Phone: 602.955.9929

E. PROJECT:

Remote Transmitter and Receiver Relocation
Authority Project No. 1219

F. WORK TO BE PERFORMED:

The intent of this project is to select a team to design and construct a replacement critical systems Remote Transmitter and Receiver (RTR) building and relocate radio antenna towers and selected equipment. Due to the critical nature of the equipment, it is anticipated that this project will need to be phased in order to maintain air traffic operations at all times. It is also expected that the new building will be constructed and commissioned prior to relocation of any critical equipment. Coordination and communication will be crucial in this project to ensure zero disruption of air traffic operations

G. RECITALS:

The Owner intends to relocate a critical systems Remote Transmitter and Receiver (RTR) building and relocate radio antenna towers and selected equipment

NOW, THEREFORE, intending to be legally bound and for valuable consideration, the receipt and sufficiency of which are acknowledged, the Owner and Contractor agree as follows:

H. AGREEMENTS:

ARTICLE 1 THE CONTRACT

The Contract consists of (1) this Project Contract, (2) The Proposal Requirements and Agreement Documents, (3) the General Conditions to the Project Contract, (4) Special Provisions, (6) Drawings, Technical Specifications and other documents or amendments referenced in Article 7 of the Project Contract, and (7) any amendments or modifications to the foregoing documents, including (a) a written amendment signed by both parties, (b) a Change Order, (c) a Change Directive, (d) Supplementary Instructions, or (e) a written order for a minor change in the work (collectively the "Contract").

ARTICLE 2 THE WORK

The Contractor shall execute the entire work described in the Contract and all work reasonably inferable as necessary to produce the results intended by the Contract.

ARTICLE 3 CONTRACT TIME

3.1 The Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the work is not Substantially Completed or Finally Completed within the times specified below.

3.2 The Contractor shall achieve Substantial Completion (as defined in Section 9.8.1 of the General Conditions of the Project Contract and evidenced by a Certificate of Substantial Completion) of the Project no later than a total of **180 Calendar Days** from the date of issuance of the Notice to Proceed.

3.3 Final Acceptance of the work shall occur not more than thirty (30) calendar days after the Substantial Completion date.

3.4 The parties acknowledge and agree that it would be extremely difficult and impracticable to ascertain the damages that the Owner would incur should the Contractor fail to achieve, (1) Substantial Completion of the work by the milestone completion date(s), or (2) Final Acceptance of the work, as specified in this Article 3. Accordingly, if the Contractor fails to achieve (1) Partial Acceptance, (2) Substantial Completion, or (3) Final Acceptance of the work as specified in this Article 3, the Contractor shall be liable for and shall pay to the Owner liquidated damages for each calendar day of delay until the Contractor achieves (l) Partial Acceptance, (2) Substantial Completion, or (3) Final Acceptance of the work as the case may be. The liquidated damages shall be as follows:

The following Liquidated Damages apply:

1. Substantial Completion (180 Calendar Days) – $1,000 per Day

The following Liquidated Damages will also apply:

1. Final Completion within thirty (30) Calendar Days of Substantial Completion of the project – $1,000 per Day

The Owner shall have the right to retain any liquidated damages from payments due Contractor.

ARTICLE 4 CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of one million, one hundred sixty-seven thousand, seven hundred fifty-five dollars and fifty-two cents ($1,167,755.52), subject to the additions and deductions as provided in the Contract.

4.2 Prices are set forth in Contractor's Proposal submitted on February 21, 2023. The proposal price includes (1) the design, (2) all materials, equipment, labor, delivery, installation, overhead, profit, taxes, bond, insurance, and commissions, and (3) any other costs or expenses in connection with or incidental to the performance of that portion of the work to which such prices apply.

ARTICLE 5 PROGRESS PAYMENTS

Progress payments will be made in accordance with Article 9 of the *General Conditions* to the Project Contract.

ARTICLE 6 FINAL PAYMENT

Final payment will be made in accordance with Article 9 of the *General Conditions* to the Project Contract.

ARTICLE 7 CONTRACT DOCUMENTS

7.1 The Contract, except for modifications issued after the effective date of the Project Contract, consists of the following documents:

7.1.1 The *Project Contract.*
7.1.2 The Proposal Requirements, Document, Exhibits, and Agreement Documents.
7.1.3 The *General Conditions* to the Project Contract.
7.1.4 The *Federal Requirements.*
7.1.5 The *Special Provisions* to the Project Contract.
7.1.6 The *Technical Specifications*.
7.1.7 Appendix A.
7.1.8 Plans, Specifications and Addenda attached.
7.1.9 Proposal Documents as follows:

A. Contractor's full Proposal dated February 21, 2023.

B. Certificate of Insurability dated February 21, 2023.

C. Standard Certifications signed by Marty Franklin and dated February 21, 2023.

7.1.10 Amendments or modifications to the Contract, if any, to which the parties may agree during Contract performance.

7.2 There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified, or supplemented as provided in the *General Conditions*.

7.3 The Contract Documents are complementary, and a requirement called for by one is as binding as if called for by all. In resolving conflicts, if any, the Contract Documents shall be given the precedence that the Engineer determines is consistent with their intent and that will produce the intended result. When not in contradiction with this priority, the Contract Documents shall be given precedence in the order in which they are listed in this Article 7.

ARTICLE 8 MISCELLANEOUS

8.1 If any provision(s) of the Contract is/are invalid, illegal or unenforceable, all other provisions of the Contract shall nevertheless remain in full force and effect. If any Contract provision is inapplicable to any person or circumstance, that provision shall nevertheless remain applicable to all other persons and circumstances.

8.2 It is Contractor's and Owner's intent that all provisions of law required to be inserted or referenced in the Contract Documents shall be incorporated into them. If any provision of law is not inserted or referenced in the Contract Documents, or is inserted or referenced in improper form, the provision shall be considered inserted or referenced in proper form at no increase in Contract Price or Contract Time.

8.3 Contractor shall not sell, assign, transfer or otherwise convey any of its rights and shall not delegate any of its duties under this Contract without Owner's prior express written consent. In its

sole discretion Owner may refuse to consent to any proposed assignment or delegation. Any attempted sale, assignment, transfer, conveyance or delegation in violation of this Paragraph 8.3 shall be void and shall relieve Owner of any further liability under the Contract Documents. If Owner consents in writing to an assignment, unless specifically stated to the contrary in the consent, the assignment shall not release or discharge Contractor from any duty or responsibility set forth in the Contract Documents.

8.4 Nothing contained in the Contract shall in any manner authorize, empower, or constitute Contractor, its subcontractors, or suppliers as agent(s) of Owner, authorize or empower Contractor, its subcontractors, or suppliers to assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of Owner or authorize or empower Contractor, its subcontractors or suppliers to bind Owner in any manner or to make any representation, warranty, covenant, agreement, or commitment on Owner's behalf. Contractor shall perform all work under this Contract as an independent contractor. Only Owner of this Contract shall have rights to enforce any changes to this Contract.

8.5 This Contract shall be binding on Owner and Contractor and all of their respective successors, heirs, legal representatives, and, if Owner has consented to an assignment or delegation as provided in Paragraph 8.3, assigns and delegates.

8.6 This Contract supersedes all prior oral or written agreements, if any, between the parties and constitutes the entire, integrated agreement between the parties with respect to the work to be performed under the Contract Documents.

8.7 This Contract shall be governed by and construed in accordance with the laws of the state of Arizona, without giving effect to any rules governing conflict of laws.

8.8 The approval and continuation of this Contract is subject to the availability of funds either provided to, made available to, or appropriated by the Owner for this purpose. In the event that funds are not available or appropriated for the Owner's payment requirements under this contract for the goods and/or services to be provided hereunder, the Owner may terminate this contract by providing notice to the Contractor of the lack of the availability of funds.

Executed as of the Effective Date.

CONTRACTOR
COMPANY NAME, a(n)
Arizona West Builders and Communications, Inc.,
An Arizona Corporation

By: Carl Guilliams Digitally signed by Carl Guilliams Date: 2023.03.15 11:28:36 -07'00'

Name: Carl Guilliams

Title: President

Date: 3/15/2023

OWNER
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-18

To:	**Board of Directors**
From:	**Matt Nebgen, Gateway Aviation Services Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Purchase of Jet-A and 100LL Avgas Fuel**
Date:	**April 18, 2023**

Proposed Motion
To authorize the purchase of Jet A and 100LL Avgas fuel from Ascent Aviation Group, Inc. (World Fuel) for Airport Authority resale in the amount of $450,000.

Narrative
The Phoenix-Mesa Gateway Airport Authority owns and operates Gateway Aviation Services, the Airport's sole provider of retail aviation fuel.

Jet-A and 100LL Avgas are needed to provide aircraft fuel to tenant, transient, corporate, flight school, airline, and military customers. Actual cost of fuel is based upon market price at time of order. Airport staff expects to exceed the original requested purchase amount prior to the end of FY23. This is due to higher fuel cost in the first half of the fiscal year. The additional $450,000 purchase will bring the total FY23 Jet A and 100LL Avgas purchase to $5,700,000.

Request for Proposals No. 2019-005-RFP was issued, and World Fuel was selected as the fuel provider. Board Resolution No. 19-34 approved a multi-year contract between Phoenix-Mesa Gateway Airport Authority and World Fuel.

Fiscal Impact
This purchase will be funded by FY23 operating contingency budget and will be more than offset by an increase in revenue.

Attachment(s)
N/A

RESOLUTION NO. 23-18

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of Jet A and 100LL Avgas fuel from Ascent Aviation Group, Inc. (World Fuel) for Airport Authority resale in the amount of $450,000;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of Jet A and 100LL Avgas fuel from Ascent Aviation Group, Inc. (World Fuel) for Airport Authority resale in the amount of $450,000. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of April, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-19

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Fuel Farm Expansion CMAR Construction Services Contract and GMP 2 – KEAR Civil Corporation, CIP 1224**
Date:	**April 18, 2023**

Proposed Motion
To authorize a Construction Manager At Risk (CMAR) Construction Services Contract and Guaranteed Maximum Price (GMP) 2 for the Fuel Farm Expansion Project with KEAR Civil Corporation (KEAR), in an amount not to exceed $2,874,552 under CIP 1224.

Narrative
Due to the increased commercial aircraft passenger traffic and the additional airlines utilizing PMGAA, Airport staff had an analysis completed of the existing and anticipated Jet-A Fuel Storage Capacity that is needed at the Fuel Farm. Currently, the Airport has a usable storage capacity of 212,500 gallons of Jet-A aviation fuel, which has been determined (by Airport Staff), to be a little over four (4) days of storage reserves on hand. Based on recent growth patterns, within the next five years, this number is anticipated to be significantly less than three days of storage reserves on hand. Industry standard is five (5) to seven (7) days storage to allow for disruptions and supply challenges. With the findings from this recent study, PMGAA staff has determined the need for an expansion of the Fuel Farm is in order to accommodate appropriate Jet-A fuel storage capacity.

The Contractor, KEAR, is currently providing pre-construction management services as a CMAR and completed the GMP 1 Early Works Procurement that will add two (2) additional 50,000-gallon (gross), (85,000-gallon net usable increase) Jet-A fuel storage tanks, fuel lines, pumps and will utilize the airport controlled vacant lot adjacent to the existing fuel farm in order to provide an interim fuel solution.

On December 20, 2022, the Board approved Resolution 22-82 authorizing GMP 1, Early Works Procurement, for this project with KEAR through the use of a formal solicitation process. GMP 2, Construction Services, are now needed in order to complete the construction of the Fuel Farm expansion and the installation of the new fuel tanks.

The Evaluation Panel unanimously ranked KEAR as the firm most qualified and that best satisfies the requirements for this project.

Fiscal Impact
This CMAR Construction Services Contract and GMP 2 are included in the FY23 Capital Budget and are funded with PMGAA non-grant funds under CIP 1224.

Attachment(s): CMAR Construction Services Contract

RESOLUTION NO. 23-19

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Construction Manager At Risk (CMAR) Construction Services Contract and Guaranteed Maximum Price (GMP) 2 for the Fuel Farm Expansion Project with KEAR Civil Corporation (KEAR), in an amount not to exceed $2,874,552 under CIP 1224;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Construction Manager At Risk (CMAR) Construction Services Contract and Guaranteed Maximum Price (GMP) 2 for the Fuel Farm Expansion Project with KEAR Civil Corporation (KEAR), in an amount not to exceed $2,874,552 under CIP 1224. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of April, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

DIVISION I

FUEL FARM JET A TANK EXPANSION

CONSTRUCTION MANAGER AT RISK (CMAR) CONSTRUCTION SERVICES CONTRACT #2

PROJECT NO. 1224

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Phoenix Mesa Gateway Airport Authority

Construction Manager at Risk
Construction Services
Project No.: 1224

THIS CONTRACT is made and entered into by and between the Phoenix Mesa Gateway Airport Authority, a joint powers airport authority authorized by the state of Arizona, hereinafter called "Owner" and the "Construction Manager at Risk" or "CMAR" designated below, individually, each is a "Party" and collectively, the "Parties", and shall be effective as of the date signed by Owner.

NOW, THEREFORE, intending to be legally bound and for valuable consideration, the receipt and sufficiency of which are acknowledged, the Owner and CMAR agree as follows:

ARTICLE 1 – PARTICIPANTS AND PROJECT

Owner:	**Phoenix-Mesa Gateway Airport Authority** **5835 S. Sossaman Road** **Mesa, AZ 85212** **Project Manager: Mike Hanas** **Telephone: 480.988.7636** **E-mail: mhanas@gatewayairport.com**
CMAR:	**KEAR Civil Corporation** **22555 N. 20th Avenue** **Phoenix, AZ 85024** **CMAR Representative: Mike Fossett** **Telephone: 623.742.2310** **E-mail: mike.fossett@kearcorp.com**
DESIGN PROFESSIONAL:	**Name: Kimley-Horn and Associates, Inc.** **Address: 7740 North 16th Street, Suite 300** **Phoenix, AZ 85020** **Design Professional: Steve Reeder** **Telephone: 602.906.1379** **E-mail: steve.reeder@kimley-horn.com**
PROJECT DESCRIPTION:	**Fuel Farm Jet A Tank Expansion**

ARTICLE 2 – CONTRACT DOCUMENTS

2.1 CONTRACT DOCUMENTS

The Contract between Owner and CMAR shall consist of the following Contract Documents. Notwithstanding Article 50-04 of the General Provisions, should any of the Contract Documents conflict with each other, the conflict will be resolved by using the following order of precedence:

1. Any amendments or modifications to the Contract Documents in reverse chronological order, including (a) a written amendment signed by both parties, (b) a Change Order, (c) a Change Directive, (d) Supplementary Instructions, or (e) a written order for a minor change in the work (collectively the "Contract");
2. Exhibit A to the CMAR Construction Contract, Accepted GMP/Price Proposal and Project Schedule – the "Basis of GMP" and "Basis of Schedule";
3. The Guaranteed Maximum Price Proposal sections outside of item (2) above;
4. The General Conditions to the CMAR Contract;
5. The CMAR Construction Services Contract and all of its Exhibits;
6. The General Provisions to the CMAR Contract;
7. Drawings;
8. Specifications;
9. The Request for Qualifications requirements, document and exhibits (#2022-024-RFQ), and CMAR's submittal to such solicitation dated 04/25/2022;
10. Any other Contract Documents.

2.3 PROJECT SPECIFIC CONDITIONS

If there are any additional conditions that apply to this Project, they are set forth in the attached Exhibit A, and are incorporated herein.

2.4 PROJECT PLANS AND SPECIFICATIONS

A detailed list of the Plans and Specifications for this Project are set forth in the attached Exhibit B.

ARTICLE 3 – PRE-CONSTRUCTION SERVICES

Although CMAR has performed Pre-Construction Services pursuant to a separate Contract between Owner and CMAR, the completion, quality and accuracy of those services and the deliverables provided by Owner thereunder directly impact CMAR's performance of its obligations under this Contract. Therefore, all of CMAR's obligations, duties, and warranties in relation to Pre-Construction Services and deliverables survive completion of the Pre-Construction Services Contract and are incorporated herein. Any breach of any of CMAR's duties, obligations, or warranties under the Pre-Construction Services Contract shall likewise be considered a breach of this Contract.

ARTICLE 4 – CONSTRUCTION SERVICES

4.1 GENERAL

4.1.1 CMAR agrees at its own cost and expense, to do all work necessary and required to fully, timely and properly complete the construction of the Project in strict accordance with the Contract Documents in a good and workmanlike manner, free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified, and within the Project Schedule included in Exhibit A of this Contract.

4.1.2 CMAR shall provide all of the labor and materials and perform the Work in accordance with the General Conditions and General Provisions. Some but not all of the major components of the Construction Services and the corresponding subsections of Section 4 of the General Conditions are set forth below.

4.1.3 At all times relevant to the Contract and performance of the Work, the CMAR and its subcontractors shall fully comply with all Laws, Regulations, or Legal Requirements applicable to Owner, the Project and the Contract.

4.1.4 CMAR shall perform the Work under this Contract using only those firms, team members and individuals designated by CMAR consistent with the Statement of Qualifications dated 04/25/2022, the GMP Proposal, or otherwise approved by Owner pursuant to the General Conditions. No other entities or individuals may be used without prior approval of the Project Manager.

4.1.5 CMAR will comply with all terms and conditions of the General Conditions and General Provisions, as well as the Owner's published Rules & Regulations and Minimum Standards (Exhibit E).

4.1.6 In the event of a conflict between this Contract and the General Conditions, General Provisions or any exhibit hereto or appendix thereto, the terms of this Contract shall control, but nothing in this contract shall be construed so as to either (i) Violate any term or condition of the Owner's published Rules & Regulations or Minimum Standards; or (ii) Violate Owner's mandatory subordination to its federal obligations, pursuant to Federal Aviation Administration ("FAA") Policies (2009) (including, but not limited to § 1.1, § 1.5, § 12.3, §10, § 14.1, *et. seq*.) and federal statutory authority, including, but not limited to, 49 U.S.C. §40103(a) (establishes the federal government's total dominance over the airspace of the United States, including, U.S. airports).

4.1.7 **Ownership of Work Product.** Notwithstanding anything to the contrary in this Contract, all Work Product prepared or otherwise created in connection with the performance of this Contract, including the Work, are to be and remain the property of Owner. For purposes of this provision, "Work Product" shall include all designs, drawings, plans, specifications, ideas, renderings and other information or matter, in whatever form created (e.g., electronic or printed) and in all media now known or hereinafter created. All Work Product shall be considered Work Made for Hire as defined in the United States Copyright Act 17 U.S.C. § 101 (Copyright Act). If for any reason any such Work is found not to be a work for hire, CMAR hereby transfers and assigns ownership of the copyright in such Work to Owner. The rights in this section are exclusive to Owner in perpetuity.

4.2 CMAR's PRE-CONTRACT AND PRE-WORK DELIVERABLES

The CMAR will provide the insurance and bond(s) requirements in accordance with Article 11 of the General Conditions prior to any work commencing.

Owner will obtain and pay for all permits necessary for the work.

4.3 PRE-CONSTRUCTION CONFERENCE

CMAR shall attend the Pre-Construction Conference.

4.4 PERFORMANCE OF THE WORK (INCLUDING FIELD MEASUREMENTS, SUBCONTRACTORS, AND SUPPLIERS)

CMAR shall perform the Work in accordance with the General Conditions.

4.5 CONTROL OF THE PROJECT SITE

CMAR shall control and maintain the Project Site in accordance with Article 4 of the General Conditions.

4.6 PROJECT SAFETY

CMAR shall implement and enforce Project safety in accordance with Article 10 of the General Conditions.

4.7 MATERIALS QUALITY, SUBSTITUTIONS AND SHOP DRAWINGS

CMAR shall provide materials testing and submit substitute materials and Shop Drawings in accordance with Article 3 of the General Conditions.

4.8 PROJECT RECORD DOCUMENTS

CMAR shall maintain and make available the Project Record Documents in accordance with Article 3.12 of the General Conditions.

4.9 WARRANTY AND CORRECTION OF DEFECTIVE WORK

CMAR shall provide warranties and correct defective Work in accordance with Article 3.6 of the General Conditions.

ARTICLE 5 – OWNER RESPONSIBILITIES

5.1 Owner shall have the responsibilities, and provide the information specified in, and subject to the conditions set forth throughout the Contract Documents.

5.2 Additional information to be provided by Owner, if any, is listed below:

Final contract documents, including, but not limited to General Conditions, General Provisions, applicable as-built drawings, stamped Construction Documents and Technical Specifications.

ARTICLE 6 – CONTRACT TIME

Contract Duration is 227 calendar days.

6.1 CONTRACT TIME

6.1.1 The Contract Time shall start with the Notice to Proceed ("NTP") and end with Final Acceptance, as set forth in Article 6.4 below. The Notice to Proceed cannot be issued prior to the approval and acceptance by Owner of the GMP or Fixed Price.

6.1.2 CMAR agrees that it will commence performance of the Work and complete the Project through both Substantial Completion and Final Completion within the Contract Time.

6.1.3 Time is of the essence of this Contact, for the Project, and for each phase and/or designated Milestone thereof.

6.2 PROJECT SCHEDULE

The Project Schedule approved as part of the GMP Proposal and incorporated herein as part of the attached Exhibit A shall be updated and maintained throughout CMAR's performance under this Contract in accordance with Article 3 of the General Conditions.

6.2.1 Failure on the part of CMAR to adhere to the approved Project Schedule will be deemed a material breach and sufficient grounds for termination for cause of this Contract by Owner.

6.3 SUBSTANTIAL COMPLETION

Substantial Completion shall be achieved not later than the Substantial Completion Date set forth in the Project Schedule. Substantial Completion shall be determined in accordance with Article 9.8 of the General Conditions.

6.4 FINAL COMPLETION AND FINAL ACCEPTANCE

6.4.1 Final Completion will be obtained within the time period set forth in the Project Schedule.

6.4.2 Final Completion will be determined, and a Final Acceptance will be issued, pursuant to Article 9.9 of the General Conditions.

6.5 LIQUIDATED DAMAGES

6.5.1 **Final Completion Liquidated Damages.** For the same reason set forth in Article 6.1.3 above, Owner and CMAR further agree that if CMAR fails to achieve Final Completion of the Work within the time set forth in Article 6.4.1 above, Owner shall be entitled to retain or recover from CMAR, as liquidated damages and not as a penalty, the following per diem amounts (which the Parties agree is a reasonable approximation of any resulting damages) commencing from the actual date of Substantial Completion or the Final Completion Date as required under the Contract, whichever is later, until the actual date of Final Completion:

$1070 per calendar day.

6.5.2 Owner may deduct liquidated damages described in this Article 6.5 above from any unpaid amounts then or thereafter due CMAR under this Agreement. Any liquidated damages not so deducted from any unpaid amounts due CMAR shall be payable to Owner at the demand of Owner, together with interest from the date of the demand at the highest lawful rate of interest payable by CMAR.

ARTICLE 7 – CONTRACT PRICE

7.1 CONTRACT PRICE

7.1.1 In exchange for CMAR's full, timely, and acceptable performance and construction of the Work under this Contract, and subject to all of the terms of this Contract, Owner will pay CMAR the "Contract Price" which:

The sum of the CMAR's Fee and reimbursable Cost of the Work, which the CMAR guarantees will not exceed the GMP set forth in Exhibit A, in the amount of **$2,874,552.00** (Two million eight hundred seventy-four thousand five hundred fifty-two dollars and no cents). Costs which would cause the GMP to be exceeded shall be paid by CMAR without reimbursement from Owner.

7.1.2 The Contract Price is all-inclusive and specifically includes all fees, costs, insurance and bond premiums, and taxes any type necessary to fully, properly and timely perform and construct the Work encompassed in attached Exhibit A.

7.1.3 The contract price may only be changed as set forth in the Contract Documents.

7.1.4 Only costs specifically designated as reimbursable costs are eligible for payment by Owner or may be charged against the Contract Price. All other costs will not be paid by Owner and shall not be chargeable against the Contract Price.

7.1.5 For Contract Amendments, Change Orders, or Job Orders reimbursable costs shall be determined pursuant to MAG Specifications 109.5.

7.2 ALLOWANCES

Contractor shall include in the Contract Price all Allowances stated in the Contract Documents and agreed to in writing by Owner. Items covered by these Allowances shall be supplied for such amounts and by such persons as Owner may direct, provided Contractor will not be required to employ persons against whom

Contractor makes a reasonable objection. Materials and equipment under an Allowance shall be selected by Owner in accordance with a schedule to be mutually agreed upon by Owner, Design Professional and Contractor or otherwise in reasonably sufficient time to avoid delay in the Work.

7.2.1 Unless otherwise provided in the Contract Documents:

7.2.1.1 These Allowances shall cover the cost to Contractor, less any applicable trade discount, of the Materials and equipment required by the Allowances, delivered at the Site, and all applicable taxes;

7.2.1.2 Contractor's costs for unloading and handling on the Site, labor, installation costs, overhead, profit and other expenses relating to Materials and Equipment required by the Allowance shall be included in the Contract Sum and not in the Allowance; and

7.2.1.3 Whenever the cost is more or less than the Allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize the difference between actual costs for an Allowance item and the amount of the Allowance item and changes, if any, in handling costs on the Site, labor, installation costs, overhead, profit and other expenses.

7.3 CONTINGENCY

An agreed to amount in the GMP that may only be used in accordance with the terms set forth in these General Conditions and with prior written approval by Owner.

7.4 FINAL PAYMENT

If the Contract Price is based upon a GMP, as a further condition precedent to Final Payment by Owner, Contractor must submit to the Project Manager a complete final accounting of the Actual Reimbursable Cost of the Work, including all such documentation (including, without limitation, invoices, subcontracts, subcontractor change orders, purchase orders, records of payment, etc.) as Owner may require, to establish whether the payments made to Contractor equal, exceed, or are less than the Actual Reimbursable Cost of the Work to date.

Any excess payments by Owner, as determined by the Project Manager, shall be deducted from the one-half retention payment to be made to Contractor, and any additional excess amounts paid to Contractor shall be refunded by Contractor to Owner. Disputes relating to the Final Cost of the Work shall be subject to Owner's audit rights under Article 13.14 of the General Conditions and 7.5 below, and the dispute resolution process under Article 4 of the General Conditions.

7.5 OPEN BOOK

On any GMP-based or Change Order, Owner may attend any and all meetings or discussions pertaining to the Project, including bid openings, and shall have access to all books, invoices, accounts, memoranda, correspondence, and written communications or records of any kind pertaining to the Project, including without limitation, those stored in electronic format.

ARTICLE 8 – PAYMENT

Payments shall be made to CMAR in accordance with Article 9 of the General Conditions and Article 7 above.

ARTICLE 9 – CHANGES TO THE CONTRACT

Changes to the Contract may be made in strict accordance with Article 7 of the General Conditions.

ARTICLE 10 – SUSPENSION AND TERMINATION

This Contract may be suspended and/or terminated in accordance with Article 14 of the General Conditions.

ARTICLE 11 – INSURANCE AND BONDS

11.1 CMAR shall provide insurance in accordance with Article 11 of the General Conditions to the CMAR Contract. CMAR shall provide proof of such insurance and all required endorsements in forms acceptable to Owner prior to commencing any Work under this Contract.

11.2 CMAR shall provide performance and payment bonds to Owner in accordance with Article 11 of the General Conditions and A.R.S. § 34-610(A).

11.3 Failure to provide proof of insurance and the required endorsements, or the required bonds, in forms acceptable to Owner will be material breach and grounds for termination for cause of this Contract by Owner.

ARTICLE 12 – INDEMNIFICATION

CMAR shall have and assume the indemnity obligations set forth in Article 3 of the General Conditions.

ARTICLE 13 – DISPUTE RESOLUTION

Any claims or disputes relating to this Contract shall be resolved according to the dispute resolution process set forth in Article 4 of the General Conditions.

ARTICLE 14 – MISCELLANEOUS PROVISIONS

The miscellaneous provisions set forth in Article 13 of the General Conditions shall apply to this Contract.

ARTICLE 15 – TITLE VI

15.1 CIVIL RIGHTS ACT OF 1964, TITLE VI – GENERAL

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

15.2 CIVIL RIGHTS ACT OF 1964, TITLE VI- ASSURANCE
COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

15.3 CIVIL RIGHTS –TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Executed as of the Effective Date.

CMAR
KEAR Civil Corporation, an Arizona Corporation

By: _____

Name: Mike Fossett

Title: President

Date: April 12, 2023

OWNER
PHOENIX MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A – ACCEPTED GMP/PRICE PROPOSAL & PROJECT SCHEDULE

(Under Separate Cover)

All terms and conditions are set forth in the Contract. Any terms and conditions and/or exceptions noted in the CMAR's proposal, GMP, or other documents do not apply unless agreed to in this Contract or an approved addendum.

EXHIBIT B – PROJECT SPECIFIC CONDITIONS & PROJECT PLANS AND SPECIFICATIONS

(Under Separate Cover)

1. **All Specifications**

2. **Plans**

EXHIBIT C – REQUIRED FORMS

STATUTORY PERFORMANCE BOND

PURSUANT TO TITLE 34, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES

KNOW ALL MEN BY THESE PRESENTS:

That, _____, (hereinafter called the Principal), as Principal, and the _____, a corporation duly organized under the laws of the State of _____, with its principal office in the City of _____, (hereinafter called the Surety), as Surety, are held and firmly bound unto Phoenix-Mesa Gateway Airport Authority, Maricopa County, Arizona (hereinafter called the Obligee), in the amount of _____($_____), for the payment of which the Principal and Surety bind themselves and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with Obligee, dated the _____ day of _____, 202_ to construct the following projects under the **Authority Solicitation No. 2022-024-RFQ ; CMAR for Fuel Farm Jet A Tank Expansion (Authority Project No. 1224),** which contract is hereby referred to and made a part of this bond as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions, and agreements of the contract during the original term of the contract and any extension of the contract, with or without notice to the Surety, and during the life of any guaranty required under the contract, and also performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statues, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statues, to the same extent as if they were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of the judgment to reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this _____ day of _____, 202__.

_____	_____
AGENCY OF RECORD, STATE OF ARIZONA	**PRINCIPAL**
	BY: _____
_____	_____
AGENCY ADDRESS	TITLE:
	_____
	SURETY
	BY: _____
	TITLE: _____

BOND NUMBER: _____ ATTACH SURETY POWER OF ATTORNEY

STATUTORY PAYMENT BOND

PURSUANT TO TITLE 34, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES

KNOW ALL MEN BY THESE PRESENTS:

That, _____, (hereinafter called the Principal), as Principal and _____, a corporation duly organized under the laws of the State of _____, with its principal office in the City of _____, (hereinafter called the Surety), as Surety, are held and firmly bound unto Phoenix-Mesa Gateway Airport Authority, Maricopa County, Arizona (hereinafter called the Obligee), in the amount of _____ _____($_____), for the payment of which the Principal and Surety bind themselves and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with Obligee, dated the ____day of _____ ____, 202__ to construct the following projects under the **Authority Solicitation No. 2022-024-RFQ ; CMAR for Fuel Farm Jet A Tank Expansion (Authority Project No. 1224),** which contract is hereby referred to and made a part of this bond as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all monies due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in the contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statues, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statues, to the same extent as if they were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this _____ day of _____, 202__.

_____ _____

AGENCY OF RECORD, STATE OF ARIZONA **PRINCIPAL**

BY: _____

_____ _____

AGENCY ADDRESS TITLE:

_____

SURETY

BY: _____

TITLE: _____

BOND NUMBER: _____ **ATTACH SURETY POWER OF ATTORNEY**

CERTIFICATE OF SUBSTANTIAL COMPLETION

(To be completed by Owner/Architect)

I hereby certify that _____ has substantially completed
(Name of CMAR)

The work under the following project:

Fuel Farm Jet A Tank Expansion, Authority Solicitation No. 2022-024-RFQ
Authority Project No. 1224

in accordance with the contract documents and bid specifications, and all activities required by the Contractor under the Contract have been substantially completed as of _____ (date).

Firm Name: _____

By: _____
(Name)

_____
(Title)

_____ _____
(Signature) (Date)

CERTIFICATE OF FINAL COMPLETION

(To be Completed by CMAR and Owner)

I hereby certify that all goods and/or services required by **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,** have been delivered in accordance with the Contract Documents and Specifications, and all activities required by the CMAR under the Contract have been completed, including all items on the final punch list, including administrative items, as of _____ (date).

Fuel Farm Jet A Tank Expansion, Authority Solicitation No. 2022-024-RFQ
Authority Project No. 1224

Firm Name: _____

Principal: _____
(Name)

_____
(Title)

_____ _____
(Signature) (Date)

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY has performed a final inspection of PMGAA's **Fuel Farm Jet A Tank Expansion**, **PMGAA Project Number 1224**, and find that to the best of our knowledge and belief, the work on this project has been completed in accordance with **Contract Number 20230257.**

The date of final completion for this project is _____, 20___

Phoenix-Mesa Gateway Airport Authority

By: _____

Date: _____

CMAR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS

Fuel Farm Jet A Tank Expansion, Authority Solicitation No. 2022-024-RFQ
Authority Project No. 1224

Gentlemen:

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above project, whether by subcontractor or claimant in person, have been duly discharged.

The undersigned, for the consideration of $_____, as set out in the final pay estimate, as full and complete payment under the terms of the contract, hereby waives and relinquishes any and all further claims or right of lien under, in connection with, or as a result of the above described project. The undersigned further agrees to indemnify and save harmless **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, ARCHITECT,** the OWNER's **DESIGNATED CONSTRUCTION ADMINISTRATOR**, their employees, agents or representatives, against any and all liens, claims of liens, suits, actions, damages, charges and expenses whatsoever, which said OWNER and Architect may suffer arising out of the failure or the undersigned to pay for all labor performances and materials furnished for the performance of said installation.

Signed and dated at _____, this _____day of_____, 202__.

_____
CMAR

_____
By:

STATE OF ARIZONA)
) ss
COUNTY OF)

The foregoing instrument was subscribed and sworn to before me this _____ day of _____, 202__.

_____
(Notary Public)

_____
(My Commission Expires)

APPLICATION AND CERTIFICATE FOR PAYMENT

Fuel Farm Jet A Tank Expansion, Authority Solicitation No. 2022-024-RFQ
Authority Project No. 1224

CONSULTANT: _____

CMAR: _____

Application No. _____ Period From: _____ To: _____

Application is made for payment, as shown below, and on the attached Construction Progress Estimate Form, in accordance with the Contract Documents:

Original GMP: $_____

Approved Change Orders and Dates:

Change Order No.1 Date_____ $_____

Change Order No.2 Date_____ $_____

Change Order No.3 Date_____ $_____

Total Change Orders Approved to Date: $_____

Adjusted GMP $_____

Total Amount Due to Date
(from attached Construction Progress Estimate) $_____

Less Previous Certificates for Payment $_____

Current Payment Due $_____

Retainage _____% $_____

Total Earned Less Retainage $_____

Notice to Proceed Date_____ Date of Substantial Completion _____

Time Used _____% Complete _____%

NOTICE OF INTENT TO AWARD CMAR CONTRACT

[date]

KEAR Civil Corporation
22555 N. 20th Avenue
Phoenix, AZ 85024

Attn: Mike Fossett

Re: Fuel Farm Jet A Tank Expansion
Authority Project No. 1224
Authority Solicitation No. 2022-024-RFQ

Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona (Owner), has considered the Statement of Qualifications (SOQ) submitted and interview performed (if applicable) by your firm for the above described WORK in response to the Advertisement for SOQ's dated 04/25/2022. You are hereby notified that you were awarded this CMAR Contract by Phoenix-Mesa Gateway Airport Authority on _____, in the amount of $_____. You are required by the Terms and Conditions of this bid to execute the CMAR Contract and to furnish Contractor's Performance and Payment Bonds and submit the appropriate Certificate(s) of Insurance within fifteen (15) calendar days from this Notice.

If you fail to execute the CMAR Contract, furnish the required bonds, and submit Insurance Certificate(s) within Fifteen (15) calendar days from the date of this Notice, the Owner will consider this as a forfeiture of your consideration
to be selected as CMAR. The Owner will be entitled to such other rights as may be granted by law.

A pre-construction meeting is scheduled for _____202__, at _____ in the Phoenix-Mesa Gateway Airport Authority Board Room, 5835 South Sossaman Road, Mesa.

You are required to return an acknowledged copy of the NOTICE OF AWARD to the Phoenix-Mesa Gateway Airport Authority.

Dated this _____ day of _____, 202__.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona

By: _____

Title: _____

ACCEPTANCE OF NOTICE:

Receipt of the above NOTICE OF AWARD is hereby acknowledged.

By: _____

Title: _____

Subscribed and sworn before me this _____day of _____, 202__.

NOTARY PUBLIC My Commission Expires

NOTICE TO PROCEED

Date

KEAR Civil Corporation
22555 N. 20th Avenue
Phoenix, AZ 85024

Attn: Mike Fossett

Fuel Farm Jet A Tank Expansion,
Authority Project No. 1224
Authority Solicitation No. 2022-024-RFQ

Dear _____:

You are unconditionally authorized to proceed with the above-referenced project effective the date of this letter. The contract time is **227** calendar days. All work shall be performed strictly in accordance with the Contract Documents, including all project schedule requirements.

Your contact for this project is Mike Hanas, phone no. (480) 988-7636 and all project communications should be directed to him. If the preconstruction conference has not already occurred, he will contact you shortly about scheduling it.

Remember, the Owner must approve *in writing* any and all changes in the project scope of work before you start work on the change.

Phoenix-Mesa Gateway Airport Authority looks forward to a successful project with your firm.

Sincerely,

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona

Authorized Representative

CHANGE ORDER

PROJECT: Fuel Farm Jet A Tank Expansion

CHANGE ORDER NO: _ _

Authority Project No. 1224
Authority Solicitation No. 2022-024-RFQ

TO CMAR: KEAR Civil Corporation, Mike Fossett
22555 N. 20th Avenue
Phoenix, AZ 85024

CONTRACT NO: _20230257___
CONTRACT DATE: _____, 202___

The Contract is changed as follows. CMAR shall provide all labor, materials, equipment, services, transportation, utilities, and facilities to perform all of the following changes*: [describe]*.

This Change Order shall constitute a final settlement of all matters relating to the change in the work that is the subject of the Change Order, including but not limited to all direct or indirect costs associated with such change, all delay and disruption costs, any impact such change may have on unchanged work, and any and all adjustments to the Contract Sum or the Contract Time. This Change Order supersedes all prior reservations stated or implied.

Not Valid until signed by the Owner, Architect, and CMAR.

The original ***Contract Sum*** was..... $_____
Net change by previously authorized Change Orders ..... $_____
The ***Contract Sum*** prior to this Change Order was..... $_____
The ***Contract Sum*** will be **increased** [or **decreased**] by this Change Order..... $_____
The new ***Contract Sum*** including this Change Order is ..... $_____

The Contract Time will be ***unchanged*** [or ***increased/decreased by _____ calendar days***.]

The Substantial Completion date for base contract work is ***unchanged*** [or ***changed to _____, 202__***.]

[CMAR],

By_____Date_____

It's_____

Architect Name

By_____Date_____

It's_____

Owner

By _____Date___

It's_____

CONDITIONAL
FULL RELEASE OF ALL CLAIMS AND WAIVER OF LIEN UPON PAYMENT (CMAR)

WHEREAS, the undersigned, _____ (CMAR) has furnished labor, materials, and services and/or equipment for the construction of the **Fuel Farm Jet A Tank Expansion*, Authority Project No. 1224,*** at the Phoenix-Mesa Gateway Airport, Maricopa County, State of Arizona, on the Property of the Phoenix-Mesa Gateway Airport Authority, Mesa, Arizona.

NOW, THEREFORE, the undersigned, upon receipt of a check from the Owner payable to the CMAR in the sum of $ _____, said sum representing full and final payment for the above-mentioned labor, materials, services and/or equipment, does hereby waive and release any and all liens, claims of lien, and demands whatsoever that now exist or may hereafter accrue against the Owner and the Property on account of labor and materials furnished by the undersigned.

The undersigned warrants that all materials and labor placed by the undersigned in the Project are free from any claims, liens, or encumbrances and that all bills and obligations incurred for labor, taxes, withholding taxes based on payroll and payable to the United States of America or State of Arizona, premiums under a voluntary disability insurance policy, if any, carried with a private insurer, and payments to all union health, welfare, pension, apprentice training and vacation funds applicable for workmen employed on the above-described Project, in connection with the work of improvement on the Project, have been paid in full. The undersigned warrants that all subcontractors and material-men that may have delivered materials and performed work upon the Property for the Project have been fully paid or will be paid from monies received from this final payment. The undersigned shall and does hereby indemnify, save, and hold harmless the Owner and CMAR from all claims, damages, liens and losses, including all costs, professional fees, and reasonable attorney's fees, which the Owner may suffer by reason of filing of any claims, notices, liens or encumbrances, or the failure of the undersigned to obtain cancellation and discharge thereof.

DATED this _____day of _____, 202_____.

_____
Company Name

By _____

_____
(Title)

CONDITIONAL
FULL RELEASE OF ALL CLAIMS AND WAIVER OF LIEN
UPON PAYMENT
(SUB-CONTRACTOR / SUPPLIER)

WHEREAS, the undersigned, _____ (Sub-contractor) has furnished labor, materials, and services and/or equipment to _____ (CMAR) for the construction of the **Fuel Farm Jet A Tank Expansion,** ***Authority Project No. 1224,*** at the Phoenix-Mesa Gateway Airport, Maricopa County, State of Arizona, on the Property of the Phoenix-Mesa Gateway Airport Authority, Mesa, Arizona.

NOW, THEREFORE, the undersigned, upon receipt of a check from the CMAR payable to the Sub-contractor in the sum of $ _____, said sum representing payment for the above-mentioned labor, materials, services and/or equipment, does hereby waive and release any and all liens, claims of lien, and demands whatsoever that now exist or may hereafter accrue against the Owner and the Property on account of labor and materials furnished by the undersigned.

The undersigned warrants that all materials and labor placed by the undersigned in the Project are free from any claims, liens, or encumbrances and that all bills and obligations incurred for labor, taxes, withholding taxes based on payroll and payable to the United State of America or State of Arizona, premiums under a voluntary disability insurance policy, if any, carried with a private insurer, and payments to all union health, welfare, pension, apprentice training and vacation funds applicable for workmen employed on the above-described Project, in connection with the work of improvement on the Project, have been paid in full. The undersigned warrants that all subcontractors and material-men that may have delivered materials and performed work upon the Property for the Project have been fully paid or will be paid from monies received from this payment. The undersigned shall and does hereby indemnify, save, and hold harmless the Owner and CMAR from all claims, damages, liens and losses, including all costs, professional fees, and reasonable attorney's fees, which the Owner may suffer by reason of filing of any claims, notices, liens or encumbrances, or the failure of the undersigned to obtain cancellation and discharge thereof.

DATED this _____ day of _____, 202 __.

_____
Company Name

By _____

_____
(Title)

UNCONDITIONAL
FULL RELEASE OF ALL CLAIMS AND WAIVER OF LIEN UPON PAYMENT (CMAR)

WHEREAS, the undersigned, _____ (CMAR) has furnished labor, materials, and services and/or equipment for the construction of the **Fuel Farm Jet A Tank Expansion*, Authority Project No. 1224,*** at the Phoenix-Mesa Gateway Airport, Maricopa County, State of Arizona, on the Property of the Phoenix-Mesa Gateway Airport Authority, Mesa, Arizona.

NOW, THEREFORE, the undersigned, has been paid and has received a check from the Owner payable to the CMAR in the sum of $ _____, said sum representing full and final payment for the above-mentioned labor, materials, services and/or equipment, does hereby waive and release any and all liens, claims of lien, and demands whatsoever that now exist or may hereafter accrue against the Owner and the Property on account of labor and materials furnished by the undersigned.

The undersigned warrants that all materials and labor placed by the undersigned in the Project are free from any claims, liens, or encumbrances and that all bills and obligations incurred for labor, taxes, withholding taxes based on payroll and payable to the United States of America or State of Arizona, premiums under a voluntary disability insurance policy, if any, carried with a private insurer, and payments to all union health, welfare, pension, apprentice training and vacation funds applicable for workmen employed on the above-described Project, in connection with the work of improvement on the Project, have been paid in full. The undersigned warrants that all subcontractors and material-men that may have delivered materials and performed work upon the Property for the Project have been fully paid or will be paid from monies received from this final payment. The undersigned shall and does hereby indemnify, save, and hold harmless the Owner and CMAR from all claims, damages, liens and losses, including all costs, professional fees, and reasonable attorney's fees, which the Owner may suffer by reason of filing of any claims, notices, liens or encumbrances, or the failure of the undersigned to obtain cancellation and discharge thereof.

DATED this _____day of _____, 202_____.

_____
Company Name

By _____

_____
(Title)

UNCONDITIONAL
FULL RELEASE OF ALL CLAIMS AND WAIVER OF LIEN
UPON PAYMENT
(SUB-CONTRACTOR / SUPPLIER)

WHEREAS, the undersigned, _____ (Sub-contractor) has furnished labor, materials, and services and/or equipment to _____ (CMAR) for the construction of the **Fuel Farm Jet A Tank Expansion*, Authority Project No. 1224***, at the Phoenix-Mesa Gateway Airport, Maricopa County, State of Arizona, on the Property of the Phoenix-Mesa Gateway Airport Authority, Mesa, Arizona.

NOW, THEREFORE, the undersigned, has been paid and has received a check from the CMAR payable to the Sub-contractor in the sum of $ _____, said sum representing payment for the above-mentioned labor, materials, services and/or equipment, does hereby waive and release any and all liens, claims of lien, and demands whatsoever that now exist or may hereafter accrue against the Owner and the Property on account of labor and materials furnished by the undersigned.

The undersigned warrants that all materials and labor placed by the undersigned in the Project are free from any claims, liens, or encumbrances and that all bills and obligations incurred for labor, taxes, withholding taxes based on payroll and payable to the United State of America or State of Arizona, premiums under a voluntary disability insurance policy, if any, carried with a private insurer, and payments to all union health, welfare, pension, apprentice training and vacation funds applicable for workmen employed on the above-described Project, in connection with the work of improvement on the Project, have been paid in full. The undersigned warrants that all subcontractors and material-men that may have delivered materials and performed work upon the Property for the Project have been fully paid or will be paid from monies received from this payment. The undersigned shall and does hereby indemnify, save, and hold harmless the Owner and CMAR from all claims, damages, liens and losses, including all costs, professional fees, and reasonable attorney's fees, which the Owner may suffer by reason of filing of any claims, notices, liens or encumbrances, or the failure of the undersigned to obtain cancellation and discharge thereof.

DATED this _____ day of _____, 202 __.

_____
Company Name

By _____

_____
(Title)

EXHIBIT D – DEFINITIONS

Allowance – A specific amount for a specific item of Work, if any, that Owner agrees has not been sufficiently designed, detailed, or selected (including design changes from 90% to 100% as authorized by and at the discretion of the Owner) at the time the Contract Price is agreed to for Contractor to provide a definitive price. Allowances shall be treated in accordance with Article 7.2 above.

Baseline Cost Model – A breakdown and estimate of the scope of the Project developed by CMAR.

CMAR or Construction Manager at Risk – The person or firm selected by Owner to provide pre-construction and/or construction services as detailed in a Construction Manager at Risk Contract with Owner. In these General Conditions, the term "Contractor" includes CMAR under both Pre-Construction and Construction Services Contracts.

CMAR Fee or Contractor's Fee – An agreed to percentage in an accepted GMP that represents the Contractor's fee for performance of the Work.

Contract Documents – Where compensation under the Contract is based upon a GMP accepted by Owner, the term "Contract Documents" also includes the accepted GMP Proposal.

Contract Price – Where compensation under the Contract based upon a GMP accepted by Owner, the term "Contract Price" refers to the GMP.

Cost-Based Contract, Change Order, or Job Order – A Contract, Change Order, or Job Order where the Contract Price is based upon the actual cost of performing the Work, subject to the terms of the Contract Documents. These would include those generally referred to as "Cost of the Work plus a Fee with a GMP," "Time and Materials," or "Cost Plus a Fee."

Cost of the Work – The direct costs necessarily incurred by Contractor in the proper, timely, and complete performance on the Work. The Cost of the Work shall include only those costs set forth in Article 7 above.

Deliverables – The work products prepared by Contractor in performing the scope of work described in the Contract. Some of the major deliverables to be prepared and provided by Contractor during pre-construction may include but are limited to: the Baseline Cost Model and Schedule that validate Owner's plan and budget, Construction Management Plan, Detailed Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, Detailed Cost Estimates, construction market surveys, cash flow projections, GMP Proposals, Subcontractor procurement plan, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, Constructability Review, Cost Control Log, Traffic control and phasing plans and others as indicated in this Contract or required by the Project Team.

Pre-Construction Services Contract – The Contract entered into between Owner and the CMAR for Pre-Construction Services to be provided by the CMAR, including, without limitation, the generation of a GMP Proposal. If the GMP Proposal is accepted by Owner and a CMAR Contract is entered into between Owner and CMAR, the duties, obligations and warranties of the CMAR under the Pre-Construction Services Contract survive and are incorporated into the resulting CMAR Contract.

Pre-Construction Services – The services to be provided under a Pre-Construction Services Contract.

Detailed Project Schedule – The Detailed Project Schedule developed by the CMAR for the review and approval of the Owner.

GMP Plans and Specifications – The plan and specifications upon which the Guaranteed Maximum price Proposal is based.

GMP Proposal – The proposal of Contractor submitted for the entire Work and/or portion (phases) of the Work.

Guaranteed Maximum Price or GMP – The Guaranteed Maximum Price set forth in the Contract.

EXHIBIT E - COMPLIANCE WITH OWNER'S PUBLISHED RULES AND REGULATIONS AND MINIMUM STANDARDS, AS AMENDED FROM TIME TO TIME

1. **Rules & Regulations (link)**

   Rules & Regulations

2. **Minimum Standards (link)**

   Minimum Standards

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-20

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Enclosed Pedestrian Walkway CMAR Construction Services Contract – Willmeng Construction, Inc., CIP 1252**
Date:	**April 18, 2023**

Proposed Motion

To authorize the Executive Director/CEO and/or delegate to negotiate and execute a final Construction Manager at Risk (CMAR) Construction Services contract, with Willmeng Construction, Inc. (Willmeng) for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $3,540,125 under CIP 1252.

Narrative

Due to the increased passenger traffic accessing the Phoenix-Mesa Gateway Airport, PMGAA Management is recommending to provide an Enclosed Pedestrian Walkway that will connect the Ticketing Terminal building to the main Terminal Entrance.

Currently our passengers must exit the Ticketing Terminal and walk outside to access the Terminal Entrance. This access point experiences a great deal of confusion since some passengers don't check baggage but instead proceed straight to the checkpoint. The current terminal entrance gets overcrowded with people accessing it from two different directions, creating gridlock, confusion and safety issues from people standing in the heat or other weather events.

Willmeng is currently providing pre-construction management services as a CMAR for this project.

The Request for Qualifications (RFQ), Solicitation 2023-010-RFQ was issued on August 18, 2022, and advertised in the Arizona Business Gazette on 8/18, 8/25, 9/01 and 9/08/22; it was also posted on the AzAA, ACC, ACI-NA, SWAAAE and FAA Matchmaker Websites as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFQ was emailed to a list of 92 prospective firms and included DBE outreach. PMGAA received one (1) Statement of Qualifications on September 13, 2022, from the following firm:

Willmeng Construction, Inc.

Willmeng's qualifications, project team experiences, project understanding and approach to performing the required services not only met the requirements of the RFQ but demonstrated expertise in these areas as well.

Fiscal Impact

This project was approved, at the September 2022 Board meeting, and was added to the FY23 Capital Budget. The majority of the funding for this project will come from the Bipartisan Infrastructure Law (BIL) via the FAA under CIP 1252.

Attachment(s): N/A

RESOLUTION NO. 23-20

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the Executive Director/CEO and / or delegate to negotiate and execute a final Construction Manager at Risk (CMAR) Construction Services contract, with Willmeng Construction, Inc. (Willmeng) for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $3,540,125 under CIP 1252;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the Executive Director/CEO and / or delegate to negotiate and execute a final Construction Manager at Risk (CMAR) Construction Services contract, with Willmeng Construction, Inc. (Willmeng) for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $3,540,125 under CIP 1252. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of April, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-21

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Enclosed Pedestrian Walkway Construction Administration Contract – DWL Architects, CIP 1252**
Date:	**April 18, 2023**

Proposed Motion

To authorize a Construction Administration contract, with DWL Architects for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $175,924 under CIP 1252.

Narrative

Due to the increased passenger traffic accessing the Phoenix-Mesa Gateway Airport, PMGAA Management is recommending to provide an Enclosed Pedestrian Walkway that will connect the Ticketing Terminal building to the main Terminal Entrance.

Currently our passengers must exit the Ticketing Terminal and walk outside to access the Terminal Entrance. This access point experiences a great deal of confusion since some passengers don't check baggage but instead proceed straight to the checkpoint. The current terminal entrance gets overcrowded with people accessing it from two different directions, creating gridlock, confusion and safety issues from people standing in the heat or other weather events.

DWL Architects is currently providing design services for this project.

DWL Architect's qualifications, project team experiences, project understanding and approach to performing the required services meet the requirements of the project and demonstrates expertise in these areas as well.

Fiscal Impact

This project was approved, at the September 2022 Board meeting, and was added to the FY23 Capital Budget. The majority of the funding for this project will come from the Bipartisan Infrastructure Law (BIL) via the FAA under CIP 1252.

Attachment(s): Construction Administration Contract

RESOLUTION NO. 23-21

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Construction Administration contract, with DWL Architects for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $175,924 under CIP 1252;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Construction Administration contract, with DWL Architects for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $175,924 under CIP 1252. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of April, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

DWL ARCHITECTS + PLANNERS, INC.

FOR

CONSTRUCTION ADMINISTRATION SERVICES
ENCLOSED PEDESTRIAN WALKWAY

CONTRACT NUMBER 20230277

CIP NUMBER 1252

The Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority (PMGAA), a joint powers airport authority authorized by the State of Arizona and consisting of the City of Mesa, City of Phoenix, City of Apache Junction, Town of Gilbert, Town of Queen Creek and the Gila River Indian Community.

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20230277** ("Contract") and the attached exhibits. DWL Architects + Planners, Inc., an Arizona Corporation ("Consultant"), with its principal offices located at 2333 North Central Avenue, Phoenix, Arizona, 85004, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under to this Contract shall generally include, but not be limited to, the following: Construction Administration Services for the Enclosed Pedestrian Walkway project, as more specifically described in the detailed scope of work attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Engineering and Facilities Director, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract.

This Contract is effective as of the date signed by PMGAA and ends upon final completion and acceptance by PMGAA of the project, as defined by the Scope of Services ("Term"), unless terminated, canceled or extended as provided in this Contract.

All prices stated in the original Contract shall apply unless a percent of increase or decrease is agreed to in writing by PMGAA.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant and its subconsultants listed below, shall provide all services to be performed under this Contract. If additional Subconsultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

Subconsultants to perform work under this Contract include:

Martin, White, & Griffins Structural Engineers, Inc.
LSW Engineers Arizona, Inc.
Dibble
GBtwo Landscape Architecture, Inc.

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with the Phoenix-Mesa Gateway Airport Authority Procurement Policy. Payments will be made for the actual hours worked and/or other costs incurred or provided for in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate agreements or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all agreements with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all agreements with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX – INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage ($5,000,000 if operating in the Air Operations Area of the Airport).
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions.

   The insurance policies shall provide, or be endorsed to include:

   i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.

   ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract.

   iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX – DISADVANTAGED BUSINESS ENTERPRISE

Phoenix-Mesa Gateway Airport Authority's DBE program is race-neutral. The entire DBE program can be found on PMGAA's website at: www.gatewayairport.com

Owner encourages prime contractors to create subcontracting opportunities, especially for small businesses. Owner does not have a specific SBE goal, however, reporting on SBE utilization is required.

A. Consultant's DBE Performance Plan (DBEPP)
Consultant shall utilize its DBEPP as submitted under solicitation 2023-008-RFQ, throughout the duration of the project/Contract. Failure to fulfill the plan's terms and the plan's intent, shall be a material breach of the contract.

B. Contract Assurance
The Consultant, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Owner deems appropriate, which may include, but is not limited to: (1) withholding

monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the Consultant from future bidding as non-responsible.

C. Subcontracts

i. Consultant is required to include the required clauses and obtain the required certifications, as provided for in Exhibit E, Federal Contract Provisions, in all subcontracts or agreements it enters into, and all lower tier subcontracts and agreements, as a result of this contract, regardless of whether or not the subcontractor is a DBE.

ii. Consultant is required to make available a copy of all subcontracts, DBE, SBE, and non-DBE/SBE, prior to any commencement of work by Consultant or any of Consultant's subcontractors. The Consultant shall ensure that all subcontracts or agreements to supply labor or materials be performed in accordance with this part's provisions.

D. Required Outreach Documentation

The following documentation is required to demonstrate that sufficient outreach efforts have been made to engage DBE subcontractors in the performance of this contract:

i. Detailed evidence that the Consultant's DBE Performance Plan (DBEPP), as submitted under solicitation 2023-008-RFQ, was and will continue to be utilized in obtaining DBE participation. This should include such things as the following, depending on the Consultant's DBEPP:

a) Copy of notifications sent to DBE firms of subcontracting opportunities
b) Documentation of each DBE firms contacted and their response or other action taken as a result of the contact.
c) Documentation of bid responses and/or quotes from all subcontractors who bid to perform work on the project in the areas that DBE firms were also bidding on, including information regarding the reasons why DBE bids were not considered or chosen if applicable).
d) Dates and times of outreach events held and a list of attendees.

The following are examples of factors that are illustrative of whether or not the Consultant implemented its DBEPP in good faith:

a) The number of contacts attempted or made with DBE firms that perform in trade areas where subcontracting work was identified.
b) The timeliness of contacts made with DBE firms so as to allow the firms a reasonable amount of time to respond
c) Attempts made to break down portions of the project into economically feasible units to facilitate DBE participation.
d) Whether the bidder negotiated in good faith with interested DBEs and did not reject a bid as unqualified without sound reason.

ii. **Attachment A**: Subcontracting and Outreach Efforts Summary.

The Consultants' proposed subcontracting and summary of outreach efforts form (Attachment A) must reflect the scope of work that was identified to be potentially subcontracted and the result of the outreach efforts conducted by the Consultant for each scope of work. The Consultant shall clearly list the scope of work to be subcontracted. The firms contacted in consideration for contracting the scope of work must be listed with the DBE/SBE/Non-DBE/SBE status noted. The Consultant must indicate which firm(s), if any, were selected for the opportunity identified. Consultant must complete one Attachment A for each scope of work (NAISC or group of NAISC codes) that has been identified to potentially be subcontracted. **Note:** It is the responsibility of the Consultant to ensure that the scope of work to be performed by the subcontractor(s) is consistent with the area in which the firm is qualified, and in the case of a DBE subcontractor, that the firm has been granted DBE certification. The Consultant can confirm what NAICS code(s) a DBE is certified for by visiting: https://utracs.azdot.gov/ **DBE scopes of work listed on the form that fall outside the trade or performance area in which a DBE has been granted certification shall not be counted as work subcontracted to a DBE firm.** If there are questions, the Consultant should contact the Phoenix-Mesa Gateway Airport Authority Procurement Department for verification. Owner reserves the right

to validate information on the form with the DBE subcontractor and/or other certifying entities or licensing agents as part of the verification process.

iii. **Attachment B**: Letter of Intent to Perform as a Subconsultant/Supplier.

a) The dollar value and the scope of work **every** subcontractor, regardless of DBE/SBE status, is bidding to perform must be completed in full on the form.

b) For scopes of work where a total contract amount cannot be determined, the Letter of Intent to Perform as a Subcontractor/Supplier should reflect the minimum amount agreed upon between the Consultant and the subcontractor that will be paid to the subcontractor. When the form contains scopes of work where all of the dollars that will be paid to a DBE cannot be counted towards achieving the DBE program goal, the form should reflect the amount that is applicable to the program goal. **Example:** A DBE firm will provide uniformed officers on the job. The DBE pays the officers $21 per hour but has bid the contract to the prime Consultant at $30 per hour. Only the $9 per hour that the DBE maintains as a fee/commission should be reflected on Attachment B.

E. DBE Participation Calculation

i. **Subcontracts with DBE Firms:** DBE participation on the contract will be calculated based on that portion (dollar value) of the contract that DBEs actually perform with their own forces. This includes the cost of supplies and materials obtained by the DBE for the work on the contract, ***except*** when supplies and/or equipment is purchased or leased from the prime Consultant or its affiliate. Special emphasis and care should be taken to ensure that the following types of participation are handled properly when preparing your bid packet.

ii. **Fees & Commissions*:*** DBE firms that supply a bona fide service for a fee or commission may be counted only to the extent of the fees or commissions charged by the DBE. This includes, but is not limited to, providing professional, technical, consultant, or managerial services, and bonds or insurance specifically required for the performance of a contract. The fees must be reasonable and not excessive as compared with fees customarily allowed for similar services. ***Example:*** *A DBE firm that supplies uniformed officers for security or traffic control may count only the amounts shared as a commission. The hourly amount paid to the officers may not be counted. If the "per hour" bid amount to the prime Consultant is $30, and $21 per hour will be paid to the officers, only $9 per hour can be counted towards achieving the DBE program goal. If the firm estimates that there will be 200 hours of work, only $2,700 of the total $6,000 bid could be counted.*

iii. **Trucking & Hauling*:*** The amount of a trucking/hauling subcontract that may be counted towards the DBE utilization may be limited. A DBE must itself own and operate at least one fully licensed, insured, and operational truck that will be used on the contract. The DBE subcontractor may lease trucks from another DBE firm and receive full credit for the services of those leased vehicles. Non-DBE trucks may also be leased to perform work on the contract, but non-DBE leased trucks can be counted fully **only up to the value of transportation services provided by all DBE-owned trucks on the contract**. Any additional non-DBE leased trucks may only be credited for the fees or commissions the DBE subcontractor retains over and above the cost of the lease arrangement. ***Example:*** *A DBE trucking firm uses seven trucks on a job. Two are owned by the DBE and one is leased from another certified DBE firm. Four trucks are leased from a non-DBE. The amounts paid to the DBE for the services of three of the non-DBE trucks can be counted in full towards meeting the DBE requirement. Only the amount that the DBE subcontractor receives that is over and above the cost of leasing the fourth truck may be counted as DBE utilization.*

iv. **DBE Prime Consultant:** A DBE prime Consultant will be credited with DBE participation for that portion of the contract that they themselves perform, in addition to any portion of the contract that is subcontracted and performed by an eligible DBE subcontractor. ***Example:*** *If a DBE prime Consultant proposes to perform 60 percent of the contract with the firm's equipment and workforce, and subcontracts 20 percent to a DBE firm and 20 percent to a non-DBE firm, DBE participation will be credited as being 80 percent.*

v. **DBE/Non-DBE Joint Ventures:** A DBE/non-DBE joint venture, functioning as the prime Consultant or as a subcontractor on a Phoenix-Mesa Gateway Airport Authority project, will be credited with DBE participation on the basis of the percentage of profit accruing to the DBE firm. ***Example:*** *A joint venture made up of one DBE and one non-DBE proposes to perform 60 percent of a project quoted at $400,000. A total of 50*

percent of the profits for performing the work will go to the DBE partner in the joint venture. DBE participation will be credited at 30 percent, or $120,000.

vi. **Lower Tier Non-DBE Participation:** Subcontract dollars paid by DBE primes and/or qualifying joint ventures to non-DBE subcontractors will not be considered when determining the percentage of DBE participation on this contract. Amounts subcontracted to a non-DBE by a DBE subcontractor (2nd tier or lower) may not be counted.

vii. **Lower Tier DBE Participation:** Consultant is obligated and must report all utilization of DBEs of lower tier subcontracts and ensure subcontractors comply with all applicable DBE reporting requirements.

viii. **DBE Suppliers:** Purchases from DBE suppliers may be counted towards the program goal as follows:

ix. **Manufacturers:** Amounts paid to a DBE supplier that manufactures or substantially alters the material or product it supplies will be credited at 100% of the expenditure when determining the percentage of DBE participation.

x. **Regular Dealer:** Purchases from a DBE firm that is an established, regular business that engages, as its principal business, in the purchase, sale, or lease of the products being supplied **may be credited towards the DBE program goal at sixty percent (60%) of the sale price** when determining the percentage of DBE participation.

xi. **Packagers, Brokers, Manufacturers' Representatives:** Purchases from a DBE firm who arranges or expedites transactions not as regular dealers, **may not be counted in full** when determining DBE participation. Only the fees or commissions charged in the procurement of the materials or supplies, or fees or transportation charges for the delivery of the materials or supplies may be credited towards achievement of the DBE program goal.

F. Definitions

i. **Disadvantaged Business Enterprise (DBE)** means a small business concern that has successfully completed a DBE certification process and been granted DBE status by the Arizona Unified Certification Program or by a U.S. Department of Transportation (USDOT) recognized agency who certifies DBE applicants pursuant to the criteria contained in 49 CFR Part 26.

ii. **Small Business Enterprise** (SBE) means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. A small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual(s) that has annual average gross receipts in excess of the cap established by federal regulation. The Secretary shall adjust this figure from time to time for inflation.

iii. **Socially and Economically Disadvantaged Individuals** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Membership in one of the above-mentioned groups does not qualify the firm to be considered a DBE for purposes of this contract. Only firms that have completed a DBE certification process and been granted DBE status shall be considered socially and economically disadvantaged individuals for purposes of this contract.

iv. **DBE Joint Venture** is an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. One participant in the joint venture arrangement must hold DBE status from a recognized certifying entity. The joint venture is limited in scope and duration to this contract, and resources, assets and labor of the participants must be combined in an effort to accrue profit.

v. **Sole Proprietorship** is a DBE for purposes of this contract, if it is 100 percent owned, operated, and controlled by a socially and economically disadvantaged individual.

vi. **Corporation** is a DBE, for purposes of this contract, if the ownership, operation, and control of the business is conditioned upon the control of its shares of stock or other equitable securities, at least 51 percent of which (of all shares) is legally and equitably owned by socially and economically disadvantaged individuals.

vii. **Partnership** is a DBE, for purposes of this contract, if one or more socially and economically disadvantaged individuals own more than 51 percent of the assets or interest in the partnership's property.

viii. **Purchaser** for purposes of this contract, means the Phoenix-Mesa Gateway Airport Authority.

ix. **Bidder** is an individual, partnership, joint venture, corporation or firm submitting a proposal or bid to the Phoenix-Mesa Gateway Airport Authority to perform services required by the contract. The submittal may be direct or through an authorized representative.

x. **Contract** is a written agreement obligating the seller or business enterprise to furnish goods or services as proposed and the Purchaser or Buyer to pay for such goods or services.

xi. **Subcontract** is any contract at any tier below the prime contract, including purchase orders.

xii. **Supplier** is a business enterprise that manufactures the goods or materials it sells.

xiii. **Wholesaler, Distributor, Broker, or Jobber** is a business enterprise that does not manufacture the goods or materials it sells or does not perform the essential work of the contract. ***Example:*** *1) A trucking company who does not own or operate the trucks necessary to perform the work, but brokers the work to another trucking firm; 2) A distributor who supplies goods or materials as a pass through from the manufacturer, without substantial alteration of the goods or materials; and, 3) A sub-tier bidder who purchases and supplies the goods and materials on behalf of the prime bidder, and delivers the goods and materials to the prime bidder without substantial alteration of the goods and materials.*

Executed as of the Effective Date.

CONSULTANT
DWL Architects + Planners, Inc., an Arizona Corporation

By: _____

Name: Sandra Kukla, AIA

Title: President

Date: April 12, 2023

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A - SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

For the agreed upon Scope of Services specified herein, Consultant shall be paid the not to exceed amount of $175,924.00

April 10, 2023

Mr. Bob Draper, PE, LEED AP
Engineering & Facilities Director
Phoenix Mesa Gateway Airport Authority (PMGAA)
5835 S. Sossaman Road
Mesa, AZ 85212-0919
T (480) 988-7705 | BDraper@gatewayairport.com

RE: Enclosed Pedestrian Walkway Design Services
2023-008-RFQ
Design and Engineering Services – Construction Administration Services
DWL Project No. 2257.01

Dear Bob:

We are very pleased for this opportunity to submit the limited Construction Administration (CA) services proposal for the construction of the Enclosed Pedestrian Walkway project at Phoenix-Mesa Gateway Airport (AZA/IWA).

Assumptions:

1. The selected project delivery method is Construction Manager at Risk (CMAR) and the CMAR is Willmeng Construction. PMGA will provide primary Construction Administration (CA) and Project Management (PM). DWL team to provide limited CA services as outlined in this proposal.
2. Sub consultants included in this project scope:

   LSW Engineers (LSW): Mechanical, Electrical, Plumbing and Special Systems
   MWG : Structural Engineering
   Dibble Engineering: Civil
   GBTwo: Landscape

3. For purposes of fee development, the following overall construction durations are used based on ongoing discussions with Willmeng Construction and PMGA:

A.	NTP	05/15/2023
B.	Pre-Construction:	None
C.	Active Construction Start/End:	4/18/2023 – 11/07/2023 (29 weeks)
D.	Project Substantial:	11/11/2023
E.	Project Closeout:	12/22/2023 (6 week)

Active Construction Duration in Weeks: 29 weeks

* For DWL Team CA Service purposes, weeks for Construction Administration (line A to line E)

4. Any delay to schedule due to other projects or scope not identified in this proposal is subject to reevaluation of the associated fees by the DWL Team. DWL Team assumes that PMGA understands that increased time to this schedule directly impacts the service fee provided. Any expediting of the schedule does not necessarily change the amount of support needed to be provided by the design team.

5. PMGA agrees that for those services set forth in this proposal DWL shall not be responsible for any Actions and Indemnification Costs that are determined by a court of competent jurisdiction to be the sole responsibility of PMGA, CMAR, or others for whom DWL is legally not liable.

Scope of work – Limited Construction Phase Services

1. Pre-Construction Activities: (None) The DWL team shall perform the following services:
    a. General pre-construction coordination and conduct one pre-construction conference (per AC 150/1500-14d, page 72 and AC 150/5300-9b) with the Airport, CMAR, FAA, ADOT and others who will be affected by the construction. DWL will prepare agenda, minutes and distribute to participants. Attendance as follows:
        a. None
2. Construction Administration Activities: (29 weeks)
    a. General Communication: As construction is anticipated to be fast-paced DWL anticipates questions from the field that need immediate response. General communication time (2 hours/ per week for the PM) is included for coordination with PMGA-PM, CMAR, DWL project staff and consultants. The DWL team is to clarify and support the PMGA-PM with scope, documents and CMAR responsibility. This task also includes management of the contracts and consultants. In order for efficient time use, we request email clarifications of on-site issues to be accompanied by clear photos clearly indicating areas that require attention using clouds, arrows, etc. Each clarification item shall be considered as an RFI.
        a. Attend progress meetings weekly at a location to be determined by PMGAA to review the current schedule and work progress and to facilitate resolution of construction issues. Preparation and distribution of meeting minutes is assumed by
        b. Maintain a document file tracking system in conjunction with the contractor for submittals, Proposal Requests and Architect's Supplemental Instructions (ASI's). It is assumed that the contractor will maintain logs for the RFI's, change order requests, change orders, and submittals.
    b. Field Observation:
        a. DWL will observe the site 1 time per week on average by the field observer. (29 visits) By reviewing with the contractor's schedule we will determine the observation schedule. Each site visit includes a field report and assumes to occur during normal business hours. In order to save travel time, we assume the field visit is in conjunction with the another PMGA project that is under construction (Terminal Modernization).
        b. DWL's Project Manager will visit the site approximately 1 time per month. (7 visits) In order to save travel time, we assume the field visit is in conjunction with the another PMGA project that is under construction (Terminal Modernization).
        c. Inspect mechanical, electrical, plumbing & special system elements of the project. See attached consultant proposal.
        d. Inspect erection of structural steel and other structural components including steel reinforcing, formwork, concrete placement, and masonry. See attached consultant proposal.
    c. Submittals: DWL fee estimate anticipates 80 submittals at average 3 hrs each for review time for each specification section based on assumption that specifications which call for multiple

submittals items to review (i.e. Product Data and Shop Drawings) are included in the total submittals. Duration of review per specifications starts from the time the submittals are received by DWL. Such review or other action shall not extend to means, methods, sequences, techniques or procedures of construction selected by the CMAR, or to safety precautions and programs associated thereto. A submittal schedule shall be submitted by the CMAR within 14 days of NTP to DWL. This schedule shall be reviewed by the PMGA-PM for submittals requiring Owner pre-approvals. This submittal schedule is required by DWL to schedule reviews in advance. We understand that the PMGA-PM will control the receipt and distribution of submittals to the Owner, PMGA Staff and other responsible parties who require submittal review. Complete submittals shall be provided by the CMAR in accordance with specification section 01 30 00. DWL assumes a maximum of 2 reviews per submittal. DWL and our consultants shall track the time spent on additional reviews separately and reserves the right to request additional services if time is exhausted prior to project completion. See engineer's proposal for submittal review detail.

d. Requests for Information (RFI): Review and respond to formal Requests for Information. DWL Team fee estimate includes 75 RFI's within the base estimate. This includes informal and formal RFI's. Each distinct question is considered a separate RFI. RFIs shall be submitted to DWL by the CMAR. Duration of review per specifications starts from the time the RFI is received by DWL. See table below.

e. Architects Supplemental Instructions (ASI): Assuming a percentage of the RFIs would require ASIs in the form of sketches, we assume the following quantity of ASIs.

Discipline	RFIs*	ASIs*	CORs*
Architectural	35	1	0
MEP	20	1	0
Structural	10	1	0
Civil	10	1	0
	75	1	0

1. * DWL Team to inform PM prior to reaching 75% of this CAP to evaluate need for additional RFI's and ASI's to be compensated through change order towards the Owner contingency or by the CMAR.
2. * DWL Team scope also includes scope as detailed in attached sub-consultant's proposals.

f. Proposal Requests: Proposals Requests are excluded. Should PMGA require a significant design change, DWL will request additional services.

g. Substitution Requests: Up to (2) Completed substitution requests will be reviewed for the airport provided there is a benefit to the airport such as time and cost saving. Consideration for redesign. 3 hours.

3. Project Close-Out Activities (6 weeks): The DWL team shall provide the followings services:

a. General Communications and Meetings: After Substantial Completion DWL will participate in bi-weekly in-person meetings (2 meetings). General communication time (4 hours/ per week for the PM) is included for coordination with PMGA and the CMAR. An additional 1 hour is included for consultant coordination.

b. Prepare a Punch List for the contractor's use prior to the final project walk-through. DWL assumes that contractor will conduct their own punch list (or deficiency list) prior the architect's and engineer's punch list. The architect's punch list shall be a comprehensive excel based format, that identifies items that do not meet the construction documents (drawings and specifications). Conduct one "back-check" per punch list with the airport representative and the contractor at the completion of the construction and once the contractor declares they are ready for the back-check. Punch lists will be limited to 2 separate areas/lists. Punch list beyond quantity listed will require additional services. DWL and our consultants shall track the time spent on additional punch lists separately.

c. Review of Operation and Maintenance (O&M) Manuals: Review O&M Manuals submitted and assembled by the Contractor in accordance with the construction documents. DWL assumes a maximum of 2 reviews per submittal. DWL and our consultants shall track the time spent on additional reviews separately and reserves the right to request additional services if time is exhausted prior to project completion.

d. Record Drawings: Record drawings prepared from complete CMAR mark-ups (as-builts) shall be provided after final completion. The CMAR shall keep a record set of as-built redline drawings on-site in accordance with the specifications. Weekly review during the course of construction will be performed by PMGA for the completeness of the as-built drawings. PDF files and (1) 24x36 set of record documents will be provided to PMGA. AutoCAD files directly converted from Revit shall be provided for the floor plans on disk.

e. Conduct warranty inspections and prepare a warranty list for the contractor prior to the expiration of the contractor's one-year warranty period.

Additional Services:

The following additional services will be broken out separately from other construction administration services.

a. None

Exclusions:

In order to provide clarity and to prevent any misunderstandings, we want to identify items that are excluded from this proposal. If for any reason the Airport requires these services, we can provide them for additional compensation.

1. Services from engineers or consultants not identified in this proposal and beyond this project's scope.
2. Construction phasing plans.
3. Contractor Schedule Analysis
4. Observation of job site conditions and traffic control
5. Security Sensitive Information (SSI) tracking and management
6. Value Engineering
7. Move-In coordination and scheduling
8. Deliverables beyond those described below.
9. Government permit and plan review fees.
10. Quality control construction materials testing including, but not limited, to tasks listed below.

a. Concrete testing including:
b. PCCP, beams, cylinders and cores.
c. Foundations including footings, caissons, and grade beams.
d. Slabs-on-grade.
e. Miscellaneous concrete (sidewalks, concrete benches, etc.)
f. Subgrade Compaction (slab-on-grade and footings).
g. Aggregate Base Course (ABC) compaction.
h. Masonry grout and mortar mix.
i. Ultrasonic testing including steel beams, columns and miscellaneous steel.
j. Spray Applied and Intumescent Paint Fire Proofing.
k. Asphalt.
l. Utility trench backfill field density testing.

11. Quality Control Testing which is required by the Contractor
    a. Epoxy Anchor Bolts
    b. Anchor Bolts
    c. Ultrasonic testing for splices at reinforcing
    d. Survey of subgrade utilities, piping
    e. Plumbing testing (DWL/LSW to review results)
    f. Fire Alarm
    g. Special Systems (DWL/LSW to review results)
    h. Mechanical Systems
    i. Utility Trench backfill for Quality Control
12. Civil services: Construction Staking, survey, Utility Locating/Potholing, As-built survey
13. Resident engineer and associated duties, inspection calls, project management, meeting minutes
14. Special Structural Inspections
15. Field materials and performance tests, periodic observations and documentation required by the specifications other than what is specifically identified in this proposal or consultant proposals. Tests or investigations requiring demolition of existing construction or other types of forensic investigation.
16. Change Order Requests and Reviews, Construction Change Directives (CCDs), and Pay Application review is not included in DWL's base scope
17. Substantial Completion certificate and Final Completion letter.
18. FAA Reports (weekly, closeout, etc.) or Federal Funding tasks, such as Davis Bacon Compliance.

Deliverables:

1. General Project Correspondence Letters and Memorandums
2. Site Observation Reports, Substitution Requests, Proposal Requests, Submittal Reviews, RFI's, and ASI's
3. Punch lists, O&M Reviews, Record Drawings

Compensation:

The previously mentioned services will be provided on an Hourly Not to Exceed Basis. We have estimated the total amount as summarized below.

Construction Administration	
Architectural - DWL	$ 109,846
MPE and Special Systems - LSW	$ 25,410
Structural - MWG	$ 11,760
Civil - Dibble	$ 11,103
Landscape - GBTwo	$ 6,805
Design & Engineering Total	**$ 164,924**
Design Allowance	$ 10,000
Reimbursable	$ 1,000
Proposal Total	**$ 175,924**

We will invoice at cost for project related expenses such as travel, mileage, long-distance telephone, courier, printing, copying (in or out of office).

DWL will closely monitor use of hours by DWL and sub-consultant personnel and advice the PMGA PM immediately of any areas where premature exhaustion of hours is anticipated.

Once again, we are very grateful for this opportunity and look forward to working with you and the PMGA Team. If you have any questions or require further explanation regarding any item, please do not hesitate to contact me or Shawn Filip.

Sincerely,
DWL ARCHITECTS + PLANNERS, INC.

Sandra Kukla, AIA, LEED AP
President

SMK.vr

cc: Shawn Filip
Anna Alexander
Mary Ann Modzelewski

LSWEngineers
ENGINEERING SOLUTIONS FOR THE BUILT ENVIRONMENT

2333 W. Northern Ave., #9
Phoenix, AZ 85021
www.lswengineers.com
602.249.1320

April 4, 2023

DWL Architects + Planners, Inc.
2333 N Central Ave
Phoenix, AZ 85004

Attn: Sandra Kukla, AIA

Re: AZA-IWA Pedestrian Walkway Construction Administration
LSW Proposal No. PR2023-082

Ms. Kukla:

We are pleased to offer our construction phase engineering services for the new enclosed pedestrian walkway project at the Phoenix-Mesa Gateway Airport (AZA/IWA).

PROJECT UNDERSTANDING

This project is understood to be a new enclosed pedestrian walkway from the existing Ticketing Terminal to the Terminal entrance, as depicted in the construction documents prepared by our team under a separate contract. The project delivery system is understood to be Construction Manager at Risk (CMAR) with Willmeng Construction.

Our mechanical, plumbing, electrical and technology engineering services for this project will consist of the following. Services not indicated below are considered outside of our basic scope and will be provided upon request as an additional service. The construction duration for this project is understood to be 35 weeks.

SCOPE OF WORK

Our scope will include the following general engineering services for the project:

1. Review of the Contractor shop drawings (up to 15, max two reviews per submittal), respond to RFIs (up to 20), and issue ASIs (up to 1). Review of CORs is not included.

2. Perform up to eight (8) field observations during construction to confirm that the work is proceeding in accordance with the plans and specifications and prepare a written report on our findings.

3. Review the Contractor-prepared Operation and Maintenance Manual.

4. Prepare HVAC, plumbing, electrical and technology record drawings in AutoCAD format from the Contractor-prepared as-built redlines. No verification of accuracy is included; therefore, the record drawings will not be signed and sealed.

PROFESSIONAL FEE

Our fee for the work outlined above will be billed hourly, at rates described herein, up to an aggregate limit of **$25,410.**

NOTE: This fee includes all travel expenses incurred within the metropolitan Phoenix area. Travel outside the metropolitan Phoenix area will be billed as a reimbursable expense, including, but not limited to, travel, rentals, meals, lodging, and reasonable incidental expenses.

CLIENT SERVICES

Services requested of the Client and/or Owner include the following:

EXCLUSIONS

1. Meetings or teleconference meetings beyond those listed.
2. Utility company energy rebate data collection and/or submission.
3. All support or coordination work associated with an independent Commissioning Agent.
4. Functional testing or commissioning services.
5. Any design services caused by scope changes.

ADDITIONAL SERVICES

Additional services will be performed on an hourly basis at our standard billing rates or a separate fixed fee contract as determined by your firm. Our current rate structure is shown below for your reference. Hourly contracted work will be invoiced based on our rates in effect at the time of such requests.

2023:	Principal	$230./ hour
	Senior Engineer	$205./ hour
	Engineer	$155./ hour
	Senior Designer	$135./ hour
	Field Observer	$125./ hour
	Designer	$115./ hour
	CAD Operator	$85./ hour
	Administrative	$80./ hour
	Outside Services	Our cost

This proposal is effective for not more than 90 days.

LSW accepts the AIA C401 contract and requests that you prepare this document reflecting the terms and conditions of this proposal for our mutual execution prior to our beginning work.

We appreciate this opportunity and look forward to working with your firm on this project.

Regards,

LSW ENGINEERS ARIZONA, INC.

Josh Shore, PE for
Cory Killpack, PE
Vice President

CK:jps:mw

Please indicate your acceptance of this proposal by signing and returning one copy of this letter for our files.

APPROVED: _____ DATE: _____

YOUR PROJECT / REFERENCE NO.:_____

https://lswphxcom.sharepoint.com/sites/Marketing/Shared Documents/PROPOSAL/2023/PR2023-082 - AZAIWA Enclosed Walkway – Construction Phase Services/PR2023-082 fee AZA Pedestrian Walkway CA.docx

Proposal No.: PR2023-082
Project Name: AZA-IWA Pedestrian Walkway Construction Administration

Construction Phase Services % of Total Fee: 100.0%

CA Office Time ***Task ID: 60*** % of Total Fee: 61.2%

Staff Type	Rate	Mech Hrs	Mech Cost	Elec Hrs	Elec Cost	Tech Hrs	Tech Cost	Sub-totals
Senior Engineer	205.00	4.0	820.00	4.0	820.00	8.0	1,640.00	3,280.00
Engineer	155.00	16.0	2,480.00	12.0	1,860.00	8.0	1,240.00	5,580.00
Senior Designer	135.00	16.0	2,160.00	12.0	1,620.00	8.0	1,080.00	4,860.00
Designer	115.00	8.0	920.00	8.0	920.00		-	1,840.00
Task Totals		**44.0**	**6,380.00**	**36.0**	**5,220.00**	**24.0**	**3,960.00**	**15,560.00**

Field Observations ***Task ID: 61*** Qty: 8 % of Total Fee: 34.0%

Staff Type	Rate	Mech Hrs	Mech Cost	Elec Hrs	Elec Cost	Tech Hrs	Tech Cost	Sub-totals
Field Observer	125.00	3.5	437.50	3.5	437.50	1.0	125.00	1,000.00
Clerical	80.00	0.5	40.00	0.5	40.00		-	80.00
Sub-totals		4.0	477.50	4.0	477.50	1.0	125.00	1,080.00
Task Totals		**32.0**	**3,820.00**	**32.0**	**3,820.00**	**8.0**	**1,000.00**	**8,640.00**

O&M's, Record Drawings ***Task ID: 65*** % of Total Fee: 4.8%

Staff Type	Rate	Mech Hrs	Mech Cost	Elec Hrs	Elec Cost	Tech Hrs	Tech Cost	Sub-totals
Field Observer	125.00	2.0	250.00	2.0	250.00	1.0	125.00	625.00
CAD Operator	85.00	2.0	170.00	2.0	170.00	1.0	85.00	425.00
Clerical	80.00	1.0	80.00	1.0	80.00		-	160.00
Task Totals		**5.0**	**500.00**	**5.0**	**500.00**	**2.0**	**210.00**	**1,210.00**

Construction Phase Services Totals	**81.0**	**10,700.00**	**73.0**	**9,540.00**	**34.0**	**5,170.00**	**25,410.00**

Sent via Electronic Mail to: filip@dwlarchitects.com

April 6, 2023
(Revised April 7, 2023)

MARTIN WHITE GRIFFIS
STRUCTURAL ENGINEERS, INC

Shawn Filip, RA, NCARB, LEED, AP
DWL Architects + Planners, Inc.
2333 North Central Avenue
Phoenix, AZ 85004

Re: AZA – PMGA ~~Terminal Annex Modernization~~ Pedestrian Walkway
Additional Service for CA Services
MWG #: 22072.00

Dear Shawn:

We are pleased to provide this additional service proposal for construction administrative services. Our understanding relative to the project scope and details of the services which we propose to provide, are as follow:

1. Scope – Construction Administrative Services:

a. Review the following shop drawings:

1. Concrete mixes.
2. Concrete reinforcement.
3. Masonry materials, mortar mix and grout mix.
4. Structural Steel.
5. Metal deck.

b. Respond to RFI's. Approximately 10 RFI's.

c. ASI submittals. Total of 1 maximum.

d. Prepare as-built drawings based on documents prepared by the Contractor.

e. Field observations. Total of 2 maximum.

2. Fees and Payments

a. Review Shop Drawings:

E.I.T.	60.0 hrs. X $115.00	$6,550.00

b. Respond to RFI's (10 total)

Sr. Structural Engineer	2.0 hrs. X $180.00	$ 360.00
Structural Engineer	24.0 hrs. X $145.00	$2,900.00
		$3,260.00

c. ASI Submittals:

Structural Engineer	2.0 hrs. X $145.00	$ 290.00
Revit	2.0 hrs. X $100.00	$ 200.00
		$ 490.00

d. Preparation of As-Built Drawings:

Revit	3.0 hrs. X $100.00	$ 300.00

e. Field Observations (2 Total)

Structural Engineer	4.0 hrs. X 2 X $145.00	$1,160.00

Total Lump Sum Amount: $11,760.00

f. Our services will be billed monthly and are due and payable within 7 days after receipt of payment by your client for work performed for which payment has been made. Non payment could result in actions pursuant to ARS statute 32-128 C 5.

Thank you for the opportunity of submitting this proposal. If you find it satisfactory, please indicate so by signing and returning one copy, so that we will be able to proceed with the work.

Sincerely,

Thomas C. Griffis, PE
Principal

Agreed to:

_____
DWL Architects + Planners, Inc.

_____
Date

TCG:mjo

p 602.957.1155 | 7878 North 16th Street, Suite 300
f 602.957.2838 | Phoenix, AZ 85020
dibblecorp.com

April 7, 2023

Sandra Kukla, AIA, LEED AP

DWL Architects + Planners, Inc.

2333 North Central Avenue

Phoenix, Arizona 85004

RE: PMGA Enclosed Pedestrian Walkway
Construction Administration Services Proposal

Sandra,

Thank you for the opportunity to submit this proposal to provide Limited Construction Administration Phase services. Dibble will provide the following support services during construction

SCOPE OF SERVICES:

1.0 Preconstruction Activities

a. None

2.0 Construction Administration Activities

a. Attend periodic construction meetings, as requested or required. Meeting attendance is estimated to average once per month for the 29-week duration of the project for a total of 8. We anticipate attending a higher frequency of meetings during the civil construction period, averaging 1.5 meetings per month. Note that as much as practical, meeting attendance and Periodic Observations will be combined in a single visit.

b. Visit the site to provide Periodic Observation of the civil elements throughout the project. Periodic Observation will focus on critical civil activities including site and utility demolition, completion of rough grading, civil utility installation, and completion of civil hardscape. Periodic Observations will be documented with brief Observation Reports summarizing observations and noting any pertinent recommendations. Our services are based on a 29-week construction schedule. Periodic Observations are estimated to be required on average 1.5 times/month. Daily or other required (special) inspections are specifically excluded: these will be provided by others.

c. Review Contractor-provided shop drawings, product data, and substitution requests for conformance to the contract documents and make recommendations if necessary for revisions. Review in excess of two per submittal will require additional services. Transmittal by DWL to Dibble of these documents, accompanied by a request for review, will constitute an assumption that approval for reimbursement for the review has been obtained from PMGAA unless otherwise noted.

d. Review Contractor Requests for Information (RFI's) and provide clarifications in the form of written RFI responses and/or design modification sketches.

e. Prepare Architect Supplemental Instructions (ASI) based on the assumption that a percentage of RFI's will require ASIs in the form of sketches. It's estimated that 2 civil related ASIs will be issued throughout construction.

3.0 Project Close-Out Activities

a. Attend the "Final Inspection" walk-throughs (at the time the Contractor is requesting Substantial Completion) and provide DWL with comments to assist in generation of their punch list. Attend one follow-up visit when requested by PMGAA/DWL to confirm compliance with the noted deficiencies. Additional punch list reinspections over the initial visit will require additional compensation.

b. Complete Project Record Drawings utilizing Contractor Redlines, RFI responses, engineering sketches, etc. Deliverables for Record Drawings will include revised CAD files, and PDFs of the final Record Drawings and the Contractor-provided Redlines.

c. Attend warranty walk at 11-months following completion of the project and provide comments to DWL to assist in generation of their warranty punch list.

Dibble Engineering proposes to provide Limited Construction-Phase Services for a Time-and-Material, not-to-Exceed Fee of $11,103. Please see the Fee Summary for a breakdown of rates and costs.

FEES:

1.0	Preconstrcution Activities	
	a. Preconstruction Meeting	$ 0
2.0	Construction Administration Activities	
	a. Periodic Construction Meetings	$ 1,590
	b. Periodic Site Observations	$ 1,590
	c. Shop Drawing Review	$ 1,638
	d. RFIs	$ 1,590
	e. ASIs	$ 1,310
3.0	Project Close-Out Activities	
	a. Punch List	$ 990
	b. Record Drawings	$ 1,600
	c. Warranty Services	$ 795
	Subtotal	**$11,103**

See attached billing rate schedule for current Dibble billing rates.

We look forward to working with the Phoenix-Mesa Gateway Airport Authority and DWL Architects on this project. If you need additional information or have questions, please do not hesitate to call.

Sincerely,

Adrian Carvajal

Adrian Carvajal, P.E.

Senior Project Manager, Land Development

Dibble

If this proposal including the attached back-up documents is acceptable, please so indicate by signing and dating below. The return of this signed document shall serve as our notice to proceed with this project.

_____

Name (Print), Title

_____ _____

Signature Date

DWL Architects & Planners

STANDARD BILLING RATES (January 1, 2022)	
Project Manager	200.00
QA/QC Manager	195.00
Project Engineer (PE)	170.00
Assistant Project Engineer (EIT)	138.00
Designer	125.00
Land Surveyor (RLS)	188.00
Survey Technician	105.00
Survey Crew	198.00
Administrative Assistant	85.00

April 6, 2023

Sandra Kukla, AIA, LEED AP
President
DWL Architects
2333 N Central Ave
Phoenix, AZ 85004

Re: Add Services Request for Landscape Architecture Services
Phoenix Mesa Gateway Airport Authority (PMGAA) – Enclosed Pedestrian Walkway

Sandra –

We request that you consider an addition to our original "Base Services" proposal dated 09.26.22.

This request is for tasks associated with Construction Observation as requested.

During construction, GBtwo will make visits to the site at intervals appropriate to the stage of construction or as otherwise agreed by the Owner and GBtwo in writing. The site visits will be to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. Based on on-site observations as a Landscape Architect, GBtwo shall keep the Owner informed of the progress and quality of the Work and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor.

Tasks / Deliverables:

1. Review shop drawings and submittals
2. Provide ASI's, RFI's, clarifications
3. Attend meetings
    - Pre-installation meeting for hardscape
    - Pre-installation meeting for planting / irrigation
4. Select specimen plant material for the project (visit to one nursery within metro-Phoenix area, 1 visit)
5. Progress site visits
    - Hardscape / planting installation progress observation (2 visits by Landscape Architect)
    - Irrigation installation (1 visit)
6. Provide site observation reports to Client (3 reports)
7. Substantial Completion Walkthrough
    - Landscape Architect (1 visit)
    - Irrigation Consultant (1 visit)
    - Substantial Completion Punchlist
8. Final Completion Walkthrough
    - Landscape Architect (1 visit)
    - Irrigation Consultant (1 visit)
    - Final Completion Punchlist
9. Review O & M Manual
10. Prepare Record Drawings

Phase IV. Construction Observation $ 6,805

All terms and conditions of the original proposal apply.

Respectfully submitted,
GBtwo Landscape Architecture, Inc.

Leah Manbeck
President

DWL ARCHITECTS + PLANNERS, INC.

PMGA Enclosed Pedestrian Walkway | 2023-008-RFQ
Construction Administration
DWL Project No. 2257.01

DWL ARCHITECTS+

COMPENSATION ESTIMATE Hourly Not-to-Exceed Construction Budget: $4 M 04.10.2023

ARCHITECTURAL - Construction Administration Phase

Labor Hours

	Task Description	Principal 217.00 per hr.		Design Director 199.00 per hr.		Proj. Manager 128.00 per hr.		Sr. Architect 135.00 per hr.		Project Architect 121.00 per hr.		Apprentice Architect 88.00 per hr.		Field Representative 127.00 per hr.		CADD/BIM Technician 93.00 per hr.		Interior Designer 84.00 per hr.		Spec Writer 150.00 per hr.		Clerical 81.00 per hr.		Task Total
		Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	Hours	Direct Cost	
1	**Pre-Construction**	0	0.00	0	0.00	0	0.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0.00
2.a	**General Communication**	8	1,736.00	0	0.00	58	7,424.00	0	0	0	0	44	3,872.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	13,032.00
2b	**Field Observation**	0	0.00	0	0.00	28	3,584.00	0	0	0	0	0	0.00	174	22098	0	0.00	0	0.00	0	0.00	0	0.00	25,682.00
2c	**Submittals**	2	434.00	0	0.00	90	11,520.00	0	0	0	0	150	13,200.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	25,154.00
2d	**Requests for Information (RFI)**	4	868.00	0	0.00	165	21,120.00	0	0	0	0	38	3,344.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	25,332.00
2e	**Architects Supplemental Instruction s (ASI)**	1	217.00	0	0.00	4	512.00	0	0	0	0	24	2,112.00	0	0	0	0.00	0	0.00	2	300.00	0	0.00	3,141.00
2f	**Proposal Requests**	0	0.00	0	0.00	0	0.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0.00
2g	**Substitution Requests**	2	434.00	0	0.00	6	768.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	1,202.00
3a	**Close-Out - General Communication/Meetings**	4	868.00	0	0.00	42	5,376.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	6,244.00
3b	**Close-Out - Punch List**	3	651.00	0	0.00	32	4,096.00	0	0	0	0	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	4,747.00
3c	**Close-Out - O&M Manuals**	0	0.00	0	0.00	6	768.00	0	0	0	0	12	1,056.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00	1,824.00
3d	**Close-Out - Record Drawings**	0	0.00	0	0.00	4	512.00	0	0	0	0	0	0.00	0	0	32	2,976.00	0	0.00	0	0.00	0	0.00	3,488.00
	DWL CA PHASE TOTAL	24	5,208.00	0	0.00	435	55,680.00	0	0.00	0	0.00	268	23,584.00	174	22,098.00	32	2,976.00	0	0.00	2	300.00	0	0.00	935 **$109,846.00**
																								109,846.00

TEAM SUMMARY

Discipline	Construction Administration: Construction Administration			Add'l Services						Totals
Basic Design & Engineering										
Architectural - DWL	$109,846.00									109,846.00
Structural - MWG	11,760.00									11,760.00
MPE & Special Systems - LSW	25,410.00									25,410.00
Subtotal - Basic Design & Engineering 147,016.00					Subtotal - Basic Design & Eng. 0.00					
									Basic Design & Engineering Sub-Total	**$147,016.00**
Other Design & Engineering										
Civil - Dibble	11,103.00									11,103.00
Landscape Design - GBTwo	6,805.00									6,805.00
										0.00
	$164,924.00	-	-	*$0.00*	-	-	-	-	-	
Subtotal - Other Design & Engineering 17,908.00					Subtotal - Other Design & Engineering 0.00					
									Other Design & Engineering Sub-Total	**$17,908.00**
									Total	**$164,924.00**
									Design Allowance	$10,000.00
									Total with Allowance	**$174,924.00**

REIMBURSABLE EXPENSES

Firm	Expense	
DWL / Consultants	Printing, Copies, Courier - Billed only as needed	1,000.00
	Total Reimbursable	**$1,000.00**

DBE PARTICIPATION

Landscape Design - GBTwo	$ 6,805.00	
	$ 6,805.00	3.9%

DWL's personnel hourly rates are based on an Overhead Rate of 1.7335 and includes 10% profit.

Total w/ Reimbursable	**$175,924.00**

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below and in accordance with each Authorization of Services initiated under this Contract. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the amount of time required for performance, the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT B**, "Scope of Services and Fee Schedule".

2. Method of Payment

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice or payment application depicting tasks performed, hours spent, utilized and expenses incurred for services performed. Invoices or payment applications must be based on the actual hours required and expenses incurred for the services completed during the billing period. Consultant's invoices or payment applications must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice or application as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and progress reports in accordance with terms specified in the Contract, which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices/requisitions for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices/requisitions for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C – SPECIAL PROVISIONS

1. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA all Consultant's and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* listing available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

2. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict. Wherever Standard Terms & Conditions are in conflict with conditions stated in this Special Provisions Section, the conditions stated in this Section shall take precedence.

3. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

4. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

5. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. Certification

By signature of this Contract, Consultant certifies:

a. The award of this Contract did not involve collusion or other anti-competitive practices.
b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. Dispute Resolution

a. Negotiations. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.
b. Mediation. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.
c. Binding Dispute Resolution. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

3. Independent Contractor

At all times, each party acts in its individual capacity and not as agent, employee, partner, joint venturer, or associate the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days.

PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

4. Affirmative Action

Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

5. Human Relations

Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

6. Non-Exclusive Contract

This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

7. Americans with Disabilities Act

Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

8. Confidentiality of Records

Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

9. Gratuities

PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

10. Applicable Law

This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

11. Contract

This Contract is based on and the result of a negotiated Scope of Services and Fee Schedule submitted by Consultant. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

12. Contract Amendments

This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

13. Provisions Required by Law

Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

14. Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

15. Protection of Government Property

Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

16. Interpretation – Parol Evidence

This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of

performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

17. Subcontracts

Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days or written request by Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Offeror referred to herein. Offeror is responsible for Contract performance whether or not subcontractors are used.

18. No Waiver

No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

19. Warranties

Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

20. Indemnification

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

21. Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

22. Advertising

Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

23. Right to Inspect

PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of a Consultant's or subcontractor's business, which is related to the performance of this Contract or related subcontract.

24. Force Majeure

In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before

the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

25. Inspection

All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

26. Exclusive Possession

All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

27. Title and Risk of Loss

The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

28. Liens

All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

29. Licenses

Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

30. Subsequent Employment

PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

31. Clean Up

Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

32. Patents

Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

33. Records and Audit Rights

Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and

practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

34. E-Verify Requirements

To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

35. Availability of Project Funding

This Contract's approval and continuation is conditioned on the availability of funds appropriated by PMGAA for this purpose. If funds are not available or appropriated for the Contract's requirements, PMGAA may terminate the Contract. Possible sources of funding for this Contract include FAA and ADOT, and this Contract is contingent on the availability of those funds to PMGAA.

EXHIBIT E – FEDERAL PROVISIONS

For this Exhibit: Contractor shall mean the same as "Consultant", "Offeror", "Bidder", "Proposer" or "Firm"
Owner shall mean Phoenix Mesa Gateway Airport Authority

A1 ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

A2 AFFIRMATIVE ACTION REQUIREMENT

Not applicable to this Contract.

A3 BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Consultant or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

A4 BUY AMERICAN PREFERENCE

Not applicable to this Contract.

A5 CIVIL RIGHTS - GENERAL

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency),

creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

A6 CIVIL RIGHTS – TITLE VI ASSURANCE

The Phoenix Mesa Gateway Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
    a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

A7 CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceed $150,000.

A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

Not applicable to this Contract.

A9 COPELAND "ANTI-KICKBACK" ACT

Not applicable to this Contract.

A10 DAVIS-BACON REQUIREMENTS

Not applicable to this Contract.

A11 DEBARMENT AND SUSPENSION

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

A12 DISADVANTAGED BUSINESS ENTERPRISE

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Phoenix Mesa Gateway Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

Contract Assurance (§ 26.13) –

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from Phoenix Mesa Gateway Airport Authority. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Phoenix Mesa Gateway Airport Authority. This clause applies to both DBE and non-DBE subcontractors.

See Section XX of this Contract for additional information and requirements regarding DBE. Consultant agrees to all rules, policies, and requirements a set forth in these Contract documents and Exhibits.

A13 DISTRACTED DRIVING

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the

substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

A14 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

A15 DRUG FREE WORKPLACE REQUIREMENTS

Not Applicable to this Contract

A16 EQUAL EMPLOYEMENT OPPORTUNITY (EEO)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance*: Provided,* however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

A19 PROHIBITION of SEGREGATED FACILITIES

Not applicable to this Contract

A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

A21 PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

a) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or

b) The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;

b) Fails to meet reasonable contract performance requirements; or

c) Is only available at an unreasonable price.

A22 RIGHT TO INVENTIONS

This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of *experimental, developmental, or research work only*.

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

A23 SEISMIC SAFETY

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

A24 TAX DELINQUENCY AND FELONY CONVICTIONS

Consultant has completed and submitted the following certifications and has indicated its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from the solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

a) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

b) The applicant represents that it is ( ) is not ( ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

A25 TERMINATION OF CONTRACT

a) Termination for Cause:
PMGAA reserves the right to cancel this Contract in whole or in part due to failure of Consultant to carry out any term, promise, or condition of the Contract. At least ten (10) business days before terminating the Contract, PMGAA will issue a written notice of default specifying one of the following reasons. PMGAA shall, at all times during the term of the Contract or any extension term thereto, have the sole authority to determine if the default has been cured to its satisfaction. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Contract.

(1) Consultant has provided personnel that do not meet the requirements of the Contract.
(2) Consultant has failed to perform adequately the stipulations, conditions or services/specifications required in this Contract.
(3) Consultant has attempted to impose on PMGAA personnel or materials, products, or workmanship of unacceptable quality.
(4) Consultant has failed to furnish the required service(s) and/or product(s) within the time stipulated in the Contract or associated Authorization of Services.
(5) Consultant has failed to make progress in the performance of the requirements of the Contract or Authorization of Services, or Consultant fails to give PMGAA adequate assurance the Consultant will perform the Contract in full and on time.
(6) Each payment obligation of PMGAA created hereby is conditioned on the availability of PMGAA, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by PMGAA for continuance of service under this Contract, then PMGAA may terminate the Contract. PMGAA shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to PMGAA if this provision is exercised, and PMGAA shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

b) Termination for Convenience:
This Contract may be terminated at any time by mutual written consent or by PMGAA - with or without cause - provided the terminating party gives fourteen (14) calendar days' advance written notice to the other party. PMGAA may terminate this Contract, in whole or in part, for PMGAA's convenience and with fourteen (14) days' written notice. If this Contract is terminated, then PMGAA is liable only for services rendered and material received, certified, and approved by PMGAA under the Contract before the termination effective date.

c) Upon termination of the Contract, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Owner, its Engineer, Architect, or representative, under this contract, whether complete or partially complete.

A26 TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

A27 VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

A28 DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

EXHIBIT F- DBE FORMS

Consultant shall submit the DBE Forms as indicated on the following pages:

Attachment(s) A – Subcontracting Outreach Efforts Summary
Attachment(s) B – Letter of Intent to Perform as a Subconsultant

ATTACHMENT A
SUBCONTRACTING AND OUTREACH EFFORTS SUMMARY

Submit: **Prior to contract award or each subcontracting opportunity identified** **(even if it did not result in a subcontract)**
Completed By: **Prime Consultant**

NAME OF CONSULTANT: DWL Architects + Planners, Inc. **PROJECT DESCRIPTION:** Enclosed Pedestrian Walkway – CA Services

Scope of Work That May Be Subcontracted	NAICS Code(s) for Scope

FIRMS CONTACTED	NOTES / OUTCOME	DBE (Y/N)	SBE (Y/N)	SELECTED (Y/N)

THIS FORM SHALL NOT RELEASE CONSULTANT FROM PROVIDING DETAILED DOCUMENTATION OF OUTREACH EFFORTS AS SPECIFIED IN THE CONTRACT

1. **CONSULTANT SHALL COMPLETE THIS FORM TO SUMMARIZE THEIR OUTREACH EFFORTS FOR EACH SCOPE OF WORK OPPORTUNITY IDENTIFIED TO SUBCONTRACT. MAKE COPIES OF THIS FORM AS NECESSARY. EXPAND TEXT BOXES OR ATTACH INFORMATION AS NEEDED.**

Consultant Hereby affirms that the above information, as well as the detailed documentation submitted regarding Consultant's outreach efforts, is true and complete to the best of Consultant's knowledge.

Further, Consultant hereby affirms that the Consultant will enter into a formal agreement with the identified selected subcontractors/subconsultants/suppliers listed herein conditioned upon the execution of a contract with the Phoenix-Mesa Gateway Airport Authority.

Signed By _____ Title _____

Date _____

ATTACHMENT B
LETTER OF INTENT TO PERFORM AS A SUBCONSULTANT

Submit: **For each subconsultant that is selected**
Completed By: **EACH Subconsultant (regardless of DBE status) selected to perform work**

TO: DWL Architects + Planners, Inc.

1. The undersigned is prepared and licensed in Arizona to perform the following scope(s) of work on the above referenced project for DWL Architects + Planners, Inc.:

Scope of Work Description	NAICS Code(s) for Scope of Work to be Performed	Total Minimum Contract Amount
		$

2. If you (subconsultant) are a DBE or SBE, complete "A" below:

A. The undersigned is certified as a:

☐ Disadvantaged Business Enterprise.
☐ is certified by the Arizona UCP to perform the NAICS work code(s) above.

☐ Small Business Enterprise.

3. The undersigned will sublet _____ , for $_____ of their Work to a
(Scope of Work Subletting) *(amount of work subletting)*

☐ Certified DBE ☐ Certified SBE ☐ Neither a DBE nor SBE (must select at least one if subletting)

Name of DBE/SBE Firm you are subletting to (if applicable): _____

On the _____ day of _____, 202__, by signature below, the undersigned agrees to enter into a formal agreement/subcontract for the work cited herein should the Consultant receive award of this contract from the Phoenix-Mesa Gateway Airport Authority.

_____ _____
(Authorized Signature of Subconsultant) (Print Subconsultant Firm Name)

_____ _____
(Print Name and Title) (Phone Number)

IF THE CONSULTANT DOES NOT RECEIVE AWARD OF THE CONTRACT, ANY AND ALL REPRESENTATIONS IN THIS LETTER OF INTENT AND AFFIRMATION SHALL BE NULL AND VOID

ATTACHMENT C

Not Used.

EXHIBIT G – SUBCONSULTANT PAYMENT FORMS

Consultant shall use the following forms when subconsultants are paid.

ATTACHMENT D
STATEMENT OF SUBCONSULTANT UTILIZATION

Submit & Completed By: 1) Consultant with every pay request involving any Subconsultant AND
2) Any Subconsultant when paying any lower tier Subconsultant as a reporting mechanism only (check box below)

SHEET ____ OF _____

☐ **CHECK IF FORM IS FOR SUB-TIER REPORTING** **PROJECT NAME:** Enclosed Pedestrian Walkway – CA Services **PROJECT NUMBER:** 1252

PRIME CONSULTANT PAY REQUEST NO: _____ **PAY REQUEST $**_____

PMGAA USE ONLY

SUBCONSULTANT RECEIVING PAYMENT	CONTRACT AMOUNT	CONTRACT ADJUSTMENTS	REVISED CONTRACT AMOUNT	AMOUNT EARNED THIS PERIOD	AMOUNT EARNED TO DATE	AMOUNT RETAINED THIS PERIOD	AMOUNT RETAINED TO DATE	NET PAYMENT THIS PERIOD	PP RCVD	REVIEW DATE	NOTES

PRIME CONSULTANT/SUBCONSULTANT _____ **AUTHORIZED SIGNATURE** _____ **DATE** _____

NOTE: Amount earned this period, less retention, (NET PAYMENT THIS PERIOD) MUST equate to amount on Prompt Payment certification. If not, attach explanation please.

ATTACHMENT E
CERTIFICATION OF PROMPT PAYMENT TO SUBCONSULTANTS

Submit: **For each payment made to a Subconsultant or lower tier Subconsultant**
Completed By: **Prime Consultant and Subconsultant OR Subconsultant and Lower Tier Subconsultant**

PRIME CONSULTANT or SUBCONSULTANT: _____ INVOICE/PAY REQUEST NO.: ____

PRIME CONSULTANT OR SUBCONSULTANT AFFIDAVIT:
The undersigned, having contracted as the prime Consultant or Subconsultant (herein includes Suppliers) on Project #1252 (Enclosed Pedestrian Walkway - CA Services), hereby certifies that a payment has been made to the Subconsultant cited below. The total value of this payment made to the Subconsultant for materials and/or work performed on this project contract is as follows:

Subconsultant: _____Total Amount Paid: $_____Date Sent _____

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years following final completion of the contract. In the event the Subconsultant was not paid in accordance with affidavits submitted by the Prime Consultant or Subconsultant, all documentation supporting the payee's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Prime Consultant or Subconsultant (Print Name and Title)

Date: _____

SUBCONSULTANT AFFIDAVIT:
The undersigned Subconsultant hereby certifies that a contract was entered into with the above named prime Consultant or Subconsultant to perform work or provide materials on the project cited in this document. I further certify that the total amount of this payment received as provided herein by the Prime Consultant or Subconsultant is accurate and unchallenged.

Total Amount Received: $ _____ Date Received _____

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Subconsultant (Print Name and Title)

Date: _____

OVER FOR INSTRUCTIONS

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
CERTIFICATION OF PROMPT PAYMENT TO SUBCONSULTANTS

INSTRUCTIONS

Prime Consultant or Subconsultant will prepare a form for each Subconsultant being paid from each Airport payment for services when the Subconsultant is being paid. The amount paid to each Subconsultant should match the amount earned less any retention held on a pay application as shown on Attachment D.

The date documented by the Prime Consultant or Subconsultant must be the date a check is issued or that an Electronic Fund Transfer is completed as payment to the Subconsultant. This must be in conformance with State and Federal prompt payment regulations per the contract.

The authorized Prime Consultant or Subconsultant must sign and certify the accuracy of the information on this Attachment E and send it to the Subconsultant.

The Subconsultant must document the amount of payment received and the date payment from the Prime Consultant or Subconsultant was received. The authorized Subconsultant representative must sign and certify accuracy of the information.

The Subconsultant must email a scan of the record to the Airport within five (5) days of receipt of the Prime Consultant or Subconsultant payment. Airport contact information is as follows:

PromptPayment@gatewayairport.com

The Subconsultant should also copy the Prime Consultant or Subconsultant on the record.

The Prime Consultant and Subconsultant must retain the payment records and evidence of compliance for three years following completion of the contract.

FOR QUESTIONS ON COMPLETING THIS FORM, PLEASE CONTACT THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY AT (480) 988-7628.

Subconsultants may file complaints on alleged violations of the Prompt Payment standards by contacting the Airport Project Manager or Airport Staff at the number noted above.

ATTACHMENT F
CERTIFICATION OF PAYMENT BY A DBE FIRM TO LOWER TIER

Submit: **When a DBE subconsultant/supplier makes a payment to a firm/individual they have sublet a portion of their contract to**

Completed By: **Subconsultant**

PROJECT DESCRIPTION: _____ **Project No.:** _____

DBE Subconsultant Name: _____ ☐ **Submitted with Attachment D**

The work listed below was sublet to: _____**, who is a**
(firm name)

1. ☐ DBE ☐ SBE ☐ NEITHER A DBE NOR SBE (must select at least one)

2. ☐ Contractor ☐ Trucker ☐ Broker (Fees/Commission) ☐ Supplier ☐ Manufacturer ☐ Other (must select one)

Start Date	End Date	Description / Scope of Work	Total Amount Sublet

TOTAL $ _____

I, _____ confirm that _____
(Authorized DBE firm officer, print name) (Name of firm work sublet to)

has performed the scope(s) as described above for $_____

_____
(Authorized DBE firm officer, signature)

_____ _____
(Title) (Date)

EXHIBIT H – CONSULTANT'S DBE PERFORMANCE PLAN

PMGAA and Consultant acknowledge that the project is funded with Federal funds and Consultant's approved DBE Performance Plan submitted under PMGAA's solicitation 2023-008-RFQ is hereby incorporated into the Contract and will be utilized by Consultant throughout the duration of the project.

EXHIBIT I – CONSULTANT'S RFQ SUBMITTAL

Consultant's Statement of Qualifications in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2023-008-RFQ dated August 18, 2022, is hereby incorporated into the Contract and made part of this Contract.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: February 2023 Financials
Date: April 18, 2023

Attached is the monthly Financials Report for February 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
February, 2023

	Month of February 2023				Y-T-D as of February 2023			
	February FY22 Actual	February FY23 Actual	YOY Variance	B/(W)	YTD FY22 Actual	YTD FY23 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	20,064	22,982	2,918	15%	154,890	200,927	46,037	30%
Fuel Flowage Fees	79,506	58,000	(21,506)	-27%	425,544	445,379	19,835	5%
Landing Fees	126,699	131,929	5,230	4%	997,310	915,550	(81,760)	-8%
Lease Income Aero	257,907	220,698	(37,209)	-14%	2,246,098	2,113,890	(132,208)	-6%
Fuel Sales	436,230	640,969	204,739	47%	3,392,419	5,321,325	1,928,906	57%
Services Sold - Aero	684,821	632,626	(52,195)	-8%	3,344,762	3,630,222	285,460	9%
Sub-total Aero Operating Revenues	1,605,227	1,707,204	101,977	6%	10,561,023	12,627,293	2,066,270	20%
Non-Aeronautical Operating Revenues								
Concessions	93,149	116,164	23,015	25%	708,128	916,142	208,014	29%
Lease Income Non-Aero	119,105	111,991	(7,114)	-6%	959,314	879,994	(79,320)	-8%
Parking	247,523	302,513	54,990	22%	2,797,631	3,181,444	383,813	14%
Rental Car Fees	278,833	220,036	(58,797)	-21%	1,350,577	1,582,465	231,888	17%
Svcs Sold - Non Aero	2,439	2,354	(85)	-3%	29,901	36,438	6,537	22%
Sub-total Non-Aero Operating Revenues	741,049	753,058	12,009	2%	5,845,551	6,596,483	750,932	13%
Total Operating Revenues	**2,346,276**	**2,460,262**	**113,986**	**5%**	**16,406,574**	**19,223,776**	**2,817,202**	**17%**
Operating Expenses								
Cost of Goods Sold	277,715	456,621	(178,906)	-64%	2,254,717	3,729,866	(1,475,149)	-65%
Personnel	745,123	847,246	(102,123)	-14%	6,227,891	6,613,039	(385,148)	-6%
Comm & Utilities	41,800	49,353	(7,553)	-18%	588,525	627,082	(38,557)	-7%
Contractual Services	423,999	559,498	(135,499)	-32%	3,547,026	4,066,878	(519,852)	-15%
Insurance	46,339	49,805	(3,466)	-7%	383,586	450,387	(66,801)	-17%
Other	210,098	33,900	176,198	84%	326,147	200,110	126,037	39%
Repair & Maintenance	53,962	64,854	(10,892)	-20%	436,226	549,191	(112,965)	-26%
Supplies & Materials	76,329	80,128	(3,799)	-5%	678,558	610,613	67,945	10%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,622,382]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**1,875,365**	**2,141,405**	**(266,040)**	-14%	**14,442,676**	**16,847,166**	**(2,404,490)**	-17%
Operating Income (Loss) Before Depreciation	**470,911**	**318,857**	**(152,054)**	-32%	**1,963,898**	**2,376,610**	**412,712**	21%
	20.1%	13.0%			12.0%	12.4%		
Depreciation		1,421,684				11,425,158		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **April 18, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Request for Proposals	2023-019-RFP	Remote Transmitter and Receiver (RTR) Relocation	April 2023
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Proposals	2023-006-RFP	Car Rental Concessions	April 2023	September 2023
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	April 2023	June 2023
Request for Proposals	2023-020-RFP	ATM Services	May 2023	September 2023
Request for Proposals	2023-021-RFP	Vending Services	May 2023	September 2023

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $36,669.

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: **Weighted Voting Rights Related to the Amended and Restated Joint Powers Airport Authority Agreement**
Date: **April 18, 2023**

The Voting Rights (Section 8) of the Phoenix-Mesa Gateway Airport Authority Amended and Restated Joint Powers Airport Authority Agreement (Agreement) defines Member Government (Member) voting rights and weighted voting rights. Per the Agreement, each Member is entitled to a weighted vote equal to that Member's *cumulative investment* as a percentage of the total investment made by all current Members since 1993.

When utilizing a weighted vote, should any one Member's weighted vote calculated under the Voting Rights Section exceed 50%, then the weighted vote for that Member shall be deemed equal to the sum of the weighted vote of all the other Members combined. However, the weighted votes of all the Members combined must be adjusted so that the total weighted vote calculation equals 100%. As an example, if a Member's weighted vote is calculated at 68%, that Member's weighted vote would then be deemed to be 50%, with the remaining Members holding a proportionate share of the remaining 50% of the total weighted vote.

Based on the above criteria, the weighted vote calculation for fiscal year 2024 is as follows:

Member Government	Unweighted	Weighted
City of Mesa	64.18%	50.00%
City of Phoenix	17.71%	24.72%
Gila River Indian Community	8.07%	11.26%
Town of Gilbert	6.88%	9.60%
Town of Queen Creek	2.02%	2.83%
City of Apache Junction	1.14%	1.59%
Total	**100.00%**	**100.00%**

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, May 16, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Brigette Peterson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Brigette Peterson, Chair)

3. **Pledge of Allegiance**

4. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

5. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

6. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **April 18, 2023**.

   b) **Resolution No. 23-22 –** Authorizing **Alliant Insurance Services, Inc. (Alliant)** under the terms of its existing Insurance Broker / Risk Management Consulting Agreement with the Phoenix-Mesa Gateway Airport Authority to purchase specific lines of insurance on behalf of the Authority beginning July 1, 2023, not to exceed premium cost of $646,110.

   c) **Resolution No. 23-23 –** Authorizing a three-year contract with two additional one-year extension periods at the sole option of Phoenix-Mesa Gateway Airport Authority, with **USI Insurance Services, Inc. (USI)** for Insurance Broker Services in an amount not to exceed $169,000 over the five (5) year period.

   d) **Resolution No. 23-24 –** Authorizing a facility lease with **Task Aerospace, Inc.** for a portion of the facility located at 5755 South Sossaman Road, Mesa AZ 85212. The lease term is one (1) year, commencing on July 1, 2023 with one (1) additional renewal period of one (1) year.

   e) **Resolution No. 23-25 –** Authorizing granting **Salt River Project** a 2.97-acre perpetual easement.

Consideration and Approval of:

7. **Resolution No. 23-26 -** Authorizing a Development Lease with **SkyB Lot 116-B LLC**, an Arizona limited liability company, for 4.15 acres located within the SkyBridge Arizona project identified as Lot 116-B. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 116-B from the Master Lease Agreement.

8. **Resolution No. 23-27 -** Authorizing a Development Lease with **SkyB Lot 118 LLC**, an Arizona limited liability company, for 2.11 acres located within the SkyBridge Arizona project identified as Lot 118-A. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 118-A from the Master Lease Agreement.

9. **Board Member Comments/Announcements**

10. **Next Meeting: Tuesday, June 20, 2023 at 9:00 a.m.**

11. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- **Rental Car Care Facility Improvements Underway**
- **SkyBridge Arizona Breaks Ground on Another 250,000 Sq. Ft. Building**
- **Three Canadian Airlines Not Returning to Airport Next Fall/Winter Season**
- **Airport's Fuel Farm Adding 150,000 Gallons of Additional Fuel Storage**
- **Alpha Apron Phase IV, Center Runway Reconstruction, and Gulfstream Taxiway Connector Projects Complete**
- **Concrete Pad Being Poured for 30,000 Sq. Ft. Terminal Addition**

Executive Director's Report

May 2023

Financial Snapshot

OPERATING INCOME	March		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY22	FY23	
Revenues	$2,558,102	$3,064,773	**$506,671**	$18,965,333	$22,288,550	**$3,323,217**
Less Expenses	$1,984,011	$2,282,674	**$298,663**	$16,425,464	$19,129,842	**$7,704,378**
Operating Income *(Before Depreciation)*	**$574,091**	**$782,099**	**$208,008**	**$2,539,869**	**$3,158,708**	**$618,839**

Investment Fund Balances: As of March, the Local Governmental Investment Pool (LGIP) 700 = $6,109,313; Wells Fargo; Collateralized Money Market = $14,277,800 and Brokered CD's = $36,306,879; Total $56,693,992. The market value accounting adjustment was $147,638 for the month. The entry is for accounting purposes only. PMGAA invests in fixed rate instruments.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) reported a record net operating income of $782,099 for March 2023, $208,008 more than March last year. March aeronautical revenues increased by 3% year-over-year, and non-aeronautical revenues were up 52%. Concession revenue increased 59% and rental car revenue increased 122%. Cactus League Spring Training Baseball and chamber of commerce weather help make March a very busy month for Phoenix-Mesa Gateway Airport (Airport, Gateway Airport).

Operating expenditures for March 2023 increased by $298,663 (15% over March 2022) and were consistent with previous months' results this fiscal year due to higher costs for aviation fuel, Authority personnel increases, contractual services, and operational maintenance.

Fiscal year-to-date 2023 (FYTD23) total operating income improved by 24% - from $2,539,869 in FYTD22 to $3,158,708 this fiscal year - while operating expenditures have increased by 16%. Total operating expenditures remain 1% under budget.

PMGAA is in a strong financial position as Gateway Airport approaches the summer months of 2023.

PMGAA Solicitations

This update is to provide notification of active and upcoming solicitations to ensure compliance with PMGAA's procurement transparency clause.

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	July 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Proposals	2023-006-RFP	Car Rental Concessions	May 2023
Request for Proposals	2023-020-RFP	ATM Services	May 2023
Request for Proposals	2023-021-RFP	Vending Services	May 2023

Airport Operations

Three Canadian Airlines Not Returning to Airport Next Fall/Winter Season

The airline industry is dynamic, with domestic and international airlines entering and exiting markets based on several factors – profitability, market share, number of aircraft, and pilot availability. According to WestJet and Swoop, the flights from Canada to Gateway Airport were pretty full, but they couldn't get the airfare needed to reach the desired profit margin. For Flair, it was a challenge to get passengers in seats. They had much better success this year switching from the Hollywood Burbank Airport to LAX, and hope they experience the same increase in ridership moving from Gateway Airport to PHX.

Multiple Airlines at the Gate

PMGAA wishes all three Canadian airlines the very best of luck and will happily welcome them back should they chose to return to Gateway Airport at a later date.

Sun Country Airlines, Gateway Airport's domestic seasonal airline, will be returning in October.

PASSENGER COUNTS		March		% Change	FYTD		% Change
		2022	2023		FY22	FY23	
Passengers	TOTAL	239,160	229,810	-4%	1,369,504	1,477,266	8%
	Deplaned	120,144	115,092	-4%	699,042	751,384	7%
	Enplaned	119,016	114,718	-4%	670,462	725,882	8%
Allegiant	Scheduled	221,601	203,774	-8%	1,308,726	1,371,517	5%
Swoop	Scheduled	5,920	10,011	69%	19,827	37,068	87%
Sun Country	Scheduled	5,224	5,885	13%	19,177	30,002	56%
WestJet	Scheduled	2,226	2,423	9%	6,642	10,074	52%
Flair	Scheduled	4,090	7,717	89%	8,421	28,211	235%
Swift	Charter	99	0	-100%	1,838	394	-79%

OPERATIONS	March		% Change	FYTD		% Change
	2022	2023		FY22	FY23	
Air Carrier	1,657	1,321	-20%	10,677	9,258	-13%
Military	319	253	-21%	3,617	2,756	-24%
General Aviation	23,980	21,144	-12%	167,164	174,040	4%
TOTAL	**25,956**	**22,718**	**-12%**	**181,458**	**186,054**	**3%**

Engineering and Planning

Alpha Apron Phase IV, Center Runway Reconstruction, and Gulfstream Taxiway Connector Projects Complete

Alpha Apron Phase IV – Gateway Airport's impressive airfield has expanded once again with the addition of Alpha Apron Phase IV, a 250,000 sq. ft. aircraft parking area boasting of 16-inch-thick concrete. This new parking apron, located adjacent to the air traffic control tower, is designed to handle the largest and heaviest aircraft using the Airport.

This project became necessary when the U.S. Forest Service leased the recently completed Alpha Apron Phase III. In total, the Alpha Apron Expansion Project has added approximately one million square feet of ramp area at the south end of Gateway Airport's airfield.

Center Runway Reconstruction – Due to extensive use and harsh Arizona weather conditions, Gateway Airport's three 10,000 ft. runways require a significant amount of preventive maintenance. Patching sections of concrete, repainting markings, and fixing lights are frequent projects for PMGAA's top-notch airfield maintenance crews. Every once in a while, however, large sections of runway need to be rehabilitated. PMGAA recently completed a project on its center runway, Runway 12C-30C, that included removing and replacing a total of 4,250 linear feet of concrete from both runway ends.

Gulfstream Taxiway Connectors – PMGAA agreed to provide a connection to Taxiway Charlie as part of Gulfstream Aerospace Corp's. relocation to Gateway Airport. Gulfstream decided that two connections to the airfield would be more efficient and agreed to split the cost of the two-connector project with the Authority. The project has been completed and connectors are waiting to be married to Gulfstream's new ramp area in front of its 225,000 sq. ft. facility.

Concrete Pad Being Poured for 30,000 Sq. Ft. Terminal Addition

Pouring the Concrete Floor Pad for the New Terminal Addition

The old terminal building has been demolished, in-ground utilities are all in place, and the pad site pristinely prepared. It's time to pour the concrete floor for Gateway Airport's new five-gate, 30,000 sq. ft. terminal addition. This $30MM construction project will increase the number of gates in the terminal, address Americans with Disabilities Act (ADA) compliance, improve passenger flow, and reduce energy and maintenance costs. The new addition is scheduled to open in the first quarter of 2024.

Rental Car Care Facility Improvements Underway

Gateway Airport's consolidated Rental Car Care Facility is getting a major makeover! The project includes new vehicle wash and vacuum bays, upgraded maintenance facilities, additional vehicle queuing and storage, and new operations offices. PMGAA, in conjunction with all its rental car companies, is investing between $8 - $9MM to make the much-needed improvements. The funding for the project comes from the Airport's dedicated Customer Facility Charge (CFC) account.

Car Care Facility Design Layout

Each time an Airport customer makes a rental car reservation, $3.50 per rental day goes into the CFC account. The money in this dedicated account can only be used for improving facilities and infrastructure used by the rental car companies doing business at Gateway Airport. The project is scheduled to be completed before the end of 2023.

Business Development

SkyBridge Arizona Breaks Ground on Another 250,000 Sq. Ft. Building

PMGAA Board, Elected Officials, and SkyBridge Representatives

Does SkyBridge Arizona hosting a groundbreaking ceremony for a new 250,000 sq. ft. industrial building seem like deja vu? Well, for the second time in three months, elected officials, PMGAA Board and staff, and other regional VIPs gathered to celebrate the beginning of yet another exciting SkyBridge Arizona project. The layout of this large industrial building is flexible enough to meet the needs of one user or multiple tenants.

Community Noise Report

CALLERS	March		FYTD	
	2022	2023	FY22	FY23
Total	11	13	109	120

AIRCRAFT TYPE	March		FYTD	
	2022	2023	FY22	FY23
	Callers	Callers	Callers	Callers
Commercial	6	7	66	66
GA Total	1	5	12	29
Helicopter	0	0	5	0
Military	4	1	26	25
Total	11	13	109	120

LOCATION	March		FYTD	
	2022	2023	FY22	FY23
Mesa	6	9	40	55
Gilbert	3	2	55	43
Gold Canyon	0	0	1	2
Queen Creek	2	1	8	14
Queen Valley	0	1	3	2
San Tan Valley	0	0	0	0
Apache Junction	0	0	1	4
Fountain Hills	0	0	1	0
TOTAL	11	13	109	120

PMGAA received communications from 13 individuals regarding aircraft noise issues during the month of March 2023, compared to the 11 PMGAA received last March. Spring is a very busy travel season for greater Phoenix, as sun-seeking visitors from colder climates flock to Arizona for a much-needed vacation or a visit with family and friends living in the Valley.

PMGAA Team Member Spotlight

Employee Name: **Carl D'Acosta**
Employee Title: **Environmental and Safety Program Coordinator**
PMGAA Department: **Engineering and Facilities**
Years with PMGAA: **5+**

What are your job responsibilities for PMGAA? I manage the Environmental and Safety Programs for the Airport. Basically, I ensure that the airport's environmental permits are in good standing with federal and state agencies. For safety, I coordinate and manage the safety trainings and ensure our facilities and employees meet OSHA standards. I also manage the Airport's archaeological and historical building matters to maintain compliance. My duties also involve managing any environmental projects, assist with construction projects on a variety of issues and coordinate with Airport tenants to ensure they maintain environmental and safety compliance.

What is your most memorable Gateway Airport moment? My most memorable moment so far was being able to take a tour of the NASA Super Guppy and talking to the pilots. The Super Guppy had a heat shield in its payload bay, so it was exciting to see NASA cargo before being fully assembled and launched into space.

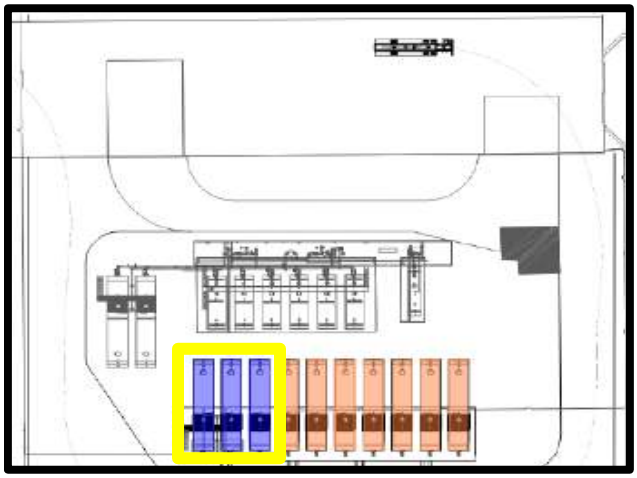
What is something people may not know about you? I am an active guy. I have climbed several 14,000-foot mountains, hiked the Grand Canyon several times, made the podium on a couple of triathlons and compete in mountain bike races. Between road cycling and mountain biking, I cycle around 1,000 miles each year. When I am not on my bike you can find me at the baseball fields with my wife Jen, cheering on my two boys, Levi and Owen.

Gateway Aviation Services

PMGAA pumped more than 2.0MM gallons of aviation fuel during the month of March 2023, a 4% decrease compared to the 2.13MM gallons dispensed during last March. Commercial Jet A fuel activity showed signs of improvement and was only down 3% during the month.

FUEL (Gallons)	March			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	42,660	41,691	-2%	336,969	365,365	8%
Retail Jet A	63,905	69,449	9%	379,903	615,442	62%
Contract	361,315	336,410	-7%	2,846,029	2,699,337	-5%
Commercial	1,659,690	1,601,957	-3%	11,312,336	10,039,941	-11%
TOTAL	**2,127,570**	**2,049,507**	**-4%**	**14,875,237**	**13,720,085**	**-8%**

Airport's Fuel Farm Adding 150,000 Gallons of Additional Fuel Storage



Aviation fuel is the lifeblood of any airport. Without an adequate and steady supply of fuel, airport operations are in constant jeopardy.

At Gateway Airport, the 20MM gallons of aviation fuel that Airport customers consume each year is trucked in 8,000 gallons at a time. That's 2,500 truckloads a year, or an average of seven truck deliveries every day.

With only 250,000 gallons of fuel storage at Gateway Airport, supply disruptions on the pipeline from California to Phoenix, scheduled and unscheduled closures of the Kinder Morgan facility in Phoenix, and a shortage of CDL truck drivers cause fuel stockpiles at the Airport to occasionally run dangerously low.

In an effort to insulate Gateway Airport from future fuel delivery disruptions, PMGAA has purchased three 50,000-gallon aviation fuel storage tanks. This additional storage will increase our on-airport fuel storage capacity from 3-4 days to 7-8 days, helping mitigate the risk of fuel disruptions impacting Airport customers or the Airport's overall operation.

MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | April 18, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA) was convened on Tuesday, April 18, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix*
Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community
Mayor Julia Wheatley, Queen Creek
Mayor John Giles, Mesa
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney

1. **Call to Order** at 9:00 a.m. (Mayor Peterson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - Fiscal Year-to-Date (FYTD) Net Operating Income is $2,376,610.
   - Record setting passenger activity in February 2023! (178,753 total passengers).
   - Seasonal airlines – Swoop, WestJet, Flair, and Sun Country – increased their total passengers from 54,067 in FYTD22 to 104,775 total passengers in FYTD23. Despite the overwhelming increase in seasonal passengers, Flair Airlines announced their Winter 2023 schedule will no longer provide service from Canadian cities Vancouver and Edmonton to Phoenix-Mesa Gateway Airport (Airport). Instead, they will re-direct their Canadian flights into Phoenix Sky Harbor. WestJet contacted the Authority last week to say they may not continue their twice-weekly seasonal service to Calgary for the upcoming fall/winter season.
   - Allegiant is leasing a 62,000 sq. ft. hangar for ongoing line maintenance activities and future Maintenance, Repair, and Overhaul (MRO) services. This hangar is adjacent to Allegiant's other airfield facilities.
   - Gateway Executive Airpark has leased half of Hangar A to the Boeing Company. The other two hangars are leased by Virgin Galactic.

DRAFT

- DSV Air and Sea is a global transport and logistics company. In February they signed a lease for a 22,000 sq. ft. hangar at Gateway Airport. Two successful cargo test flights were held to familiarize company employees and contractors with the Airport's airfield and to ensure the large Boeing 747 aircraft can operate safely on the Airport's taxiways and ramp area. Twice weekly scheduled service will begin in late May.
- SkyBridge is in the process of building a 129-room dual brand hotel. Northern Arizona University (NAU), in partnership with Kind Hospitality and SkyBridge, is building a two-story facility next to the hotel. The first floor will be a sit-down, high-quality restaurant and the second floor will be NAU's culinary arts program.
- The City of Mesa is working to construct roadway and utility infrastructure to allow for both the Gulfstream Aerospace Corporation (Gulfstream) development and the first 100 acres of Gateway***East***'s development.
- Ground transportation at the Airport is transforming. In February 2023, Uber & Lift had 8,650 pick-up/drop-offs, Turo had 1,053 Peer-to-Peer car rentals, and taxis had 716 total passenger trips.
- In FY2022, PMGAA submitted a grant request for $20MM as part of the Bipartisan Infrastructure Law (BIL) Airport Terminal Program and received $14.4 MM; creating a $6MM delta. PMGAA is already investing more than $8MM into the terminal project. In FY2023, PMGAA submitted a BIL phase II grant request for the remaining $6MM needed to complete the project. PMGAA was not awarded a grant. PMGAA is now working with the Arizona Legislature on a bill requesting a $6MM infrastructure grant from the state to replace the terminal addition project funding the federal government was unable to provide.
- Gulfstream has established a base at the Airport and is leasing over 100,00 sq. ft. of hangar space while their new 225,000 sq. ft. West Coast Service Center is being constructed. The industry leading company has already hired close to 100 local employees.
- Virgin Galactic is leasing two of the three hangars in the Gateway Executive Airpark located at the north end of the airfield. Virgin Galactic intends to use the hangars as a final assembly manufacturing facility for its spaceships. Substantial completion of these hangars is expected by the end of 2023/beginning of 2024.
- On May 23rd the **Gateway Tomorrow** Planning Study Advisory Committee will meet to evaluate three possible alternatives for the various components of moving the commercial terminal complex to the East Side. The Study Advisory Committee consists of representatives for the six member communities, Allegiant Air, the Federal Aviation Administration, PHX East Valley Partnership, PMGAA, and other stakeholders.
- Following today's Board meeting, SkyBridge Arizona will hold a groundbreaking event on Lot 108 for the second of two 250,000 sq. ft. industrial buildings. These two large buildings are being built to accommodate both single and multiple tenants.
- The underground utilities are in place for the Airport's new 30,000 sq. ft. five-gate terminal addition. The slab will be poured during the first week of May. Gone is the 10,000 sq. ft. portable four-gate facility that was constructed in 2008. During construction a 6,000+ sq. ft. temporary terminal facility has been erected to serve as a hold room for three-gates.
- Due to increased passenger traffic at PMGAA, a new TSA In-Line Checked Baggage System (BHS) will be installed to keep up with the rising number of passenger bags being checked.
- The $8MM Rental Car Care Facility, where all rental vehicles are maintained, washed, and vacuumed is under construction.

- The Authority has purchased three new 50,000-gallon Jet-A fuel storage tanks that will be delivered in August. This additional fuel storage capacity will provide the Airport with approximately seven days of on-Airport fuel storage. This project begins in June and is scheduled to be completed by the end of the year.
- Gateway Airport is continuing its expansion of the Alpha Apron. Phase IV is an additional 250,000 sq. ft. of concrete to provide increased parking for larger and heavier aircraft. Alpha Apron Phase III was completed last year. The Phase IV expansion will be complete at the end of April 2023.
- Center Runway Reconstruction began October 3, 2022 and is anticipated to be completed by the end of April 2023.
- PMGAA has completed construction of two Taxiway Charlie connectors for Gulfstream. This project will provide for the efficient flow of aircraft to and from the airfield and Gulfstream's new facility. Gulfstream and the Authority are sharing the cost of the project.

6. **Presentation: SkyBridge Annual Report –** Will Moseley, SkyBridge Arizona General Manager

   Mr. Moseley provided a brief overview of SkyBridge Arizona activity during calendar year 2022.

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **March 21, 2023**.

   b) **Resolution No. 23-15 –** Approving additional changes to the **Airport Rules and Regulations**.

   c) **Resolution No. 23-16 –** Authorizing the filing of **grant applications** including agreeing to all understandings and assurances contained therein; and, authorizing the acceptance and execution of any Federal Aviation Administration (FAA) or other Federal agency, State of Arizona, Arizona County or Arizona Local Municipal grant offer(s), applied for or received between July 1, 2023 and June 30, 2024 by the Chair of the Authority, the Executive Director/CEO, Deputy Director/COO or Chief Financial Officer/CFO.

   d) **Resolution No. 23-17 –** Authorizing a Contract with **Arizona West Builders and Communications, Inc. (Arizona West)** for Design and Construction Services for the Remote Transmitter and Receiver (RTR) Building Relocation in an amount not to exceed $1,167,755.52 under CIP 1219.

   e) **Resolution No. 23-18** Authorizing the purchase of Jet A and 100LL Avgas fuel from **Ascent Aviation Group, Inc. (World Fuel)** for Airport Authority resale in the amount of $450,000.

Mayor Chip Wilson moved to approve the Consent Agenda.
Mayor Julia Wheatley seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 23-19** Authorizing a Construction Manager At Risk (CMAR) Construction Services Contract and Guaranteed Maximum Price (GMP) 2 for the Fuel Farm Expansion Project with **KEAR Civil Corporation (KEAR)**, in an amount not to exceed $2,874,552 under CIP 1224.

   Mayor John Giles moved to approve Resolution No. 23-19.
   Mayor Julia Wheatley seconded the motion.
   The motion was carried unanimously.

9. **Resolution No. 23-20** Authorizing the Executive Director/CEO and/or delegate to negotiate and execute a final Construction Manager at Risk (CMAR) Construction Services contract, with **Willmeng Construction, Inc. (Willmeng)** for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $3,540,125 under CIP 1252.

   Mayor Chip Wilson moved to approve Resolution No. 23-20.
   Mayor John Giles seconded the motion.
   The motion was carried unanimously.

10. **Resolution No. 23-21** Authorizing a Construction Administration contract, with **DWL Architects** for the Enclosed Pedestrian Walkway Project, subject to submission and compliance with the Federal Disadvantaged Business Enterprise (DBE) requirements and FAA requirements, in an amount not to exceed $175,924 under CIP 1252.

    Lt. Governor Monica Antone moved to approve Resolution No. 23-21.
    Mayor Julia Wheatley seconded the motion.
    The motion was carried unanimously.

11. **Board Member Comments/Announcements.**
    On behalf of the Queen Creek Town Council, Mayor Wheatley thanked CEO O'Neill and Community and Government Relations Director Ryan Smith for providing the Council with a tour of the Airport.

    The Gilbert State of the Town event with Mayor Brigette Peterson will be held Tuesday, April 25, 2023 at 6 p.m. in the Council Chambers at Gilbert Town Hall.

12. **Next Meeting: Tuesday, May 16, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

13. **Adjournment.**
    The meeting adjourned at 9:41 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-22

To:	**Board of Directors**
From:	**Chuck Odom, Chief Financial Officer** **Through: J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Renewing Insurance Premiums for Airport Liability, Crime, D&O Employment Practice Liability, Cyber, Workers Compensation, Auto Liability, Fuel Farm & Inland Marine, and Property**
Date:	**May 16, 2023**

Proposed Motion

To authorize Alliant Insurance Services, Inc. (Alliant) under the terms of its existing Insurance Broker / Risk Management Consulting Agreement with the Phoenix-Mesa Gateway Airport Authority to purchase specific lines of insurance on behalf of the Authority beginning July 1, 2023, not to exceed premium cost of $646,110.

Narrative

Phoenix-Mesa Gateway Airport Authority (PMGAA) renews the following lines of insurance on a fiscal year basis: Airport Liability, Crime, D&O Employment Practice Liability, Cyber, Workers' Compensation, Auto Liability, Fuel Farm & Inland Marine, and Property. Fiduciary and Environmental insurance policies are currently set to renew every three years.

During the marketing process, Alliant engaged several insurance carriers that provide lines of insurance coverage for airports. Insurance premiums are subject to annual increases and decreases based on many variables including, but not limited to, loss rate, marketplace demand, exposure base, and the brokers' strength in the aviation and general property/casualty marketplace. Alliant has negotiated premiums on insurance policies for the above lines of insurance for PMGAA with an anticipated 7.6% increase. These premiums are subject to change due to any new losses incurred by PMGAA until coverage is bound. New or replacement equipment/vehicles throughout the year, insurance audits and completed capital projects could increase the current insurance quotes by an estimate of $54,000 bringing total premiums not to exceed to $646,110 for FY24.

Fiscal Impact

Fiduciary, and Environmental policy premiums are locked-in for three years and one-third of the premium will be expensed in FY24. The total estimated insurance premium expense for FY24 is not to exceed $646,110. The FY24 budget for insurance premiums is $646,578, excluding broker fees.

Attachment(s)

Renewal quote for lines of coverage.

RESOLUTION NO. 23-22

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize Alliant Insurance Services, Inc. (Alliant) under the terms of its existing Insurance Broker / Risk Management Consulting Agreement with the Phoenix-Mesa Gateway Airport Authority to purchase specific lines of insurance on behalf of the Authority beginning July 1, 2023, not to exceed premium cost of $646,110;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes Alliant Insurance Services, Inc. (Alliant) under the terms of its existing Insurance Broker / Risk Management Consulting Agreement with the Phoenix-Mesa Gateway Airport Authority to purchase specific lines of insurance on behalf of the Authority beginning July 1, 2023, not to exceed premium cost of $646,110. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 16th day of May, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

FY24 Financial Summary

Premium Summary | Renewing 7/1/2023

Line of Business	Carrier	Expiring Premium	Renewal Premium	$ Change	% Change
Airport General Liability	AIG	$ 80,552	$ 94,730	$ 14,178	17.6%
Auto Liability	Travelers	$ 65,305	$ 70,466	$ 5,161	7.9%
Crime	Travelers	$ 3,609	$ 4,409	$ 800	22.2%
Cyber	Beazley	$ 30,950	$ 33,684	$ 2,734	8.8%
D&O/Employment Practice Liability	Chubb	$ 11,744	$ 11,700	$ (44)	-0.4%
Environmental* (3Yr Policy 7/1/21-24) 1/3 shown	Beazley	$ 22,756	$ 22,756	$ -	0.0%
Fiduciary* (3Yr Policy 7/1/22-25) 1/3 shown	Travelers	$ 1,863	$ 1,863	$ -	0.0%
Fuel Farm & Inland Marine	Travelers	$ 54,390	$ 56,828	$ 2,438	4.5%
Property Including new Tower	Travelers	$ 208,795	$ 222,433	$ 13,638	6.5%
Worker's Compensation	Old Republic	$ 70,405	$ 73,241	$ 2,836	4.0%
Total - All Lines Renewing		**$ 550,369**	**$ 592,110**	**$ 41,741**	**7.6%**
Allowance for purchase and replacement of equipment, vehicles, and insurance audits			**$ 25,000**		
The addition of the Terminal Modernization, Fuel Farm Expansion, and other projects once completed			**$ 29,000**		
Estimated Total FY24 Insurance Premiums		**Not to Exceed**	**$ 646,110**		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-23

To: Board of Directors
From: Veronica Lewis, Human Resources Director
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: Insurance Broker Services, Health and Welfare/Benefits
Date: May 16, 2023

Proposed Motion

To authorize a three-year contract with two additional one-year extension periods at the sole option of Phoenix-Mesa Gateway Airport Authority, with USI Insurance Services, Inc. (USI) for Insurance Broker Services in an amount not to exceed $169,000 over the five (5) year period.

Narrative

Phoenix-Mesa Gateway Airport Authority (PMGAA) utilizes an insurance broker to procure Employee Health & Welfare Programs. The insurance broker negotiates renewals and obtains competitive bids from the insurance industry to negotiate the best terms and coverage from various vendors.

Request for Proposals No. 2023-018-RFP for Health and Welfare Insurance Broker Services was issued on February 2, 2023 and advertised in the Arizona Business Gazette on February 2, 9, 16 and 23, 2023. The notice was also posted on PMGAA's website as well as the Arizona Airports Association, Airport Consultants Council, the Southwest American Association of Airport Executives websites. In addition, the solicitation notice was emailed to ten prospective respondents. PMGAA received two proposals on March 13, 2023 from the following firms:

Lovitt & Touche, Marsh McLennan Agency, LLC
USI Insurance Services, Inc.

Based on the written proposals received, the evaluation panel requested both firms submit a Best and Final Offer (BAFO). After review of the qualifications and BAFOs, the evaluation panel unanimously selected USI as the firm that best satisfied the requirements, based on the qualifications, experience, in depth market knowledge, and pricing proposal.

The base contract period is from July 1, 2023, through June 30, 2026.

Fiscal Impact

The contract is budgeted in the FY2024 budget.

Attachment(s): Professional Services Agreement

RESOLUTION NO. 23-23

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a three-year contract with two additional one-year extension periods at the sole option of Phoenix-Mesa Gateway Airport Authority, with USI Insurance Services, Inc. (USI) for Insurance Broker Services in an amount not to exceed $169,000 over the five (5) year period;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a three-year contract with two additional one-year extension periods at the sole option of Phoenix-Mesa Gateway Airport Authority, with USI Insurance Services, Inc. (USI) for Insurance Broker Services in an amount not to exceed $169,000 over the five (5) year period. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 16th day of May, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

USI INSURANCE SERVICES NATIONAL, INC.

FOR

HEALTH & WELFARE INSURANCE BROKER SERVICES

CONTRACT NUMBER 20230285

The Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority (PMGAA), a joint powers airport authority authorized by the State of Arizona and consisting of the City of Mesa, City of Phoenix, City of Apache Junction, Town of Gilbert, Town of Queen Creek and the Gila River Indian Community.

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20230285** ("Contract") and the attached exhibits. USI Insurance Services National, Inc., a North Carolina Corporation ("Consultant"), with its principal offices located at 2375 E. Camelback Road, #250, Phoenix, Arizona, 85016, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under this Contract shall generally include, but not be limited to, the following: Health & Welfare Insurance Broker Services, as more specifically described in the detailed scope of services attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Director of Human Resources, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract as amended.

This Contract is effective as of July 1, 2023 and ends on June 30, 2026 ("Base Term"), unless terminated, canceled or extended as provided in this Contract.

This Contract has two (2) optional one-year extensions that PMGAA may exercise at its sole discretion. Prior to the expiration of the Contract Base Term, PMGAA may elect to extend the Contract. If PMGAA exercises such right, all terms, conditions and provisions of the original Contract shall remain the same and apply during the extended

period. All fees for the optional renewal terms are provided for in **EXHIBIT A**, "Scope of Services & Fee Schedule.". Any extension of this Contract shall require an amendment signed by both parties.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant itself shall provide all services to be performed under this Contract. If Sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with PMGAA's Procurement Policy. Payments will be made in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate contracts or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit an invoice to PMGAA, in accordance with **EXHIBIT B**, "Compensation", for the Annual Fee.

A. For the first year of the Contract, Consultant shall submit an invoice to PMGAA for the Annual Fee within thirty (30) days from the Contract Commencement date. PMGAA shall pay Consultant the first year's Annual Fee within thirty (30) days of receipt, review, and approval of Consultant's invoice.

B. For subsequent years and any Renewal Term, Consultant shall submit an invoice to PMGAA for the Annual Fee within thirty (30) days from the anniversary date of the Contract. PMGAA shall pay Consultant the Annual Fee within thirty (30) days of receipt, review, and approval of Consultant's invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all contracts with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all contracts with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX INSURANCE REQUIREMENTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $5,000,000 per occurrence or claim, or incident.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage ($5,000,000 if operating in the Air Operations Area of the Airport).
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions. The insurance policies shall provide, or be endorsed to include, the following provisions:

i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.

ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract, except *Workers Compensation* and *Professional Liability,* for claims arising out of the Consultant's work or service.

iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX NOTICES

Any notice, report or information which may be or is required to be given under this Contract will be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn: Director of Human Resources
5835 South Sossaman Road
Mesa, Arizona 85212

TO CONSULTANT: USI Insurance Services National, Inc.
Attn: Jack Bender
2375 E. Camelback Road, #250
Phoenix, AZ 85016

or to such other person(s) or address(es) as any such Party may designate from time to time by notice to the other Parties in accordance with this Section.

Executed as of the Effective Date.

CONSULTANT
USI Insurance Services National, Inc., a North Carolina Corporation

By: Jack M Bender

Name: Jack M Bender

Title: Consultant

Date: April 18, 2023

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A – SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

SCOPE OF SERVICES

1. The benefit programs include group medical, dental, vision, short-term disability, life/accidental death and dismemberment (AD&D) insurance (including basic and voluntary coverage), flexible spending accounts (FSAs), critical illness, and an employee assistance program (EAP). Currently, pet care coverage is not a responsibility for Consultant services but may be included as an option.
2. Consultant must provide, at a minimum, the following insurance brokerage services for the insurance coverages the Consultant is to provide and they must possess and keep in force all licenses and permits required to perform the services listed herein but which are not limited to the following:
    a. Assist in strategic planning, perform financial analysis, analyze and negotiate renewals, assist in the annual enrollment process, provide assistance in compliance issues, and provide ongoing account management services.
    b. Assist in preparation of insurance coverage specifications.
    c. Provide a comprehensive risk exposure evaluation to identify avenues for risk transfer of actual or potential loss faced by PMGAA.
    d. Prepare annual marketing strategy reports identifying anticipated market conditions.
    e. Analyze and negotiate renewals and obtain competitive bids from the insurance industry in order to negotiate the best terms and coverage from the various vendors.
    f. Provide all quotations received from insurance companies with detailed rankings and recommendations to PMGAA, of which companies would best provide the desired insurance coverage and services with the associated financial and member impact analysis. PMGAA will review insurance companies proposed, as well as Offeror recommendations, and give approval of acceptability.
    g. Assure that insurance policies are placed with insurance companies classified by A.M. Best's Key Rating Guide as A+ and Class 7, or better and keep PMGAA informed of any changes in rating of the companies and making recommendations should ratings change during the policy term.
    h. Provide responsive (i.e. same-day responses to PMGAA inquiries) service for day-to-day contact on insurance related questions and issues.
    i. Service insurance policies and serve as a liaison between PMGAA and the insurance companies.
    j. Provide legislative updates as needed and provide signature ready documents and forms to ensure compliance in a timely manner.
    k. Assist in the planning and coordination of employee annual enrollment meetings and provide presentation and presentation material.
    l. Provide assistance in the form of advisory services or written reports as is customarily expected from a professional insurance broker on an annual basis, including, but not limited to, projections of future insurance premium costs.
    m. Provide all services defined in this solicitation, for the compensation the Offeror has stated as set forth in Attachment A. Offeror understands that it will be representing and working on behalf of PMGAA for the term of this agreement.

FEE SCHEDULE

The fees stated herein are all inclusive, meaning that all related items, including labor, deliverables, tools, materials, equipment, supplies, expenses, etc. shall be factored into the fees listed below. Travel, including airfare, hotel, meals, and any other related accommodations are Consultant's responsibility and will not be reimbursed or paid for by PMGAA.

In cases where commission is mandated by the desired plans/policies, Consultant shall notify PMGAA in writing and such commission shall be deducted from the agreed upon Annual Fee paid by PMGAA.

For the services provided herein, PMGAA agrees to pay Consultant the not to exceed amounts listed below.

Solicitation 2023-018-RFP
Insurance Broker Services, Health & Welfare Benefits Program

BEST AND FINAL OFFER
Attachment A
Price Proposal

Offeror to complete applicable section(s). The fees stated herein by Offeror shall be all inclusive, meaning that all related items, including labor, deliverables, tools, materials, equipment, supplies, expenses, etc. shall be factored into the fees listed below. Travel, including airfare, hotel, meals, and any other related accommodations are Offeror's responsibility and will not be reimbursed or paid for by PMGAA.

Annual Fee:

$ 32,000.00	Year One (1)
$ 33,000.00	Year Two (2)
$ 34,000.00	Year Three (3)
$ 35,000.00	Year Four (4) Optional Extension
$ 35,000.00	Year Five (5) Optional Extension

Exceptions / Clarifications:

Proposal Certification

By Offeror's signature, Offeror certifies that Offeror is authorized to bind this firm/individual to provide the services accepted herein, in compliance with the Scope of Work, technical specifications and other terms and conditions in this Request for Proposal at the price provided on this Price Proposal Page.

Jack M Bender		4/5/23
Printed Name	Signature	Date

BAFO: Solicitation 2023-018-RFP 1

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT A**, "Scope of Services and Fee Schedule".

2. Method of Payment

Subject to the terms of this Contract, PMGAA shall pay Consultant the appropriate rate or fixed price amount for services rendered as described in the Contract only after Consultant has submitted an invoice for services performed and PMGAA has certified and approved each invoice.

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice depicting tasks performed and/or hours spent for services performed. Invoices must be based on the actual hours and/or expenses incurred for the services completed during the billing period. Consultant's invoices must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and/or progress reports in accordance with terms specified in the Contract. Progress reports will clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C - SPECIAL PROVISIONS

1. Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2. Civil Rights Act of 1964, Title VI – Assurance

Title VI List of Pertinent Nondiscrimination Acts and Authorities:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Title VI Compliance With Nondiscrimination Requirements:
During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

3. <u>Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</u>
Consultant, by accepting this Contract, certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any government department or agency.

4. <u>Project Security</u>

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA Contractor and/or subcontractorpersonnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

5. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict.

6. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

7. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

8. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. **Certification.** Consultant certifies:
   a. The award of this Contract did not involve collusion or other anti-competitive practices.
   b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
   c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. **Termination of Contract.**

   a. Termination for cause. PMGAA reserves the right to cancel this Contract in whole or in part due to failure of Consultant to carry out any term, promise, or condition of the Contract. At least ten (10) business days before terminating the Contract, PMGAA will issue a written notice of default specifying one of the following reasons. PMGAA shall, at all times during the term of the Contract or any extension term thereto, have the sole authority to determine if the default has been cured to its satisfaction. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Contract.

      (1) Consultant has provided personnel that do not meet the requirements of the Contract.

      (2) Consultant has failed to perform adequately the stipulations, conditions or services/specifications required in this Contract.

      (3) Consultant has attempted to impose on PMGAA personnel or materials, products, or workmanship of unacceptable quality.

      (4) Consultant has failed to furnish the required service(s) and/or product(s) within the time stipulated in the Contract or associated Authorization of Services.

      (5) Consultant has failed to make progress in the performance of the requirements of the Contract or Authorization of Services, or Consultant fails to give PMGAA adequate assurance the Consultant will perform the Contract in full and on time.

      (6) Each payment obligation of PMGAA created hereby is conditioned on the availability of PMGAA, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by PMGAA for continuance of service under this Contract, then PMGAA may terminate the Contract. PMGAA shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to PMGAA if this provision is exercised, and PMGAA shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

   b. Termination for convenience. This Contract may be terminated at any time by mutual written consent or by PMGAA - with or without cause - provided the terminating party gives fourteen (14) calendar days' advance written notice to the other party. PMGAA may terminate this Contract, in whole or in part, for PMGAA's convenience and with fourteen (14) days' written notice. If this Contract is terminated, then PMGAA is liable only for services rendered and material received, certified, and approved by PMGAA under the Contract before the termination effective date.

   c. Upon termination of the Contract, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

3. **Dispute Resolution**.

   a. **Negotiations**. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.

b. **Mediation**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.

c. **Binding Dispute Resolution**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

4. **Independent Contractor.** At all times, each party acts in its individual capacity not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days. PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

5. **Affirmative Action.** Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

6. **Human Relations**. Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

7. **Non-Exclusive Contract**. This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

8. **Americans with Disabilities Act.** Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

9. **Confidentiality of Records**. Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

10. **Gratuities.** PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled

by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

11. **Applicable Law.** This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

12. **Contract**. This Contract is based on and the result of a negotiated Scope of Work and Proposal, Bid or Statement of Qualifications submitted by Consultant under an RFP, IFB or RFQ. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

13. **Contract Amendments**. This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

14. **Provisions Required by Law**. Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

15. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

16. **Protection of Government Property.** Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

17. **Interpretation – Parol Evidence.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

18. **Subcontracts.** Consultant shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Consultant of its acceptance or rejection within forty-five (45) days or written request by Consultant. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Consultant referred to herein. Consultant is responsible for Contract performance whether subcontractors are used.

19. **No Waiver.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

20. **Warranties.** Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights

of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

21. **Indemnification.** To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

22. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

23. **Advertising.** Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

24. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Consultant's or any of Consultant's subcontractor's business, which is related to the performance of this Contract or related subcontract.

25. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

26. **Inspection.** All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

27. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

28. **Title and Risk of Loss.** The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

29. **Liens.** All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

30. **Licenses.** Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

31. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

32. **Clean Up.** Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

33. **Patents.** Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

34. **Records and Audit Rights.** Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

35. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

EXHIBIT E – CONSULTANT'S RFP SUBMITTAL

Consultant's Proposal in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2023-018-RFP dated March 13, 2023, is hereby incorporated herein and made part of this Contract.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-24

To:	**Board of Directors**
From:	**Shea Joachim, CEcD, Business Development Director**
Through:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Facility Lease with Task Aerospace, Inc.**
Date:	**May 16, 2023**

Proposed Motion

To authorize a facility lease with Task Aerospace, Inc. for a portion of the facility located at 5755 South Sossaman Road, Mesa AZ 85212. The lease term is one (1) year, commencing on July 1, 2023 with one (1) additional renewal period of one (1) year.

Narrative

Task Aerospace, Inc. ("Task") has been leasing the facility at 5755 S. Sossaman Road since July 1, 2017. Task has requested a new lease to extend their occupancy on the facility for at least another one to two years.

Agreement Term and Rate

The Term of the Agreement is one (1) year commencing on July 1, 2023. The Agreement provides one (1) additional renewal period of one (1) year.

As of the Effective Date of the Agreement, the Base Rent for the facility is $49,398.36 annually paid in monthly installments of $4,116.53 plus applicable taxes. The Base Rent will increase by four (4) percent on the twelve (12) month anniversary of the Effective Date of the Agreement.

Attachment(s)

Facility Lease Agreement

RESOLUTION NO. 23-24

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a facility lease with Task Aerospace, Inc. for a portion of the facility located at 5755 South Sossaman Road, Mesa AZ 85212. The lease term is one (1) year, commencing on July 1, 2023 with one (1) additional renewal period of one (1) year;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a facility lease with Task Aerospace, Inc. for a portion of the facility located at 5755 South Sossaman Road, Mesa AZ 85212. The lease term is one (1) year, commencing on July 1, 2023 with one (1) additional renewal period of one (1) year. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 16th day of May, 2023.

_____
Brigette Peterson, Chair

ATTEST:

_____
Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

_____
Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority

FACILITY LEASE

with

TASK AEROSPACE, INC.

Effective Date: **July 1, 2023**

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Phoenix-Mesa Gateway Airport Authority
FACILITY LEASE

This Facility Lease ("Lease") is executed to be effective the FIRST (1) day of July 2023 ("Effective Date") between the PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers authority authorized by the State of Arizona ("Lessor"), and TASK AEROSPACE, INC., a Delaware corporation authorized to do business in the State of Arizona ("Lessee"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

WITNESSETH:

WHEREAS, Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (Airport"); and

WHEREAS, Lessor has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Lease in respect thereof; and

WHEREAS, Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport located at 5755 S. Sossaman Rd., Mesa, AZ 85212, and described as Hangar 46, Suites 101, 102, 103 and 104, consisting of approximately TWO THOUSAND EIGHT HUNDRED SEVENTY-SEVEN (2,877) square feet, and Storage Closet 1 consisting of approximately ONE HUNDRED (100) square feet, as set forth in **EXHIBIT A** attached hereto ("Premises"); and

WHEREAS, Lessor desires to lease the Premises to Lessee on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. LEASE

Lessor hereby leases the Premises to Lessee, subject to all easements and rights of way that may encumber the Premises, and further subject to all operational and use restrictions and other terms and conditions set forth in this Lease.

1.1 Right to Use Premises. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor. Lessee specifically acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense.

1.2 Substitution of Premises. In addition to Lessor's other rights set forth in this Lease, Lessor reserves the right, upon no less than Ninety (90) calendar days prior written notice to Lessee, to substitute Comparable Areas for all or any portion of the Premises, including any additions, alternations or improvements thereon, should Lessor, in its reasonable discretion, determine that taking of the Premises, any portion thereof or any improvement thereon, is required for other Airport purposes, and there exists no appropriate alternative. In the event Lessor makes the determination to exercise its rights to substitute, all title, right and interest to the portion of the Premises taken shall immediately vest in Lessor on the date that is Ninety (90) calendar days following receipt of Lessor's notice, or such later date as specified therein. Furthermore, Lessor may require Lessee to vacate any portion, or all of the Premises taken. For the purposes of this Section 1.2, the term "Comparable Areas" is defined to mean other facilities at the Airport, or any additions or extensions thereof, similar in size to the Premises, brought to the same level of improvement as the Premises and having the same or similar usefulness to Lessee as the portion taken. Lessor shall bear all expenses of bringing the substituted area to the same level of improvement as the Premises, and of moving Lessee's improvements, equipment, furniture and fixtures to the substituted area. If any of Lessee's improvements, equipment, furniture or fixtures cannot be relocated, Lessor shall replace, at Lessor's expense, such non-relocatable improvements and other property with comparable property in the Premises, and Lessor shall be deemed the owner of the non-relocated improvements and other property, free and clear of all claims of any interest or title therein by Lessee, or any other third party whomsoever. It is the specific intent of this Section 1.2 that Lessee be placed, to the extent possible, in the same position it would have been, had Lessor not substituted new premises for the Premises; provided, however, that Lessor shall not be obligated to reimburse Lessee for any damages, including lost profits or revenues, due to such substitution. Notwithstanding the foregoing, Lessor shall use reasonable efforts to avoid disruption to Lessee's business.

1.3 Access. Lessee is granted the right of reasonable access to and from the Premises via such portions of the Airport as are or may be necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport. Lessor reserves the right to designate the location of such access and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 Permitted Uses. Subject to the provisions of Section 1.5, Lessee may use the Premises for Refurbishment of aircraft ejection seats and associated egress systems. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules and regulations of any governmental authority, including Lessor, and to Lessee's compliance with applicable provisions of the *Airport Rules and Regulations* and *Airport Minimum Standards*.

1.5 Prohibited Activities. Lessee shall not use or permit its agents, employees, contractors, invitees, licensees or customers to use the Premises or the Airport for any use that is in violation of the *Airport Rules and Regulations*, the *Airport Minimum Standards*, any matters of record, or applicable laws, rules, regulations and operating policies of any governmental authority, including Lessor, or for any other activity or operation not specified in Section 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director.

1.6 On-Site Manager. Upon commencement of business operations at and on the Premises and the Airport, Lessee shall designate an on-site manager for the term of this Lease who shall be available to Lessor and Lessee's customers, if any, during normal business hours, and otherwise as required by the *Airport Minimum Standards*, as applicable.

1.7 Lessee Acknowledgement. Lessee acknowledges and agrees that its obligations to pay Rental Payments and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Lessor or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any

insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

2. TERM

2.1 Initial Term. The term of this Lease shall be for a period of ONE (1) year, commencing on the Effective Date and terminating on JUNE 30, 2024, thereafter ("Term").

2.2 Renewal Term. Provided Lessee is not then in default of this Lease and subject to written approval of Lessor, the Parties shall have the option of extending the Term for ONE (1) additional period of ONE (1) year ("Extension"). Lessee may initiate the Extension by giving written notice to Lessor of its desire to do so no later than Sixty (60) calendar days prior to the expiration of the Term, as set forth in Section 2.1 herein. If Lessee has properly notified Lessor of its desire to exercise the Extension and Lessor approves such in writing, then Lessee's Extension of the Term of this Lease shall become effective and all references herein to "Term" shall mean the initial term as extended.

3. NON-EXCLUSIVE RIGHTS

Lessee shall have the exclusive right to occupy and use the Premises while in compliance with the terms and conditions of this Lease. All other rights granted to Lessee under this Lease are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport that Lessor deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with Lessee's use of the Premises.

4. RENT

4.1 Rental Payments. Rental payments shall be payable in advance, without any prior demand therefor and without any abatement, deductions or setoffs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer.

4.1.1 Base Rent. Lessee agrees to pay Lessor annual rental for the use of the Premises in the amount of FORTY-NINE THOUSAND THREE HUNDRED NINTY-EIGHT AND 36/100 Dollars ($49,398.36), payable in equal monthly installments of FOUR THOUSAND ONE HUNDRED SIXTEEN AND 53/100 Dollars ($4,116.53) ("Base Rent").

4.1.2 Storage Rent. Lessee agrees to pay Lessor annual rental for the use of Storage Closet 1 in the amount of ONE THOUSAND THREE HUNDRED FIFTY AND 00/100 Dollars ($1,350), payable in equal monthly installments of ONE HUNDRED TWELVE AND 50/100 Dollars ($112.50) ("Storage Rent").

4.2 Rent Increase. The annual Rental Payments paid by Lessee shall be increased by Four percent (4%) on the Twelve (12) month anniversary of the Effective Date of this Lease.

4.3 Refuse Fee. Lessee shall pay an initial monthly refuse fee in the amount of SIXTY-THREE AND 66/100 Dollars ($63.66). This monthly fee is subject to change throughout the term of the Lease and shall be based on the appropriate service provider's most current fee schedule, plus Lessor surcharge.

4.4 Airport Rates and Charges Schedule. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* is included as **Exhibit B** and incorporated herein by reference and is subject to change without prior notice or approval of Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at any time at Lessor's sole discretion, and that no fee shall apply to the use of the Premises or access to the Premises.

4.5 Payment.

4.5.1 Otherwise specified herein, the first payment of Rental Payments shall be paid to Lessor upon the delivery of this Lease, for the period from the Effective Date until the end of the calendar month in which the Effective Date occurs, prorated on the basis of the number of such days to the total number of days in said month. All payments referenced in this Lease shall be payable exclusively in United States Dollars. Thereafter, all Rental Payments shall be paid in monthly installments, in advance, on the first day of each calendar month ("Rental Payments Due Date"). On each such date, Lessee shall pay the full Rental Payments.

4.5.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.5.3 All payments (and reports, if any) required by this Section 4.5 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by Lessor to Lessee.

4.6 Finance Charges and Late Fees. If Lessee fails to pay any installment of Rental Payments or any other charge due and owing to Lessor in full on or before the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum from the due date until payment in full is made. In addition, in the event any installment of Rental Payments or other charge owing to Lessor is paid more than Ten (10) days after the due date, a late penalty of Ten Percent (10%) of the amount of such delinquent Rental Payments installment or other charge shall be due and payable in addition thereto.

4.7 Taxes. Lessee shall pay any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax assessed as the result of its occupancy of Premises or conduct of any activity at the Airport under authority of this Lease, including any such tax assessable on Lessor. In the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor, such tax shall also be paid by Lessee for the period this Lease is in effect, to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business.

4.8 Survival. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

5. PERFORMANCE GUARANTEE

5.1 Security Deposit.

5.1.1 On or before the Effective Date, Lessee shall pay to Lessor an amount equivalent to TWO (2) month's Base Rent, or EIGHT THOUSAND TWO HUNDRED THIRTY-THREE AND 08/100 Dollars (USD $8,233.08), as a security deposit ("Security Deposit") to insure the faithful performance of all of Lessee's obligations hereunder.

5.1.2 The Security Deposit, at the election of Lessor, may be applied in reduction of any loss and/or damage sustained by Lessor by reason of the occurrence of any breach, nonperformance or default by Lessee under this Lease without the waiver of any other right or remedy available to Lessor at law, in equity or under the terms of this Lease. If any portion of the Security Deposit is so used or applied, Lessee shall,

within five (5) business days after written notice from Lessor, deposit with Lessor immediately available funds in an amount sufficient to restore the Security Deposit to its original amount. In the event of a sale or other transfer of the Premises by Lessor, Lessor shall transfer the remaining balance (if any) of the Security Deposit to Lessor's successor in interest, whereupon the transferor Lessor shall be released from liability to Lessee for the return of such Security Deposit. Unless this Lease is terminated as a result of Lessee's default whereupon Lessee shall immediately forfeit its Security Deposit to Lessor, upon termination, Lessor shall return to Lessee all portions of the Security Deposit which were not otherwise applied by Lessor as permitted above. Lessor shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

5.2 Reserved.

6. AIRCRAFT OPERATIONS GUIDELINES

If and to the extent that Lessee, including its subtenants, contractors, agents, etc., operates aircraft at or on the Airport, Lessee shall be required to enter into an operating agreement with Lessor. The current form of the *Airport Operating Agreement* is included in **Exhibit C** and is subject to change without prior notice and/or approval of Lessee. If any subtenant, contractor or agent of Lessee conducting activities on or at the Premises operates aircraft at the Airport, all shall be subject to the provisions of the *Airport Operating Agreement*, which Lessor may enforce directly against such subtenant, contractor or agent, but Lessee shall have no direct liability or responsibility with respect to such matters; except, however, Lessee shall be responsible for compliance by its subtenants, contractors and/or agents with the *Airport Rules and Regulations* and *Airport Minimum Standards*, as appropriate.

7. IMPROVEMENTS

7.1 Reserved.

7.2 Reserved.

7.3 No Alterations. Lessee shall make no material improvements or alterations to the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld or delayed and, if and to the extent applicable, without the approval by Lessor's Design Review Committee. Lessee shall provide Lessor with electronic as-built drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 Title to Alterations and Improvements. Title to all Improvements and alterations on the Premises (but not personal property or trade fixtures) shall vest in Lessor upon the expiration of this Lease, and Lessee agrees to execute and deliver to Lessor, within Ten (10) business days after Lessor's request therefor, a quitclaim deed confirming that title to such improvements and alterations is vested in Lessor.

7.5 Mechanics' Liens. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within Thirty (30) calendar days of notice thereof.

7.6 Permit Required. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa ("City") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment or use. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and the associated plans and specifications.

7.7 Damage or Destruction. Lessee shall maintain insurance on all of Lessee's improvements to the Premises. In the event that all or any portion Lessee's improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall replace, repair, restore, modify or improve said improvements,

subject to the provisions of Section 7.6, using available insurance proceeds together with any additional funds from other available sources, or, alternatively, Lessee shall pay the replacement cost of the improvements to Lessor.

8. MAINTENANCE

8.1 Responsibilities.

8.1.1 *Lessor.* Lessor shall, at its sole cost and expense, keep the Premises and all improvements therein in a neat and clean condition and in good order, condition and repair throughout the Term. In doing so, Lessor shall prepare, maintain and follow a preventative maintenance schedule for all mechanical, electrical, plumbing, drain, piping and air conditioning systems on the Premises. Lessor's maintenance of the Premises shall consist of the inspection, servicing and repair of all systems and improvements, including the boilers, interior roof and structures, electrical, plumbing, heating and cooling, fire detection and suppression systems, pavements, pest control, landscaping and grounds maintenance.

8.1.2 *Lessee.* Lessee shall, at its sole cost and expense, provide custodial services within the premises.

8.2 Damage to Lessor Property. Any real or personal property of Lessor damaged or destroyed by Lessee as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the satisfaction of Lessor. In lieu of such repair or replacement, where required by Lessor, Lessee shall pay to Lessor an amount sufficient to compensate for the loss sustained by Lessor.

8.3 Trash Removal. Lessee shall at all times keep the Premises in a neat, clean, safe, sanitary and orderly condition and shall keep such area free of all trash and debris. Lessee shall, at Lessee's expense, be responsible for all trash removal from the Premises. Such trash removal shall be performed on a not less than weekly basis, and all trash shall be disposed of within designated refuse collection dumpsters located in proximity to the premises.

8.4 Emergency Contact. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as necessary.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS

9.1 Any Transfer of Lease Interest Requires Lessor Advance Written Approval. In the event Lessee desires to transfer, assign, encumber, pledge or hypothecate any portion of its interest in this Lease or any right or interest hereunder (including, but not limited to as part of a mortgagor deed of trust or an assignment by means of a foreclosure or trustee's sale thereunder)(individually and collectively, "Transfer"), Lessee must obtain the prior written consent of Lessor, with such consent to be the in sole and absolute discretion of Lessor without exception. Where Lessor approves in writing of such Transfer, Lessor shall be entitled to request and acquire written financial assurances, including, but not limited to financial statements, business plans and other information related to the financial condition and plans of any proposed transferee. Further, Lessor, may in its sole and absolute discretion require that Lessee still be liable at law and at equity, as well as financially liable, under the Lease, regardless of whether the assignee expressly assumes in writing all of Lessee's obligations under this Lease or in the case of a sublease. Lessee understands and agrees to these terms and conditions regarding any proposed Transfer, and that any violation of this Section 9, may irreparably harm Lessor as the requirements set forth herein are directly related to PMGAA's (and any Lessee's) legal and financial obligations to the Federal Aviation Administration. This Section 9 shall remain valid and enforceable even in the event of amendment to or repeal of FAA regulations, so long as this Section 9 does not directly conflict therewith.

9.2 Lessee's Required Advance Notice to Lessor of Proposed Transfer. In order for Lessor to even consider a Transfer, Lessee must: (i) notify Lessor in writing at least Forty-five (45) days prior to such proposed transfer; (ii) deliver to Lessor, at the time of Lessee's notice, current financial statements of Lessee

and the proposed transferee (along with transferee's business plans) that are reasonably acceptable to Lessor; and (iii) the transferee assumes and agrees in writing to perform Lessee's obligations under this Lease. However, nothing herein shall be construed as Lessor providing its consent to any Transfer or relieving Lessee of any legal, financial or other obligation under the Lease, regardless of Lessor's acceptance or refusal to accept such proposed transfer of Lease. For purposes of this Section 9.2, "Affiliate" means any person or entity that, directly or indirectly, controls, is controlled by or is under common control with Lessee. For purposes of this definition, "control" shall mean possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of a majority of the voting securities of the entity.

9.3 Deemed Transfers. For the purposes of this Lease, a Transfer shall be deemed to include, but not be limited to, the following: (i) if Lessee is a corporation, partnership, limited liability company or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Lessee.

9.4 Subletting. Lessee shall not sublease the Premises or any portion thereof at any time during the Term of this Lease.

9.5 Non-Disturbance. Lessor agrees, for the benefit of all subtenants of all or any part of the Premises, that if this Lease or Lessee's right to possession of the Premises is terminated for default or otherwise, all subleases of all or any part of the Premises, except any sublease to an affiliate of Lessee, shall continue in full force and effect, notwithstanding the termination, as direct leases between Lessor and the subtenants and all such subtenants shall, upon request, attorn in writing to Lessor.

10. IDENTIFICATION SIGNS

Lessee may install on the Premises, a sign or signs identifying its business on the exterior of the Premises; provided, however, that the general type, size, and location of such sign(s) shall conform to Lessor's Comprehensive Sign Plan, be approved in writing by Lessor in advance of installation and be subject to any signage rules, codes and/or regulations of any governmental authority.

11. DEFAULT; TERMINATION BY LESSOR

11.1 Events of Default. Each of the following shall constitute a material default of this Lease by Lessee ("Event of Default"):

11.1.1 Failure to pay any installment of Rental Payments or other amount due from Lessee hereunder, or required by any other agreement between the Parties, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 Failure to perform any of its other obligations under this Lease, provided that Lessee does not cure such failure within Thirty (30) calendar days after delivery by Lessor of a written notice of such default; provided, however, if a cure of the default reasonably requires more than Thirty (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

11.1.3 The filing of any mechanic's, materialmen's or other lien of any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within Thirty (30) calendar days of receipt of actual notice thereof by Lessee.

11.1.4 The Transfer or attempted transfer of any interest in the Lease to any transferee without Lessor's advance written authorization, which Lessor may withhold in its sole and absolute discretion.

11.2 Lessor's Remedies. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, but subject to the provisions of Sections 9.2 and 23 herein, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Rental Payments, re-entry for condition broken, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

11.3 No Implied Termination. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and shall save Lessor harmless from all losses, costs or damages occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 Lessor's Current Damages. Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the costs and expenses incurred in respect of such repairs, redecorating, refurbishments and improvements shall be paid by Lessee to Lessor within Five (5) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the equivalent of the amount of the Rental Payments and all other payments which would be payable under this Lease by Lessee for the remainder of the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs, redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence (hereinafter called "Deficiency"), in monthly installments on the days on which the Rental Payments would have been payable under this Lease as if this Lease were still in effect. All amounts collected by Lessor from subtenants shall be credited against Lessor's damages.

11.5 Lessor's Final Damages. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover from Lessee, and Lessee shall pay to Lessor, on demand, as final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount at the rate of Six Percent (6%) per annum) of (i) the aggregate of the Rental Payments and all other amounts to be paid by Lessee hereunder for the unexpired portion of the term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of such loss that could have been reasonably avoided, plus (b) repossession costs, Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), attorneys' fees, legal expenses, and all other damages incurred by Lessor as a result of such Event of Default. In determining the amount of loss that could reasonably be provided, rents to be paid by subtenants pursuant to Section 9.4, if applicable, and other reasonably projected rental income from leasing the Premises shall be taken into account.

11.6 No Waiver by Lessor. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any of such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 Content of Default Notice. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it is reasonably calculated to put Lessee on inquiry as to the nature and extent of such default, and is made in accordance with Section 20 herein.

11.8 Limitation on Exercise of Termination Remedy by Lessor. Notwithstanding anything to the contrary in Section 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay off Rental Payments or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Other remedies that are available to Lessor include self-help and recovery of damages, and nothing in this Section 11 shall limit the exercise of any such other remedy.

11.9 Waiver of Landlord's Lien. Lessor hereby waives all statutory or common law landlord's lien rights with respect to personal property located on the Premises.

12. RESERVED.

13. INDEMNIFICATION

13.1 Lessee's Indemnity. To Except for the actions and omissions of Lessor and its agents, contractors, employees, managers and representatives, to the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this Section 13.1 for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term caused by Lessee or its agents, employees, contractors, or subcontractors, or (ii) any negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessee" for purposes of this Section 13.1) on the Property or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor, or (iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors or agents.

13.2 Lessor's Indemnity. Except for the actions and omissions of Lessee and its agents, contractors, employees, managers and representatives, to the fullest extent permitted by law, Lessor hereby agrees to defend, indemnify and hold harmless Lessee and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessee" for purposes of this Section 13.2) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any negligent act or omission or intentional misconduct by Lessor or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessor" for purposes of this Section 13.2) on the Property or the Airport, and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessee, or (ii) the failure of Lessor to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessee or its employees, contractors or agents.

13.3 Lessor's Damage to Improvements. Lessor shall be responsible and liable for any damage to any Improvements or alterations on the Property to the extent caused by Lessor or its agents, employees, contractors or subcontractors, and Lessor shall promptly repair any damage caused by Lessor or its agents, employees, contractors or subcontractors.

14. ENVIRONMENTAL PROTECTION

14.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this Section 14 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 Environmental Laws. The term "Environmental Laws" shall mean any one or all of the following, as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 USC Section 6901, et seq.; the Toxic Substances Control Act, 15 USC Section 2601 et seq.; the Safe Drinking Water Act, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the Clean Air Act, 42 USC Section 7401 et seq.; the Arizona Hazardous Waste Management Act, A.R.S. Section 49-921 et seq. the Arizona Environmental Quality Act, A.R.S. Title 49, as amended; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, solid and hazardous waste, hazardous substances and petroleum products.

14.1.2 Hazardous Material. The term "Hazardous Material" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Law and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils).

14.2 Reserved.

14.3 Environmental Compliance.

14.3.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Law, including any amendments thereto, affecting Lessee's activities on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter Environmental Law, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.3.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Law. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Laws.

14.4 Indemnification. To the fullest extent permitted by law, Lessee shall indemnify, defend (with counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this Section 14.4 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity.

This Section 14.4 explicitly excludes Lessee duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is exacerbated by Lessee or unknown contamination is exacerbated by Lessee's negligence.

14.5 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Law, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this Section 14.5, Lessor is not responsible for directing or managing any remediation action. For purposes of this Section 14.5, the term "Release" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. This Section 14.5 also applies to Lessee's remediation of any contamination of any kind existing on the Premises or Airport prior to the Effective Date, including any such contamination that may be first discovered after the Effective Date but not caused by Lessee, except and only to the extent known contamination is exacerbated by Lessee or unknown contamination is exacerbated by Lessee's negligence.

14.6 Governmental Submittals. Lessee shall, at Lessee's own expense, make all submissions to provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any spills or discharges of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at the Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.7 Information Sharing. Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a significant violation of Environmental Law (as defined below), and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Premises, to the extent that such investigations or claims are related to Lessee's activities thereon. A "significant violation of Environmental Law" shall be any violation that requires more than ONE HUNDRED EIGHTY (180) calendar days to resolve.

14.8 Reserved.

14.9 Actions of Lessee. The activities or actions of Lessee under this Section 14.9 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors, invitees and successors.

14.10 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the

form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.11 Reserved.

14.12 Protective Devices and Plans. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge, and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.13 Right to Enter Premises. In addition to the rights afforded to Lessor in Section 19, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency (the EPA), ADEQ, Lessor, and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.14 U.S. Air Force Use and Remedial Action.

14.13.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this Section 14.14, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release. The terms, "Occupation" or "Use" shall mean any activity or presence (in or upon) such portion of, or such building, facility or other improvement on the Premises.

14.13.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Lessor or Lessee is a potentially responsible party with respect to any portion of the Premises or the Airport.

14.15 Cleanup Requirements. Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air

Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have no claim against Lessor or the United States or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above-described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by Governmental Authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.16 Spill Protection Plan. In the event Lessee undertakes any type of manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Lessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements, and shall be approved by all agencies that are obligated by law to approved such plan. Such plan shall be independent of Lessor's spill prevention and response plans, if any. Lessee shall not rely on use of Lessor or Lessor personnel or equipment in execution of its plan. Lessee shall file a copy of the plan and amendments thereto with Lessor's Environmental and Safety Coordinator within THIRTY (30) calendar days of receipt of a CofO from the City. Notwithstanding the foregoing, should Lessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Lessee, or because Lessee was not, in the opinion of Lessor, conducting firefighting, containment or timely cleanup actions, Lessee agrees to reimburse Lessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Lessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Lessor or its employees, agents or contractors.

14.17 Wells. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor.

14.18 Surface Disturbances. After construction of Lessee's improvements on the Premises, if any, either in the future or as otherwise provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface other than what is usual and customary for the anticipated uses without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned or delayed.

14.19 Later Discovered Hazmat. If any Hazardous Material is newly discovered on a portion of the Property after the Effective Date that: (a) (i) were not placed on or introduced to the Property by Lessee, and (ii) were present on the Premises prior to the Effective Date (collectively, "**Later-Discovered, Pre-Existing Hazmat**"); and (b) such Later-Discovered, Pre-Existing Hazmat will cause Unavoidable Delay in the construction of Improvements; Lessee shall immediately notify Lessor and cease development activity in the impacted area of the Premises, and Lessee shall have the right to either (a) conduct such investigations and remedial actions as necessary under applicable Environmental Law and continue development activity as the remedial process allows (and reserve any rights it may have to seek whatever compensation it is entitled to recover), if Lessor does not agree, within Seven (7) business days of receiving notice contemplated under this Section, to promptly investigate and remediate the detected contamination in accordance with Environmental Law, and on a schedule and in a manner that does not interfere with Lessee's development, use or construction plans, or (b) terminate this Lease upon written notice to Lessor.

15. PROTECTION OF WETLANDS

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises. Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the United States Army

Corps of Engineers and obtain a permit or waivers under Section 404 of the *Clean Water Act*. For purposes of this Section 15, the term, "new construction," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. SPECIAL PROVISIONS

Lessee agrees to and shall at all times comply with the Lessor's *Standard Terms and Conditions*, as attached hereto as **EXHIBIT F**.

17. INSURANCE

17.1 Coverage Required. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

17.1.1 *Comprehensive General Liability* insurance in the amount of $2,000,000 per occurrence covering third party bodily injury and property damage, and including coverage for "premises/operations," "products and completed operations," "professional," "host liquor" and "blanket contractual liabilities."

17.1.2 *Personal Property* insurance providing coverage at least as broad as the current ISO Special Form ("all-risks") policy in an amount not less than the full insurable replacement cost of all of Lessee's trade fixtures and other personal property within the Premises and including business income insurance covering at least twelve (12) months loss of income from Lessee's business in the Premises.

17.1.3 *Worker's Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000 covering work-related injuries to employees and others permitted to operate or otherwise conduct business on the Premises.

17.2 Form. Each insurance policy obtained pursuant to this Section, except for *Worker's Compensation* and *Employer's Liability* policies, shall: (i) name Lessor as a certificate holder and additional named insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than Thirty (30) calendar days before such cancellation or modification takes effect Ten (10) days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

17.3 Certificates of Insurance. Lessee shall deliver a certificate of insurance for each policy required herein to Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the term of this Lease.

17.4 Additional Insurance. At any time during the term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this Section 17 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

17.5 Blanket Insurance. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

17.6 Insurance by Lessor. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this Section. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within Ten (10) business days after Lessor advises Lessee of the cost thereof.

18. SURRENDER OF POSSESSION.

18.1 Condition of Property.

18.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear. All trade fixtures, equipment, and other personal property, to include all hazardous material, installed or placed by Lessee on the Premises which are not permanently affixed thereto shall remain the property of Lessee, and Lessee shall have the right at any time during the term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall become a part of the Premises, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for removal and disposal of any hazardous materials and the cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

18.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required by Lessor, be permanently removed from the Premises by Lessee, at Lessee's expense, within FIVE (5) business days of Lease termination. Should Lessee fail to remove such trade fixtures, equipment or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

18.2 Holding Over. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Rental Payments and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee.

19. INSPECTION BY LESSOR

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, I which event Lessor shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee on the Premises.

20. NOTICES

20.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses:

TO LESSOR: Phoenix-Mesa Gateway Airport Authority
Attn: Business Development Department
5835 South Sossaman Road
Mesa, Arizona 85212

TO LESSEE: Task Aerospace Inc.

Attn.: Tony Nikopoulos, Member
4912 S. Antonio
Mesa, AZ85212
Phone: 708-670-8545
Email: tony.nikopoulos@taskaero.com

20.2 Any notice shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service. Any Party may designate in writing a different address for notice purposes pursuant to this Section.

21. SEVERABILITY

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

22. APPROVALS, CONSENTS AND NOTICES

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

23. LIENS AND MORTGAGES

23.1 General Provisions.

23.1.1 Except as provided in this Section 23, Lessee shall not engage in any financing or other transaction creating any mortgage or deed of trust upon the Premises, place or suffer to be placed upon the Premises any lien or other encumbrance, or suffer any levy or attachment to be made on Lessee's interest in the Premises. Any such mortgage or deed of trust, encumbrance or lien shall be deemed a violation of this Section, constituting a failure by Lessee to comply with the terms of the Lease, on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

23.1.2 Notwithstanding anything to the contrary in Section 9 herein, Lessee shall, during the Term, be permitted to mortgage, collaterally assign, or otherwise encumber its leasehold interest under this Lease to secure indebtedness, including, without limitation, a loan to finance construction of improvements and other development on the Premises, and including refinancing's thereof, subject to the restrictions of Section 23.1.3, and provided that the language of such mortgage or deed of trust and of all related documents that require the execution, approval, or consent of Lessor shall be subject to the prior review and approval of legal counsel for Lessor, and that all legal fees incurred by Lessor in connection with such legal counsel review and approval shall be paid by Lessee. Any such encumbrance is referred to as "Mortgage" and the holder thereof, "Mortgagee." The Mortgagee, upon taking possession or upon foreclosure or taking an assignment in lieu thereof, shall be liable for all future rents and obligations hereunder and shall attorn to Lessor. No Mortgage shall encumber Lessor's interest in the Premises or the improvements thereon. Further and promptly after Lessee assigns or encumbers any portion of the Premises or the improvements thereon, Lessee shall furnish Lessor with a written notice setting forth the name and address of such Mortgagee or trustee.

23.1.3 No Mortgage or deed of trust shall extend to or affect the fee, the reversionary interest or the estate of Lessor in the Premises. No Mortgage or deed of trust shall be binding upon Lessor in the enforcement of its rights and remedies under this Lease and by law provided, unless and until a copy thereof shall have been delivered to Lessor and such Mortgage or deed of trust is authorized in accordance with provisions of this Section 23.

23.2 Lessor Agreement. With respect to Mortgagees of the Premises, Lessor agrees that:

23.2.1 If requested by a Mortgagee which shall have duly registered in writing with Lessor its name and address, and if Lessor shall give any notice, demand, election or other communication required hereunder (hereafter, collectively, "Notices") to Lessee, Lessor shall concurrently give a copy of each such

Notice to the Mortgagee at the address designated by it. Notices shall be sent by registered or certified mail, return receipt requested, and shall be deemed given SEVENTY-TWO (72) hours after the time they are deposited in a United States Post Office with postage charges prepaid, addressed to the Mortgagee. No Notice given by Lessor to Lessee shall be binding upon or affect Lessee or the Mortgagee unless a copy of the Notice shall be given to the Mortgagee pursuant to this Section 23.2.1.

23.2.2 Such Mortgagee entitled to such Notices, as specified above, shall have any and all rights of Lessee with respect to the curing of any default hereunder by Lessee.

23.2.3 If Lessor shall elect to terminate this Lease by reason of any default by Lessee with respect to the Premises, the Mortgagee that shall have become entitled to Notice as provided in this Section 23.2 shall have any and all rights of Lessee with respect to curing of any default with respect to the Premises.

23.2.4 Nothing herein contained shall be deemed to impose any obligation on the part of Lessor to deliver physical possession of the Premises to such holder of a Mortgage. To the extent the physical possession of the Premises by a secured creditor is not inconsistent with the terms of this Lease, or is incompatible with the Lessor's selection of available remedies in the Event of Default, Lessor shall not prevent such physical possession.

23.2.5 If more than one Mortgagee shall seek to exercise any of the rights provided for in this Section 23, the holder of the Mortgage having priority of lien over the other Mortgagees shall be entitled, as against the others, to exercise such rights. Should a dispute arise among Mortgagees regarding the priority of lien, the Mortgagees shall prove to the satisfaction of Lessor that they have settled that dispute.

23.3 Protection of Mortgagee(s). Until the time, if any, that an approved Mortgage shall be satisfied and released of record:

23.3.1 A Mortgagee shall have the right, for a period equal to the period afforded Lessee to perform any term, covenant, or condition and to remedy any default by Lessee hereunder, and Lessor shall accept such performance with the same force and effect as if furnished by Lessee, and the Mortgagee shall thereby and hereby be subrogated to the rights of Lessor. Such Mortgagee cure period shall begin on the later of: (i) the date Mortgagee receives notice pursuant to Section 23.2, or (ii) the date that Lessee's cure period expires under the Lease. During such Mortgagee cure period, Lessor will not disturb possession, interest or quiet enjoyment by the Lessee or Mortgagee in the real property for any reason, subject to the terms of the Lease, until such Mortgagee cure period has expired. The Mortgagee shall have the right to enter upon the Premises to give such performance.

23.3.2 In case of a default by Lessee in the performance or observance of any non-monetary term, covenant or condition to be performed by it hereunder, if such default cannot practicably be cured by the Mortgagee without taking possession of the Premises, in such Mortgagee's reasonable opinion, or if such default is not susceptible of being cured by the Mortgagee, then Lessor shall not serve a notice of lease termination if and so long as:

a. The Mortgagee shall proceed diligently to obtain possession of the Premises (including possession by a receiver), and, upon obtaining such possession, shall proceed diligently to cure such defaults as are reasonably susceptible of cure (subject to any order by a court of competent jurisdiction staying or otherwise precluding such Mortgagee from obtaining such possession); or

b. The Mortgagee shall institute foreclosure proceedings and diligently prosecute the same to completion (unless in the meantime it shall acquire Lessee's estate hereunder, either in its own name or through a nominee, by assignment in lieu of foreclosure), subject to any order by a court of competent jurisdiction staying or otherwise precluding such Mortgagee from obtaining such possession.

c. The Mortgagee shall not be required to obtain possession or to continue in possession of the Premises pursuant to Section 23.3.2a, or to continue to prosecute foreclosure proceedings pursuant to Section 23.3.2b, if and when such default shall be cured. If a Mortgagee, its nominee, or a purchaser at a foreclosure sale shall acquire title to Lessee's leasehold estate hereunder, a default that is not reasonably

susceptible to cure by the person succeeding to the leasehold interest shall no longer be deemed a default under this Lease.

d. If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Lessee, the times for commencing or prosecuting foreclosure or other proceedings, including proceedings to obtain possession, shall be extended for the period of the prohibition.

23.4 New Lease

23.4.1 Subject to FAA regulations, Lessor agrees that, in the event of early termination of this Lease for any reason (including but not limited to any default by Lessee), Lessor, if requested by any Mortgagee, will enter into a new lease of the Premises with the most senior Mortgagee requesting a new lease, which new lease shall commence as of the date of termination of this Lease and shall run for the remainder of the original term of this Lease, at the rent and upon the terms, covenants and conditions herein contained, provided that:

a. Such Mortgagee shall make written request upon Lessor for the new lease within SIXTY (60) calendar days after the date such Mortgagee receives written notice from Lessor that this Lease has been terminated;

b. Such Mortgagee shall pay to Lessor, at the time of the execution and delivery of the new lease, any and all sums which would, at that time, be due and unpaid pursuant to this Lease but for its termination, and in addition thereto all reasonable expenses, including reasonable attorneys' fees, which Lessor shall have incurred by reason of such termination;

c. Such Mortgagee shall perform and observe all covenants in this Lease to be performed and observed by Lessee, and shall further remedy any other conditions which Lessee under the Lease was obligated to perform under its terms, to the extent the same are reasonably susceptible of being cured by the Mortgagee; and

d. The Lessee under the new lease shall have the same right of occupancy to the buildings and improvements on the Premises and elsewhere on the Airport as Lessee had under this Lease immediately prior to its termination.

Notwithstanding anything to the contrary expressed or implied in this Lease, any new lease made pursuant to this Section 23 shall have the same priority as this Lease with respect to any mortgage, deed of trust, or other lien, charge, or encumbrance on the fee of the Premises, and any sublease under this Lease shall be a sublease under the new Lease and shall not be deemed to have been terminated by the termination of this Lease.

23.4.2 Nothing herein contained shall require any Mortgagee to enter into a new lease pursuant to this Section 23.4, or to cure any default of Lessee referred to above.

23.4.3 If any Mortgagee shall request a new lease as provided in this Section 23.4, Lessor agrees, at the request of, on behalf of and at the expense of the Mortgagee, upon a guaranty from it reasonably satisfactory to Lessor, to institute and pursue diligently to conclusion the appropriate legal remedy or remedies to oust or remove the original Lessee from the Premises, but not any authorized subtenants actually occupying the Premises or any part thereof.

23.4.4 Unless and until Lessor has received notice from each Mortgagee that the Mortgagee elects not to demand a new lease as provided herein, or until the period therefor has expired, Lessor shall not cancel or agree to the termination or surrender of any existing subleases nor enter into any new leases or subleases with respect to the Premises without the prior written consent of each Mortgagee.

23.5 Effect of Transfer. Neither the foreclosure of any Mortgage (whether by judicial proceedings or by virtue of any power of sale contained in the Mortgage), nor any conveyance of the leasehold estate created by this Lease by Lessee to any Mortgagee or its designee by an assignment or deed in lieu of foreclosure or

other similar instrument, shall require the consent of Lessor or constitute a default under this Lease, and upon such foreclosure, sale or conveyance, Lessor shall recognize the purchaser or other transferee in connection therewith as the Lessee under this Lease, subject only to an assumption in writing by such purchaser or transferee of all obligations of Lessee under this Lease.

24. GOVERNING LAW

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

25. AIRPORT RULES AND REGULATIONS

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act, Public Law 101-336, 42 U.S.C. 12101-12213*), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall at all times comply with the *Airport Minimum Standards* and *Airport Rules and Regulations*, as the same may be amended from time to time. Copies of the current *Airport Minimum Standards* and *Airport Rules and Regulations* are attached hereto as **EXHIBIT D**. Lessee acknowledges and agrees that Lessor may amend the *Airport Minimum Standards* and *Airport Rules and Regulations* at any time in Lessor's sole discretion. Lessee shall be responsible for controlling and preventing disruptive pedestrian and vehicle traffic associated with its activities on the Premises and at the Airport. Lessee also shall display to Lessor any permits, licenses, or other evidence of compliance with laws upon request.

26. CORPORATE AUTHORIZATION

In executing this Lease, Lessee represents and warrants to Lessor that if Lessee is a corporation, Lessee has obtained and been granted the full right, power and authority to enter into this Lease.

27. UTILITY LINES AND SERVICE CHARGES

27.1 Connections and Services. Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested in advance to do so by Lessee, Lessor will grant reasonable rights-of-way on or across the Airport to suppliers of public utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to designate the lands along which such rights-of-way shall be granted so as to cause the least inconvenience in the operation of the Airport and other Airport tenants.

27.2 Payment. Lessee shall pay for all utilities, including trash collection, used in its operations at the Airport and the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

27.3 Continued Use and Repair. Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises and the right to repair the same, when necessary, in Lessor's sole discretion, including but not limited to, any utility easements on the Premises. Lessor shall conduct such repairs in such a manner and at such times as to not unreasonably interfere with Lessee's activities thereon.

28. RESERVATIONS TO LESSOR

The Premises are accepted "as is, where is" by Lessee, subject to any and all existing easements or other encumbrances, and Lessor shall have the right to install, lay, construct, maintain, repair and operate such sanitary sewers, drains, storm water sewers, pipelines, manholes, connections; water, oil and gas pipelines; telephone and telegraph power lines; and such other appliances and appurtenances necessary or convenient to

use in connection therewith, over, on, across or in proximity to the Premises, or any part thereof, as will not unreasonably interfere with Lessee's or any subtenant's operations hereunder, and to enter upon the Premises for such purposes. Lessor also reserves the right to grant franchises, easements, rights-of-way, and permits, over, on, across or in proximity to any portions of the Premises for the same purposes; provided, that Lessor or the grantee, as applicable, shall not exercise such rights so as to interfere unreasonably with Lessee's or any subtenant's activities on the Premises and all such interference shall be minimized. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions that the surface of the Premises shall be restored to its original condition, at no cost to Lessee, upon the completion of any construction.

29. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

29.1 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, *Nondiscrimination in Federally Assisted Programs of the Department of Transportation,* as it may be amended.

29.2 Lessee agrees that: (i) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, creed, disability, age, sex or national origin in the use of the Premises; (ii) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (iii) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as it may be amended.

29.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age or handicap, be excluded from participating in any activity.

29.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom.

29.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

29.6 Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation or maintenance of the Airport. Lessor agrees to reasonably consult with Lessee prior to executing or entering into any agreement that could reasonably be expected to have a material effect on the Premises, or on Lessee or its subtenants, or on any Permitted Uses, with the stated purpose of attempting in good faith to avoid any interference with, disruption of, or restriction or limitation on Lessee's intended use and development of the Premises in accordance with this Lease.

29.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

29.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

29.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto, or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

29.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

29.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning 49 U.S.C. §40103(e) and 47107 (a)(4).

29.12 Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency

29.13 To the extent that Lessee conducts or engages in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users and charge reasonable and not unjustly discriminatory prices for each unit or service; except, however, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

29.14 Lessee shall conform to Lessor and FAA safety and security rules and regulations regarding use of the Airport air operations area including runways, taxiways, taxilanes and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; complete and pass an airfield safe driving instruction program when offered or required by Lessor; and be subject to penalties as prescribed by Lessor for violations of Airport safety and security requirements.

30. TITLE VI

30.1 Civil Rights Act of 1964, Title VI – General. Lessee agrees to comply with pertinent statues, Executive Orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, or national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Lessee and subcontractors from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

Lessee agrees to include the above statement in any subsequent agreement or contract covered by 49 CFR part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

30.2 Civil Rights Act of 1964, Title VI – Assurances. During the performance of this Agreement, Lessee, for itself, its assignees and successors in interest agrees as the performance of this contract, the tenant/lessee, for itself, its assignees, and successors in interest agrees as follows:

30.2.1 *Compliance with Regulations*. Lessee shall comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

30.2.2 *Nondiscrimination*. Lessee, with regard to the work performed by it during the Term of this Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities,

including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

30.2.3 *Solicitations for Subcontracts, including Procurements of Materials and Equipment*. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Lessee of Lessee's obligations under this Agreement and the Non-Discrimination Acts and Authorities on the grounds of race, color, or national origin.

30.2.4 *Information and Reports*. Lessee shall provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by PMGAA or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to PMGAA or the FAA as appropriate and will set forth what efforts it has made to obtain the information.

30.2.5 *Sanctions for Noncompliance*. In the event of a Lessee's noncompliance with the Nondiscrimination provisions of this Agreement, PMGAA will impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

a. Withholding of payments to the Lessee under this Agreement until Lessee complies, and/or:

b. Cancellation, termination, or suspension of this Agreement, in whole or in part.

30.2.6 *Incorporation of Provisions*. Lessee will include the provisions of SECTIONS 23.2.1 through 23.2.5 of this SECTION 23.2 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as PMGAA or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request PMGAA to enter into any litigation to protect the interests of PMGAA. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

30.3 Civil Rights – Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Lessee" for purposes of this SECTION 23.3) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

22.3.1 Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

22.3.2 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

22.3.3 The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

22.3.4 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

22.3.5 The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq*.) (prohibits discrimination on the basis of age);

22.3.6 Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended(prohibits discrimination based on race, creed, color, national origin, or sex).

22.3.7 The Civil Rights Restoration Act of 1987 (PL 100-209) (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

22.3.8 Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

22.3.9 The FAA's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

22.3.10 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

22.3.11 Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to74100);

22.3.12 Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

31. FEDERAL FAIR LABOR STANDARDS ACT

This contract and all subcontracts that result from this contract incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The Lessee has full responsibility to monitor compliance to the referenced statue or regulation. The Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

32. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This contract and all subcontracts that result from this contract incorporate by reference the provisions of 29 CFR part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration

33. INCORPORATION OF QUITCLAIM DEED

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government ("Deed"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

33.1 That this Lease is subject to all terms and conditions of the Deed; and

33.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

34. REQUIRED PROVISIONS OF QUITCLAIM DEED

34.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

34.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

34.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

34.2 If the Premises are within any of the archeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

34.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

35. ARCHEOLOGICAL OR CULTURAL RESOURCES

In the event any archeological or cultural resources are discovered during any construction contemplated or permitted by this Lease, Lessor shall use its best efforts to expedite any necessary actions with respect thereto, at Lessor's sole cost and expense.

36. AIRPORT SECURITY

36.1 Airport Security Plan.

36.1.1 Lessor's Operations Department maintains an approved Airport Security Plan ("**Security Plan**") pursuant to 49 CFR Parts 1542. Lessee shall at all times comply with Lessor's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

36.1.2 Lessee is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Lessor's Operations Department.

36.1.3 Lessee shall promptly upon written request from Lessor correct physical or procedural deficiencies caused by Lessee that are located on the Premises which are contrary to Lessor's Operations Department, security directives, security bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Lessor notifying Lessee of any deficiency, Lessor shall provide Lessee with a reasonably detailed explanation of the deficiencies. Lessee shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

36.1.4 Lessee shall, to the fullest extent permitted by law, indemnify, defend and hold Lessor harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-lessees or independent contractors of Lessee.

36.1.5 Lessee shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("**TSA**") or Lessor's Operations Department and make such audits available for inspection.

36.1.6 Lessee shall designate a primary security coordinator to receive security related briefings, bulletins and sensitive security Lessee.

36.1.7 Lessor reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Lessor's Operations Department shall notify the Lessee security coordinator regarding modifications that effect Lessee.

36.2 Airport Security Badge.

36.2.1 Lessee's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Lessor's Operations Department, TSA or other entity having security jurisdiction at the Airport. Lessee, employees, and contractors will surrender security badges upon request by Lessor's Operations Department; physical security media (badges and keys) remain the property of Lessor. Within SEVENTY-TWO (72) hours of Lessor's confiscation of any security badges, Lessor shall provide Lessee with a reasonably detailed explanation of the violations that caused Lessor to confiscate the security badges.

36.2.2 Lessee, employees and contractors shall comply with all security related audits, inspections, and screenings conducted by the Lessor's Operations Department.

36.2.3 Lessee will promptly return badges to the Lessor's badging office when badge holder's employment is terminated, the badge is no longer needed, or the employee/contractor is on extended leave.

36.2.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining, suspension or revocation of one or all misused badges.

37. DEFAULT BY LESSOR

In the event of any alleged breach by Lessor of its covenants contained in this Lease, Lessee shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Lease; provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Rental Payments, or any other payments to be made by Lessee hereunder.

38. BROKERS

Lessor and Lessee each represents and warrants to the other Party that it has not had any dealings with any real estate brokers, finders or agents in connection with this Lease. Lessor and Lessee Each agrees to indemnify, defend (with counsel selected by the other) and hold the other Party and other Party's nominees, successors and assigns harmless from any and all claims, costs, commissions, fees or damages arising from a breach of such Party's representation and warranty in this Section.

39. SALE BY LESSOR

Lessee agrees to look solely to Lessor's interest in the Premises for the recovery of any judgment from Lessor, it being agreed that neither Lessor nor the holders of the equity interests of Lessor, nor the members, partners, officers, directors or shareholders of Lessor shall be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

40. ESTOPPEL CERTIFICATE

Lessee shall, without charge, at any time and from time to time hereafter, within TEN (10) business days after written request of Lessor to do so, certify, by written instrument duly executed and acknowledged by Lessee and certified to Lessor and to any prospective lender or purchaser: (i) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (ii) as to

the existence of any default hereunder to the best of Lessee's knowledge; (iii) as to the date on which Lessee was obligated to commence paying Rental Payments and all other charges hereunder and the expiration date of the Term; (iv) as to whether the Lessee has assigned or transferred its interests or any portion thereof in this Lease; and (v) as to any other matters as may be reasonably requested. Lessor and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

41. MISCELLANEOUS

41.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

41.2 No Waiver. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

41.3 Non-Waiver of Rights. No waiver or default by Lessor of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Lessee, and Lessor shall not be restricted from later enforcing any of the terms and conditions of this Lease.

41.4 Amendment. This Contract shall be modified only by a written amendment mutually agreed to and signed by both Parties, by persons duly authorized to enter into contracts on behalf of each Party.

41.5 Litigation Expenses. In the event of litigation between Lessor and Lessee, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

41.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

41.7 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

42. INCORPORATION OF RECITALS

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

EXECUTED to be effective on the date specified above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers authority authorized by the State of Arizona

By: _____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ___ day of _____, 2023, by J. Brian O'Neill, A.A.E., in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority, a joint powers authority authorized by the State of Arizona.

_____
Notary Public

LESSEE:

TASK AEROSPACE, INC, a Delaware corporation authorized to do business in Arizona

By: _____
Tony Nikopoulos, Member

STATE OF ARIZONA)
) ss.
County of MARICOPA)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 4th day of MAY, 2023, by Tony Nikopoulos, in his capacity as Member, Task Aerospace, Inc., a Delaware corporation, for and on behalf of said corporation.

JEANINE ANTOINETTE ROGERS
Notary Public - Arizona
Pinal County
Commission # 575635
My Comm. Expires Jan 14, 2024

Jeanine Antoinette Rogers
Notary Public

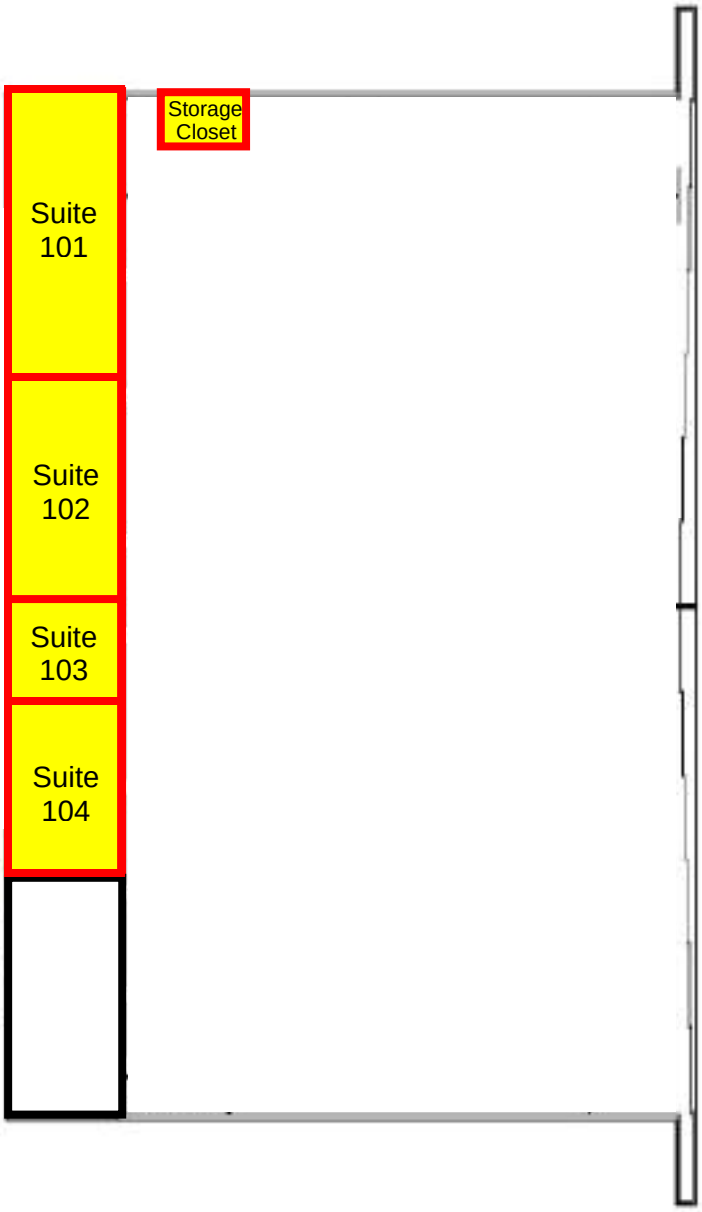
Exhibit A

DEPICTION OF THE PREMISES

5755 South Sossaman Road

Suites 101, 102, 103, & 104 ≈ 2,877 Square Feet
Storage Closet 1 ≈ 100 Square Feet

PhxMesa Gateway Airport



All measurements and data are approximate and subject to change. Floor plan not to scale.
Phoenix-Mesa Gateway Airport Authority 5835 S. Sossaman Road, Mesa, Arizona 85212-0914

Exhibit B

AIRPORT RATES AND CHARGES SCHEDULE

Airport Rates and Charges

&

AIRPORT FEES, SERVICES AND RENTA RATES SCHEDULE

Airport Fees, Services and Rental Rates

Exhibit C

AIRCRAFT OPERATIONS GUIDELINES

C1. **Use of Airport**. Lessee, Lessee's assigns, sub-lessees, or transferees who operate aircraft at the Airport and are engaged in a private, government, or commercial aeronautical business or service and desire to use the Airport landing facilities for certain types of operations including, but not limited to: 1) taxiing and maneuvering on Airport runways, taxiways, ramps and aprons; 2) landings and approaches ("touch and go", "stop and go"); and 3) low approaches shall be subject to the provisions of this **EXHIBIT C**.

C2. **Fees**. As appropriate, Lessee shall pay Lessor fees as outlined below:

C2.1 *Landing Fee*: Lessee shall pay a landing fee at a rate equal to the amount reflected on the most current *Airport Rates and Charges Schedule* at the time of the aircraft operation, for each flight subject to a landing fee operated by or in conjunction with Lessee. The weight of any particular aircraft shall be its maximum certificated gross landing weight (MGLW). The amount owed to Lessor for each chargeable aircraft landing for each preceding calendar month shall be due and payable no later than the TWENTIETH (20th) day of the month succeeding the calendar month in which said aircraft landings took place. Lessee's written listing of all aircraft landings subject to such fee shall accompany said payment. Each entry in such listing shall include the date of the landing, the aircraft registration number, the type and model aircraft, the aircraft MGLW and the amount of the fee due.

C2.2 *Aircraft Ramp Space*. Lessee shall pay Lessor monthly, an aircraft-parking fee in an amount equal to that specified in the most current *Airport Rates and Charges* Schedule at the time of use, for each overnight aircraft parking position used by Lessee that is situated on Airport ramp outside Lessee's Premises. Such fees, if any, shall be payable to Lessor no later than the TWENTIETH (20th) day of the month following that in which Lessee occupied or used such space, and such payment shall be accompanied by a written listing of the aircraft (including registration number, make and model), dates and times of usage.

C2.3 *Other Space*. When available and specifically assigned to Lessee, Lessee shall pay Lessor monthly, in advance, a fee for Lessee's non-exclusive use of other space not situated on or part of the Premises. The location and cost of such other space shall be determined by Lessor at its sole discretion, and both may be subject to change from time to time by Lessor, as necessary.

C2.4 *Additional Space/Services*. In the event that Lessee requires space or special services such as, but not limited to, aircraft line services, out-of-station ARFF standby, operations safety officers, ground service equipment, or fuel spills response teams, Lessee shall pay Lessor's standard fees for such services at the time the service is rendered, unless a secured account or agreement is established prior to requesting additional services.

C3. **Books and Records**. Lessee shall maintain permanent books, records and ledgers accurately reflecting the total number of monthly Aircraft landings for each aircraft subject to a landing fee and any other aforementioned fee indicating the make, type (including model designation), registration, maximum certificated gross landing weight, and arrival and departure time of each aircraft involved. These records shall be made available to Lessor upon request. In addition to monthly payment as set forth in Section C2 herein and together therewith, Lessee shall provide Lessor with a written report, indicating all aircraft operations and related information for the preceding calendar month.

C4. **Disabled or Abandoned Aircraft**. Should any aircraft owned or operated by Lessee through accident or for any other reason, become disabled or be abandoned in any area which could interfere with the continuous, normal operations of any of the runways, taxiways and airfield facilities at the Airport, Lessee shall:

C4.1 Immediately remove said aircraft to such location as may be designated by Lessor, unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agency or agencies of the federal government; and

C4.2 In the event of any accident where federal investigation in place is required, immediately upon receiving clearance to do so from the appropriate federal agency, remove said aircraft and any wreckage or debris resulting therefrom to the area(s) designated by said federal agency authorizing such removal; otherwise, such aircraft wreckage and debris shall be immediately removed from the Airport or stored at a location approved by Lessor.

C4.3 Should Lessee fail to proceed immediately to remove disabled aircraft, or should aircraft owned or operated by Lessee be abandoned on the Airport, Lessor shall have the right to remove such aircraft by any means Lessor deems necessary under the circumstances, and Lessee shall indemnify, defend, keep and hold Lessor, its members, board of directors, officers, agents, officials, servants, employees and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense (including costs of suit and attorneys' fees and expenses) incurred by Lessor or claimed by anyone by reason of removal of said aircraft, injury to persons or property or damages to such aircraft caused by such removal, as well as storage costs therefor. Lessee shall reimburse Lessor for any costs incurred by Lessor in removing and storing any aircraft, any property damage to the airport caused by such aircraft or removal within TEN (10) business days of demand therefor.

C5. **Aviation Fuel**. Lessee, at Lessee's sole cost and expense, shall procure aviation fuel delivered to its aircraft on the Airport. If fueling or defueling aircraft owned or operated by Lessee, or under Lessee's direct control, Lessee shall comply fully with Lessor's *Aviation Fuel Storage, Dispensing and Handling Guidelines* and applicable federal regulations.

C6. **Fly Friendly Procedures**. Lessee acknowledges that Lessor maintains *Fly Friendly* noise abatement procedures, and shall provide such information to flight crews, post the information in the Lessee's flight planning area, and use the procedures to the extent possible, when consistent with safety and Air Traffic Control directives.

Exhibit D

AIRPORT MINIMUM STANDARDS

Minimum Standards

&

AIRPORT RULES AND REGULATIONS

Rules & Regulations

Exhibit E

STORM WATER PERMIT COMPLIANCE

E1. **Acknowledgments**.

E1.1 Lessee acknowledges that because of its activities, operations or location at the Airport, Lessee may be required by EPA Regulations 40 CFR Part 122 (Regulations) to obtain a National Pollution Discharge Elimination System (NPDES) Storm water discharge permit ("Permit"), a requirement that Lessee can fulfill by:

E1.1.1 Obtaining its own permit; or

E1.1.2 Joining as a co-permittee under Lessor's current storm water permit.

E1.2 Lessor has undertaken to obtain a storm water discharge permit, and Lessee acknowledges that it will enjoy a substantial economic benefit by joining as a co-permittee, and that such benefit serves as good and sufficient consideration for the obligations imposed upon and assumed by Lessee under this **EXHIBIT E**.

E1.3 Lessee acknowledges that it will have to devise and implement Best Management Practices (BMPs) to minimize the contact of storm and other precipitation event water with "significant materials" (as defined in the Regulations) generated, stored, handled or otherwise used by Lessee, and to document such BMPs with a written storm water management plan.

E1.4 It is the Lessee's obligation to determine if its activities or operations require obtaining such permit.

At such time as Lessee determines applicability and agrees to Section E1.1.2 above, the following shall apply:

E2. **Agreement**.

E2.1 Lessee agrees to be made, and to be, a co-permittee on Lessor's Multi-Sector General Permit (MSGP), and agrees that said Permit, as it is issued by the Arizona Department of Environmental Quality (AZDEQ), and as it may thereafter be amended, modified or otherwise changed, is incorporated by reference into this **EXHIBIT** and any subsequent renewals.

E2.2 Lessor agrees that, to the extent allowed by law, Lessee shall have the right to be removed from Lessor's Permit should this Lease be cancelled or terminated for other reasons, or due to Lessee's relocation, noncompliance with Permit requirements or exercise of choice; provided that in no event shall Lessee be relieved of its obligation to comply with the requirements of the AZPDES permit program with regard to its occupation and use of the Premises and the Airport, nor shall Lessee be excused from any obligations or indemnifications incurred and owed to Lessor prior to Lessee's removal from the Permit, resulting from a failure of Lessee to fulfill an obligation of such.

E3. **Compliance**.

E3.1 Lessor will provide Lessee with a true and complete copy of the Permit and any revisions thereto, and will, as time and personnel allow, consult with and assist Lessee with regard to Permit and other requirements.

E3.2 Lessor shall have the right to monitor Lessee's compliance with the Permit requirements, including, but not limited to: certification of non-storm water discharges; collection of storm water samples; preparation of storm water management plans; implementation of BMPs; and the maintenance of necessary records.

E3.3 Lessor reserves the right to impose upon Lessee any BMP or other action necessary to insure Lessor's ability to comply with its Permit requirements or applicable Rules. Lessee shall have TEN (10) business

days from date of receipt of written notice imposing such BMPs or other requirements to notify Lessor in writing if it objects to any action it is being directed to undertake. If Lessee does not provide the specified timely notice, it will be deemed to have assented to implement the BMPs or other requirements. If Lessee provides Lessor with timely written notice of its objections, the Parties agree to negotiate a prompt resolution of their differences. Lessee warrants that it will not serve a written notice of objections for purposes of delay or avoiding compliance.

E3.4 Lessee agrees to implement at its sole expense, unless otherwise agreed to in writing between Lessor and Lessee, those Permit and other requirements which pertain to its operations and activities on the Airport, and Lessee warrants that it will use its best efforts to meet all deadlines established by statute, regulation or ordinance, or that are agreed to by the Parties. Lessee acknowledges that time is of the essence in the implementation of all Permit requirements.

E4. **Permit Changes**. Lessee acknowledges that the terms and conditions of Lessor's Permit may change from time to time, and upon prior written notice from Lessor to Lessee of proposed changes, Lessee shall be given the opportunity to submit comments to Lessor prior to negotiations with the appropriate governmental entity or entities for permit modifications.

E5. **Material Condition**. Full compliance with the AZPDES permit program, 40 C.F.R. Part 122, is a material condition of this **EXHIBIT** and for any breach thereof which exposes Lessor to civil or criminal fine, penalty, sanction or remediation cost by any governmental entity, Lessor may terminate this **EXHIBIT** without recourse by Lessee.

E6. **Covenant of Good Faith**. Lessor and Lessee covenant to act in good faith to implement any requirements imposed by Lessor's Permit, to the end that the purposes of Section 402(P) of the Federal *Water Pollution Control Act* (33 U.S.C. 1342 (P)) may be achieved. The Parties acknowledge that close cooperation will be necessary to ensure compliance with any Permit requirements to promote safety and minimize costs, and each Party agrees to a candid exchange of information necessary to coordinate a storm water management and monitoring plan.

E7. **Indemnification**. The covenants of insurance and indemnification in favor of Lessor imposed by other provisions of this **EXHIBIT** shall extend to, and are incorporated into, the provisions of this **EXHIBIT**.

NOTICE OF LESSEE INTENTION TO JOIN OR REJECT NPDES CO-PERMITTEE STATUS

I, _____, on behalf of TASK AEROSPACE, INC., being duly authorized to do so, acknowledge that I am fully informed of our obligations under the National Pollutant Discharge Elimination System permit program as mandated by Section 402 (P) of the Federal *Water Pollution Control Act* (33 U.S.C. 1342 (P)), and regulations published in 40 C.F.R. Part 122 and the Arizona Department of Environmental Quality (AZDEQ).

I further acknowledge that, if applicable we have been offered the opportunity to join with the Phoenix-Mesa Gateway Airport Authority (PMGAA) as a co-permittee of the AZPDES permit issued by the Environmental Protection Agency to the PMGAA as it pertains to the Phoenix-Mesa Gateway Airport Authority ("Airport"), in accordance with the terms and conditions set forth above.

I, on behalf of TASK AEROSPACE, INC. and being duly authorized to do so, (please check applicable box)

- ☐ desire to join the PMGAA as a co-permittee and understand and accept the obligation to comply with the aforesaid statute and regulations as they may apply to our activities and operations at the Airport.
- ☐ decline to join the PMGAA as a co-permittee.
- ☐ have determined the regulations are not applicable.

Dated this _____day of _____, 2023.

By: _____
(Signature)

Name: _____
(Print Name)

Its: _____
(Title)

Exhibit F

STANDARD TERMS AND CONDITIONS

1. **Certification.** By executing this Contract, Lessee certifies:
   a. The award of this Contract did not involve collusion or other anti-competitive practices.
   b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
   c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Lessee hereby certifies that the individual signing this Contract is an authorized agent for Lessee and has the authority to bind the Lessee to the Contract.

2. **Arbitration**. At PMGAA's sole option, disputes between the parties may be resolved through arbitration as provided in A.R.S. Section 12-1501, *et seq*. Lessee shall continue to render the services required by this Contract without interruption, notwithstanding either party has filed suit against the other or PMGAA has expressly agreed to arbitration and either party has demanded arbitration.

3. **Affirmative Action.** Lessee shall abide by all the federal and state of Arizona provisions for equal opportunity in the workplace.

4. **Human Relations**. Lessee shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

5. **Gratuities.** PMGAA may, by written notice to the Lessee, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Lessee or any agent or representative of Lessee, to any officer or employee of PMGAA amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Lessee the amount of the gratuity.

6. **Provisions Required by Law**. Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

7. **Rights and Remedies.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Lessee's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

8. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

9. **Advertising.** Lessee shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

10. **Force Majeure**

a. Neither party is liable to the other, and neither party may be deemed in default under this Contract, if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure does not include late performance by a subcontractor unless the delay arises out of a specific Force Majeure in accordance with this Force Majeure term and condition.

b. If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing, as soon as practical, of the delay and shall specify the causes of delay in the notice. The notice must be hand-delivered or mailed certified-return receipt and must specifically refer to this Section. The delayed party shall cause the delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The date of completion will be extended by Contract modification or amendment for the period of time that the completion date is necessarily delayed. This time extension is the Consultant's exclusive remedy for delay.

11. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Lessee or any other person except with prior written permission by PMGAA.

12. **Licenses.** Lessee shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Lessee as applicable to this Contract.

13. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

14. **Patents.** Lessee shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Lessee under this Contract.

15. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-25

To:	**Board of Directors**
From:	**Shea Joachim, CEcD, Business Development Director**
Through:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**SRP Substation Easement - GatewayEast**
Date:	**May 16, 2023**

Proposed Motion

The Board of Directors of the Authority hereby authorizes granting Salt River Project a 2.97-acre perpetual easement.

Narrative

Salt River Project ("SRP") seeks to establish a distribution substation on Phoenix-Mesa Gateway Airport Authority (PMGAA) property, in proximity to the 230 kV transmission line, and within the area generally referred to as GatewayEast. The substation is a critical piece of infrastructure to ensure SRP can continue to maintain electric power availability and reliability in the fast-growing area around the Airport.

The proposed location of the substation is within Phase II of the GatewayEast development plan. The Boyer Company is the Master Developer for GatewayEast, and they were engaged early in the discussion with SRP and recommended the proposed location. Until the roadways within GatewayEast are developed, SRP will also require a temporary access easement granted by PMGAA to access the proposed substation. Once the roadways within GatewayEast are developed SRP and PMGAA will extinguish the temporary access easement.

Fiscal Impact

PMGAA will receive $1,217,066 from Salt River Project in exchange for granting the perpetual easement. The valuation is supported by a review of recent, comparable land sales in the area.

Attachment(s)

1) Easement
2) Depiction of Location

RESOLUTION NO. 23-25

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize granting Salt River Project a 2.97-acre perpetual easement;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes granting Salt River Project a 2.97-acre perpetual easement. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 16th day of May, 2023.

_____
Brigette Peterson, Chair

ATTEST:

_____
Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

_____
Jill Casson Owen, Attorney

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT
Land Department/PAB 10W
PO Box 52025
Phoenix, Arizona 85072-2025

EXCLUSIVE EASEMENT FOR SUBSTATION

Maricopa County
Parcel #304-35-011H
NE ¼ of Sec. 28, T1S, R7E

Agt. JBC
Job #LJ93028
W _JBC___ C _____

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
An Arizona joint powers airport authority authorized by the State of Arizona

hereinafter called Grantor, for and in consideration of the sum of Ten Dollars, and other valuable consideration, receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona, and its successors and assigns, hereinafter called the Grantee, an exclusive easement for use by Grantee, and Grantee's employees, contractors, licensees, and invitees ("Grantee Parties") to construct, install, reconstruct, replace, remove, repair, operate and maintain an electrical substation and all related uses thereof, together with all poles, towers wires, conduits, conductors, pipes, cables, vaults, manholes, guys, anchorage, crossarms, braces, transformers and all other buildings, improvements, equipment, appliances, facilities appurtenances and fixtures (collectively "Facilities") for the transmission and distribution of electricity and for the transmission and distribution of telephone, audio and/or visual signal and other communication or data transmission purposes in, upon, over, under, across and along the following described property (hereinafter referred to as the "Easement Property")., together with the right, easement and privilege of full and free vehicular and pedestrian ingress and egress over, across and upon the Easement Property.

Easement Property:

"See Exhibit "A" attached hereto and incorporated herein with this reference

1. Grantee Party Use. Grantee is hereby authorized to permit the Grantee Parties to use the Easement Property for additional Facilities jointly with or separately from the Grantee for the purposes set forth above.

2. Grantor Improvements. Grantor shall not construct, install or place, or permit to be constructed, installed or placed any building or other structure, plant any trees or other vegetation, drill any well, store materials of any kind, or excavate or alter ground level by cut or fill, within the area of the Easement Property.

3. Additional Grantee Rights. Grantee shall have the right (but not the obligation) to trim, cut and clear away trees, brush or other vegetation on the Easement Property whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

4. Signs and Safety Devices. Grantee shall have the right (but not the obligation), at its cost, to install, place and maintain on the Easement Property warning or safety signs regarding the Facilities and safety or security devices to protect the Facilities. Any provision contained herein to the contrary notwithstanding, Grantee shall have the right (but not the obligation) at any time, at Grantee's cost, to enclose the Facilities or any portion thereof by fences, walls or other structures and to take other steps to prevent access thereto by unauthorized persons.

5. Perpetual Nature of Easement. The Easement, and Grantee's rights hereunder, shall be perpetual, and shall not terminate until, and unless abandoned through the recordation of a document formally abandoning the Easement, which references this instrument and is executed and acknowledged by Grantee. Upon such recordation, all Grantee's rights hereunder shall cease, except the right to remove any and all property placed upon the Easement Property within a reasonable time subsequent to such abandonment.

6. Successors and Assigns. The benefits and burdens, and the covenants and agreements herein set forth shall run with and burden the land and shall extend and inure in favor and to the benefit of, and shall be binding on Grantor and Grantee and their successors and assigns. Grantee shall have the right to assign this Easement Agreement in whole or in part to one or more assignees and upon the assignment, such assignee hereby assumes the rights and obligations of the Grantee hereunder with respect to the portion of the Easement assigned.

7. Private Easement. The provisions of this Easement Agreement are not intended to and do not constitute a public utility easement or any other grant, dedication, or conveyance for public use of the Easement Property.

8. Rights and Remedies Cumulative. The rights and remedies hereunder are cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other right or remedy available.

9. Warranty of Title. Grantor represents and warrants that: (i) fee simple title to the Easement Parcel is vested in Grantor, and (ii) Grantor has full power and authority to grant the Easement and to perform its obligations under this document, subject to all matters of record and, without limitation, Grantor's obligations and restrictions under that certain Quitclaim Deed dated April 14, 1998 and recorded April 30, 1998 as Document No. 98-0354787, Official Records of Maricopa County, Arizona.

10. Authority to Bind Grantor. The individual executing this document represents and warrants: (i) that he or she is authorized to do so on behalf of Grantor, and (ii) that he or she has full legal power and authority to bind Grantor in accordance with the terms herein and, if necessary, has obtained all required consents or delegations of such power and authority.

11. 14 CFR Part 77. Grantee Parties agree to comply with the notification and review requirements covered in 14 CFR Part 77 with respect future construction of the Facilities and any modification or alteration thereof. Grantee Parties shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Easement Property. In the event these covenants are breached, Grantor reserves the right to enter upon the Easement Property and to remove the offending structure or object at the expense of Lessee.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority authorized by the State of Arizona** has caused its name to be executed by its duly authorized representative(s), this _____ day of _____, 2023.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
An Arizona joint powers airport authority authorized by the State of Arizona

By: _____

Its: _____

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____ as _____ of **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority authorized by the State of Arizona** on behalf of said organization.

My Commission Expires:

_____ _____
Notary Public

_____
Notary Stamp/Seal

p 602.957.1155 | 7878 North 16th Street, Suite 300
f 602.957.2838 | Phoenix, AZ 85020
dibblecorp.com

EXHIBIT "A"
LEGAL DESCRIPTION
FOR
SRP SUBSTATION

A PARCEL OF LAND SITUATED IN A PART OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 28, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 28 BEARS SOUTH 01 DEGREES 06 MINUTES 52 SECONDS EAST, A DISTANCE OF 2628.56 FEET;

THENCE UPON AND WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28, SOUTH 01 DEGREES 06 MINUTES 52 SECONDS EAST, A DISTANCE OF 1564.94 FEET;

THENCE DEPARTING SAID EAST LINE, SOUTH 88 DEGREES 53 MINUTES 08 SECONDS WEST, A DISTANCE OF 1210.87 FEET TO THE SOUTHERLY LINE OF THE ELLSWORTH CHANNEL AND THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE DEPARTING SAID SOUTH LINE, SOUTH 42 DEGREES 04 MINUTES 20 SECONDS WEST, A DISTANCE OF 419.38 FEET;

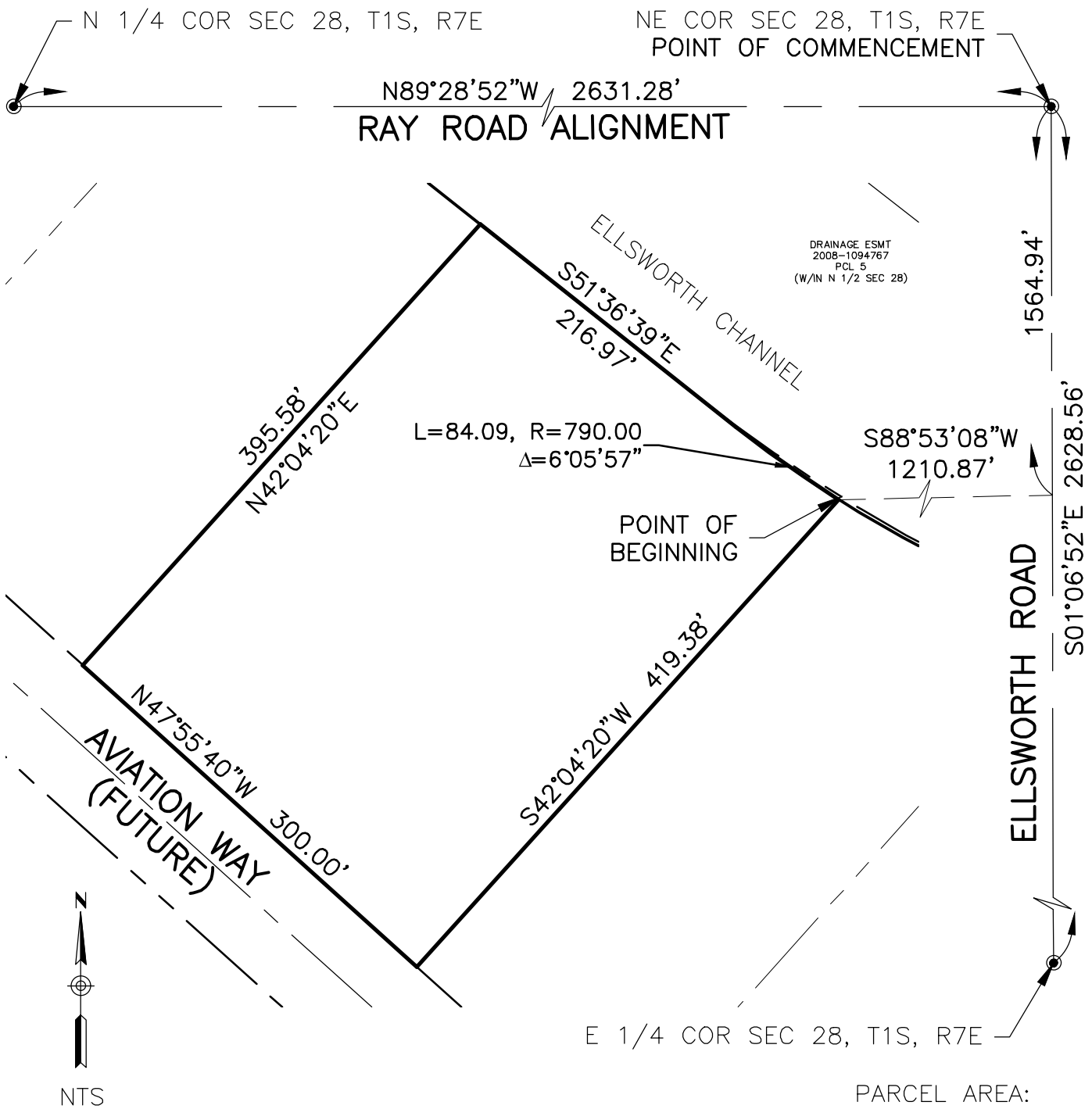
THENCE NORTH 47 DEGREES 55 MINUTES 40 SECONDS WEST, A DISTANCE OF 300.00 FEET;

THENCE NORTH 42 DEGREES 04 MINUTES 20 SECONDS EAST, A DISTANCE OF 395.58 FEET TO THE AFOREMENTIONED SOUTHERLY LINE OF THE ELLSWORTH CHANNEL;

THENCE UPON AND WITH SAID SOUTHERLY LINE, SOUTH 51 DEGREES 36 MINUTES 39 SECONDS EAST, A DISTANCE OF 216.97 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, HAVING A RADIUS OF 790.00FEET;

THENCE CONTINUING UPON AND WITH SAID SOUTH LINE, AND ALONG AND WITH THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06 DEGREES 05 MINUTES 57 SECONDS, AN ARC LENGTH OF 84.09 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 121,697 SQUARE FEET OR 2.794 ACRES OF LAND, MORE OR LESS.

Registered Land Surveyor
CERTIFICATE NO.
47537
JASON P.
GRAHAM
Date Signed 05/08/23
ARIZONA U.S.A.



PARCEL AREA:
121,697 SF OR
2.794 ACRES

THIS IS NOT A PROPERTY
BOUNDARY SURVEY.

DIBBLE

Dibble Project No
1123031

Registered Land Surveyor
CERTIFICATE NO.
47537
JASON P.
GRAHAM
Date Signed 05/08/23
ARIZONA U.S.A.

EXHIBIT "A"
SRP SUBSTATION

A PART OF NORTHEAST QUARTER SECTION 28, T1S, R7E, GILA & SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DATE: MAY 2023
DRN: CSD CHK: JPG

PAGE 2

FILE:V:\PROJECTS\2023\1123031_PMGA XNRGY - Off-Sites\CAD\EXHIBITS\SRP Substation.dwg DATE:May, 08 2023 TIME: 09:37 am

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-26

To: Board of Directors
From: Shea Joachim, CEcD, Business Development Director
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: SkyBridge Arizona – Lot 116-B Adjustment Amendment & Development Lease
Date: May 16, 2023

Proposed Motion

To authorize a Development Lease with SkyB Lot 116-B LLC, an Arizona limited liability company, for 4.15 acres located within the SkyBridge Arizona project identified as Lot 116-B. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 116-B from the Master Lease Agreement.

Narrative

The Phoenix-Mesa Gateway Airport Authority ("PMGAA") and Mesa SkyBridge, LLC ("SkyBridge") entered into a Master Lease Agreement on April 1, 2018 for the approximately 360-acres located at the southeast corner of Sossaman Road and Velocity Way ("Property"). The Master Lease transferred leasehold control of the Property to SkyBridge but did not convey vertical development rights. As part of the Master Lease, PMGAA and SkyBridge agreed to "spin out" property from the Master Lease into Development Leases as projects became ready for vertical development.

SkyBridge has proposed to build two buildings of approximately 16,800 SF each. Lot 116-B is approximately 180,831 SF and has been identified as a non-aeronautical parcel. The proposed development is compliant with the SkyBridge Arizona Master Plan. The attached Adjustment Amendment will formally remove Lot 116-B from the Master Lease and allow Lot 116-B to be included in the proposed Development Lease.

Agreement Term and Rate

The Lot 116-B Development Lease proposes a lease term of SIXTY (60) years with ONE (1) renewal options of FIFTEEN (15) years. The Base Rent for Lot 116-B will be $0.00 annually for the first TWO (2) years and $18,083.11 annually starting on the Third (3rd) anniversary of the Effective Date subject to Base Rent Adjustments and Market Adjustments as stipulated in the Development Lease.

Attachment(s)

Lot 116-B Development Lease
Development Lease Exhibit - Reciprocal Access Easement
Master Lease Adjustment Amendment #11

RESOLUTION NO. 23-26

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Development Lease with SkyB Lot 116-B LLC, an Arizona limited liability company, for 4.15 acres located within the SkyBridge Arizona project identified as Lot 116-B. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 116-B from the Master Lease Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Development Lease with SkyB Lot 116-B LLC, an Arizona limited liability company, for 4.15 acres located within the SkyBridge Arizona project identified as Lot 116-B. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 116-B from the Master Lease Agreement. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 16th day of May, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

ADJUSTMENT AMENDMENT TO MASTER LEASE

Development Parcel for Lot 116-B, SkyB Lot 116-B LLC, an Arizona limited liability company

THIS ADJUSTMENT AMENDMENT TO MASTER LEASE ("**Amendment**") is made as of the 1st day of June, 2023, by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **MESA SKYBRIDGE LLC**, an Arizona limited liability company ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

RECITALS

A. Lessor and Lessee are parties to that certain Master Lease dated April 1, 2018 ("**Lease**") covering certain property commonly known as Gateway Aerospace Park at the Phoenix-Mesa Gateway Airport, which property is more particularly described in the Lease, and referred to in the Lease and in this Amendment as "**Property**."

B. The Parties desire to modify the Lease to remove Development Parcel Lot 116-B from the Property in accordance with Section 2.1.4 of the Lease.

NOW, THEREFORE, in exchange for the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. Recitals. The above recitals are hereby confirmed as true and correct and are reaffirmed herein.

2. Property Adjustment. Lot 116-B, as described in Exhibit A, is hereby removed from the Lease and from the Rentable Premises. As of the date of this Amendment, after removing Lot 116-B from the Lease, the Rentable Premises is 12,966,281.2 square feet.

4. Miscellaneous.

(a) Capitalized Terms/Definitions. Each capitalized term used in this Amendment and not defined herein shall be deemed to have the same meaning ascribed to it in the Lease.

(b) Continuing Effect. Except as specifically provided in this Amendment, the provisions of the Lease shall remain unchanged and in full force and effect. In the event of a conflict between the Lease and this Amendment, this Amendment shall control.

(c) Authority. Each person executing this Amendment on behalf of a Party represents and warrants that it has the full power, authority, and legal right to execute and deliver this Amendment on behalf of such Party and that this Amendment constitutes the legal, valid and binding obligations of such Party, its heirs, representatives, successors and assigns, enforceable against such Party or Parties in accordance with its terms.

(d) Counterparts. To facilitate execution of this Amendment, this Amendment may be executed in one or more counterparts as may be convenient or required, and an executed copy of

this Amendment delivered electronically by e-mail shall have the effect of an original, executed instrument. All counterparts of this Amendment shall collectively constitute a single instrument; but, in making proof of this Amendment it shall not be necessary to produce or account for more than one such counterpart executed by each Party hereto. It shall not be necessary for the signature of, or on behalf of, each Party hereto, or that the signature of all persons required to bind any such Party appear on each counterpart of this Amendment.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By:_____

J. Brian O'Neill, A.A.E.

Executive Director/CEO

LESSEE:

MESA SKYBRIDGE LLC, an Arizona limited liability company

By:_____

Felipe Monroy Torres

CEO

EXHIBIT A

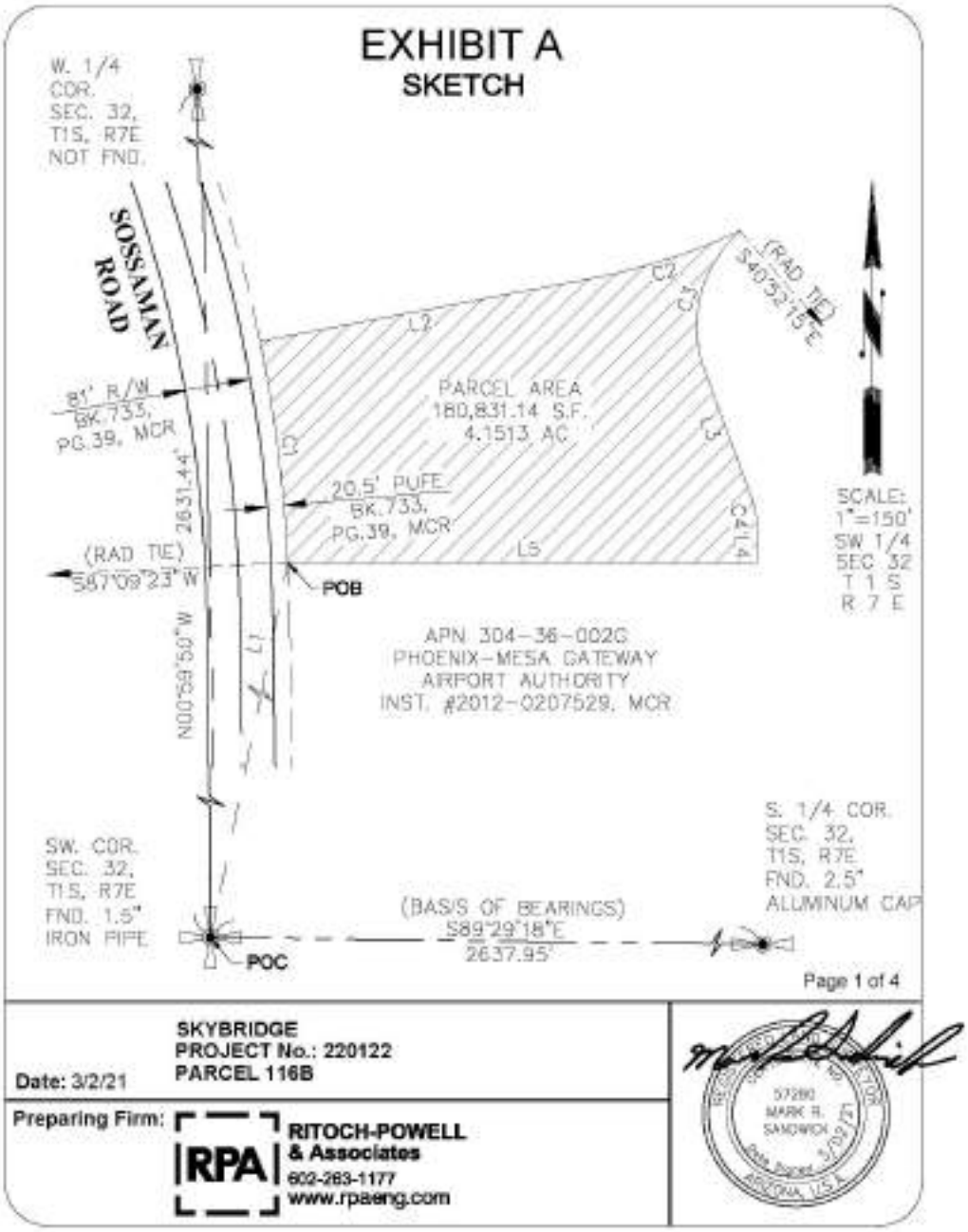


EXHIBIT A
SKETCH
W. 1/4
COR.
SEC. 32,
T1S, R7E
NOT FND.
SOSSAMAN
ROAD
81' R/W
BK.733,
PG.39, MCR
2631.44'
(RAD TIE)
S87°09'23"W
N00°59'50"W
L1
L2
L3
L4
L5
C1
C2
C3
C4
(RAD TIE)
S40°52'15"E
PARCEL AREA
180,831.14 S.F.
4.1513 AC
20.5' PUFE
BK.733,
PG.39, MCR
POB
APN 304-36-002G
PHOENIX-MESA GATEWAY
AIRPORT AUTHORITY
INST. #2012-0207529, MCR
SCALE:
1"=150'
SW 1/4
SEC 32
T 1 S
R 7 E
S. 1/4 COR.
SEC. 32,
T1S, R7E
FND. 2.5"
ALUMINUM CAP
SW. COR.
SEC. 32,
T1S, R7E
FND. 1.5"
IRON PIPE
POC
(BASIS OF BEARINGS)
S89°29'18"E
2637.95'
Page 1 of 4
SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B
Date: 3/2/21
Preparing Firm:
RPA
RITOCH-POWELL
& Associates
602-263-1177
www.rpaeng.com
57280
MARK R.
SANDWICH
3/02/21
ARIZONA, U.S.A.

EXHIBIT A
TABLES

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BRG
C1	08°40'07"	1811.00'	274.00'	273.74'	N07°10'41"W
C2	14°10'04"	775.00'	191.64'	191.15'	N72°11'08"E
C3	69°19'34"	155.00'	187.55'	176.31'	S14°27'58"W
C4	20°11'49"	95.00'	33.49'	33.31'	S10°05'55"E

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N04°09'50"E	1067.41'
L2	N79°16'10"E	414.41'
L3	S20°11'49"E	169.18'
L4	S00°00'00"E	44.94'
L5	N90°00'00"W	575.15'

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED CIVIL ENGINEER
57280
MARK R. SANDWICK
3/02/21
Date Signed
ARIZONA, U.S.A.

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 LOCATED WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS S 89°29'18" E A DISTANCE OF 2637.95 FEET;

THENCE N 4°09'50" E A DISTANCE OF 1067.41 FEET TO A POINT ON THE EAST LINE OF A PUBLIC UTILITY AND FACILITY EASEMENT (PUFE) AS SHOWN ON THE MAP OF DEDICATION FOR VELOCITY WAY, SOUTH TAXIWAY CIRCLE AND SOUTH CARGO WAY RECORDED IN BOOK 733, PAGE 39, MARICOPA COUNTY RECORDS BEING THE WEST BOUNDARY LINE OF SAID ALTA/NSPS LAND TITLE SURVEY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 87°09'23" W, THE POINT OF BEGINNING;

THENCE ACROSS SAID PHOENIX-MESA GATEWAY AIRPORT AUTHORITY TRACT THE REMAINING COURSES AND DISTANCES:

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT AND ALONG SAID EAST PUFE LINE HAVING A RADIUS OF 1811.00 FEET, THROUGH A CENTRAL ANGLE OF 08°40'07" AND HAVING AN ARC LENGTH OF 274.00 FEET;

THENCE N 79°16'10" E A DISTANCE OF 414.41 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 775.00 FEET, THROUGH A CENTRAL ANGLE OF 14°10'04" AND HAVING AN ARC LENGTH OF 191.64 FEET TO A CUSP AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 40°52'15" E;

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT A
LEGAL DESCRIPTION

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 155.00 FEET, THROUGH A CENTRAL ANGLE OF 69°19'34" AND HAVING AN ARC LENGTH OF 187.55 FEET;

THENCE S 20°11'49" E A DISTANCE OF 169.18 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 20°11'49" AND HAVING AN ARC LENGTH OF 33.49 FEET;

THENCE S 00°00'00" E A DISTANCE OF 44.94 FEET;

THENCE N 90°00'00" W A DISTANCE OF 575.15 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 180,831.14 SQUARE FEET OR 4.1513 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTIONS IS S 89°29'18" E FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS SHOWN ON THE PLSS SUBDIVISION RECORD OF SURVEY-MARICOPA COUNTY GEODETIC DENSIFICATION AND CADASTRAL SURVEY RECORDED IN BOOK 609, PAGE 29, MARICOPA COUNTY RECORDS.

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

When Recorded, Return To:

Phoenix-Mesa Gateway Airport Authority
5835 South Sossaman Road
Mesa, Arizona 85212-6014
Attention: Joshua Jefferson

For Recorder's Use

DECLARATION OF RECIPROCAL ACCESS EASEMENT

THIS DECLARATION OF RECIPROCAL ACCESS EASEMENT ("**Declaration**") is made as of the _____ day of _____, 202__ by PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a Joint Powers Airport Authority authorized under the laws of the State of Arizona ("**PMGAA**").

RECITALS

A. PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport in Maricopa County, Arizona.

B. PMGAA is the fee owner of two adjacent parcels of real property located in Maricopa County, Arizona. One parcel comprises lots commonly known as Lots 101, 102 and 103 and is more particularly described on **EXHIBIT A** attached hereto ("**101-103 Parcel**"), and the other parcel comprises lots commonly referred to as Lot 116-B and is more particularly described on **EXHIBIT B** attached hereto ("**116-B Parcel**"). The 101-103 Parcel and the 116-B Parcel are collectively referred to herein as the "**Parcels**".

C. The Parcels or portions thereof are or will be subject to leases with PMGAA. For purposes hereof, any lease covering the 101-103 Parcel from time to time is referred to as the "**101-103 Lease**" and the tenant pursuant to a 101-103 Lease is referred to as the "**101-103 Lessee**". Any lease covering the 116-B Parcel from time to time is referred to as a "**116-B Lease**" and the tenant pursuant to a 116-B Lease is referred to as the "**116-B Lessee.**" The 101-103 Lessee and the 116-B Lessee are collectively referred to herein as the "**Parcel Tenants**."

D. PMGAA desires to establish and declare hereby a mutual reciprocal easement in favor of the Parcels, for the purpose of pedestrian and vehicular access, ingress, and egress in, over, and under a portion of the Parcels, in accordance with the terms and conditions set forth herein.

DECLARATION

NOW THEREFORE, PMGAA hereby declares as follows:

1. Creation of Easement. PMGAA does hereby reserve, grant and declare a perpetual, nonexclusive reciprocal easement in, over, and under a portion of the 116-B Parcel set forth on **EXHIBIT C** attached hereto ("**Easement Area**") for the purpose of pedestrian and vehicular ingress and egress ("**Access Easement**"). The Access Easement is created for the benefit of, and may be used by the Parcel Tenants and their respective employees, customers, contractors, subtenants, agents, invitees, subtenants, successors and assigns ("**Permittees**").

2. Initial Construction.

(a) *Responsibility for Initial Construction*. The 116-B Lessee will be responsible for the initial construction of the Easement Area and any improvements located thereon ("**Easement Construction**"). The Easement Construction will include installing in a good and workmanlike manner the pavement, curbing, striping, and if necessary any drainage system and other improvements for the Easement Area.

(b) *Costs and Expenses*.

(i) Until such time as a 101-103 Lease is first executed between PMGAA and the 101-103 Lessee (for purposes hereof, the "**Initial 101-103 Lease**"), the Easement Construction will initially be undertaken by the 116-B Lessee in connection with the original construction of the 116-B Parcel, at 116-B Lessee's sole cost and expense. The 116-B Lessee will document and keep a record of the costs incurred in performing the Easement Construction ("**Easement Construction Expenses**").

(ii) Following the execution of the Initial 101-103 Lease, the first 101-103 Lessee (for purposes hereof "**Initial 101-103 Lessee**") must reimburse the 116-B Lessee for fifty percent (50%) of the Easement Construction Expenses ("**Construction Reimbursement**") within thirty (30) days of the Initial 101-103 Lessee's receipt of an invoice therefor, along with reasonable supporting documentation of the Easement Construction Expenses. If the Initial 101-103 Lessee fails to reimburse the 116-B Lessee for the Construction Reimbursement within the applicable thirty (30) day period, such unpaid amount shall accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, from the date of the invoice therefor until paid. The Construction Reimbursement will constitute the personal obligation of the Initial 101-103 Lessee, and will pass to any subsequent 101-103 Lessee until paid in full. In no event will the 116-B Lessee have any right to file, record, or claim a lien against the underlying Parcels.

3. Maintenance.

(a) *Responsibility for Maintenance*. Subject to Section 3(d) below, the 116-B Lessee will be responsible to maintain, inspect, repair and replace (if necessary) the Easement Area and any improvements located thereon ("**Easement Maintenance**"). The Easement Maintenance must include keeping all improvements in a neat and clean condition and in good order, condition and repair, including without limitation the patching of pavement, resurfacing, sweeping and removing trash and debris, and maintaining any drainage system.

(b) *Costs and Expenses*.

(i) Until such time as the Initial 101-103 Lease is first executed, the 116-B Lessee will be exclusively responsible for the cost and expenses incurred in performing the Easement Maintenance ("**Easement Maintenance Expenses**").

(ii) Upon the execution of the Initial 101-103 Lease and continuing thereafter, the Easement Maintenance Expenses will be shared equally by the 116-B Lessee and the 101-103 Lessee (including the Initial 101-103 Lessee). The 101-103 Lessee must reimburse the 116-B Lessee fifty percent (50%) of the Easement Maintenance Expenses within thirty (30) days of a receipt of an invoice therefor along with reasonable supporting documentation of the Easement Maintenance Expenses. If the 101-103 Lessee fails to reimburse the 116-B Lessee its proportionate share of the Easement Maintenance Expenses within the applicable thirty (30) day period, such unpaid amount shall accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, from the date of expenditure until paid. The applicable proportionate share of Easement Maintenance Expenses will constitute the personal obligation of the 101-103 Lessee. In no event will the 116-B Lessee have any right to file, record, or claim a lien against the underlying Parcels.

(iii) During any period of time during which there is no lease for one or both of the Parcels, PMGAA will assume the responsibilities for Easement Maintenance and/or Easement Maintenance Expenses in connection with the Parcel without a tenant, as applicable.

(c) *Self-Help Rights*. If the 116-B Lessee fails to perform the Easement Maintenance, the 101-103 Lessee may notify the 116-B Lessee in writing of such failure. If the 116-B Lessee fails to object on the basis that such maintenance or repairs are not required or fails to complete any required Easement Maintenance within thirty (30) days following receipt of such written notice, or such longer time as may be necessary provided that the 116-B Lessee has commenced to perform the Easement Maintenance and is diligently pursuing the same, the 101-103 Lessee may perform the Easement Maintenance. In exercising its rights hereunder, the 101-103 Lessee may not unreasonably interfere with the operations on the 116-B Parcel and must use commercially reasonable efforts to perform the maintenance in a manner so as to minimize any interference with the operations on the 116-B Parcel. If the 101-103 Lessee performs the Easement Maintenance, the 116-B Lessee must reimburse the 101-103 Lessee for fifty percent (50%) of the Easement Maintenance Expenses within thirty (30) days of a receipt of an invoice therefor along with reasonable supporting documentation of the Easement Maintenance Expenses incurred by the 101-103 Lessee, together with interest thereon at the rate of eighteen percent (18%) per annum, compounded annually, from the date of expenditure until paid.

(d) *PMGAA's Election to Perform*. Notwithstanding anything to the contrary herein, PMGAA may elect by written notice to the 116-B Lessee, at any time and in PMGAA's sole discretion, to perform the Easement Maintenance and seek reimbursement from the Parcel Tenants for their share of the Easement Maintenance Expenses. Such election may be relinquished or revoked at any time by PMGAA upon written notice to the 116-B Lessee, following which the 116-B Lessee will resume performing the Easement Maintenance in accordance with Section 3(a).

4. Damage or Destruction.

(e) *By Fire or Other Casualty*. If any portion of the Easement Area or improvements thereon are destroyed or damaged by fire or other casualty, the terms of the 101-103 Lease and the 116-B Lease will govern with respect to the such portion of the Easement Area located on each of the Parcels, respectively; provided however, that prior to the Initial 101-103 Lease, the 116-B Lease will govern as to the entirety of the Easement Area, as if the entire Easement Area is located within the 116-B Parcel.

(f) *By Act of a Party*. Notwithstanding any other provision herein, (a) in the event any portion of the Easement Area, or any improvement located thereon, is damaged or destroyed by a willful or grossly negligent act of the 101-103 Lessee or its Permittees, the Lot 101-103 Lessee will be responsible for the entire cost of repairing all damage resulting from such act; and (b) in the event any portion of the Easement Area, or any improvement located thereon, is damaged or destroyed by a willful or grossly negligent act of the 116-B Lessee or its Permittees, the Lot 116-B Lessee will be responsible for the entire cost of repairing all damage resulting from such act.

5. Barriers; Obstructions. Any fence, wall, or other barrier or structure of any kind on the Easement Area which would prevent, obstruct or impair the passage of pedestrian and vehicular traffic over and across the Easement Area to and from the Parcels is prohibited. Parking of vehicles upon the Easement Area is prohibited.

6. Attorneys' Fees. In the event of any action to enforce the provisions of this instrument, the prevailing party will be entitled to receive reimbursement for reasonable costs and attorneys' fees, in an amount determined by the court and not by a jury.

7. No Public Dedication; Running of Benefits and Burdens; No Merger. The provisions of this Declaration are not intended to and do not constitute a dedication for public use of any portion of the Easement Area. All provisions of this Agreement, including the benefits and burdens, shall run with the land, and shall be binding upon and shall inure to the benefit of the successors and assigns of PMGAA. The common ownership of all or any portion of the Parcels shall not extinguish or merge the interests created under this Declaration at any time unless the then-current owner(s) of all the Parcels records an instrument in the records of Maricopa County, Arizona terminating this Declaration.

8. Subsequent Liability. Whenever the transfer or termination of any ownership of or leasehold interest in all or any part of the Parcels occurs, the transferor or former leasehold interest holder will not be liable for the breach, subsequent to such transfer or termination, of any of the covenants contained herein; provided, however, that the transferor or former leasehold interest holder will remain liable for any obligations hereunder of such transferor or former leasehold interest holder that accrued prior to the transfer or termination.

9. Applicable Law. This Declaration must be construed and interpreted under, and governed and enforced according to, the laws of the State of Arizona.

10. Headings and Counterparts. The headings of this Declaration are for purposes of reference only and will not limit or define the meaning of any provision of this Declaration. This Declaration may be executed in any number of counterparts, each of which will be an original but all of which will constitute one and the same instrument.

11. Amendments. PMGAA may amend, modify or revoke this Declaration at any time in its sole discretion, by recording in the office of the Recorder of Maricopa County, Arizona an instrument in writing reciting such revocation or amendment.

[*Remainder of page intentionally left blank; signature page follows*]

IN WITNESS WHEREOF, PMGAA has caused this Declaration of Reciprocal Access Easement to be executed as of the date first above-written.

PMGAA:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO
Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
NOTARY PUBLIC

My Commission Expires:

[*Remainder of Page Left Intentionally Blank*]

EXHIBIT A

Legal Description of the 101-103 Parcel (101)

EXHIBIT A

Legal Description of the 101-103 Parcel (102)

EXHIBIT A

Legal Description of the 101-103 Parcel (103)

[Exhibit A – Declaration of Reciprocal Access Easement]

EXHIBIT B

Legal Description of the 116-B Parcel

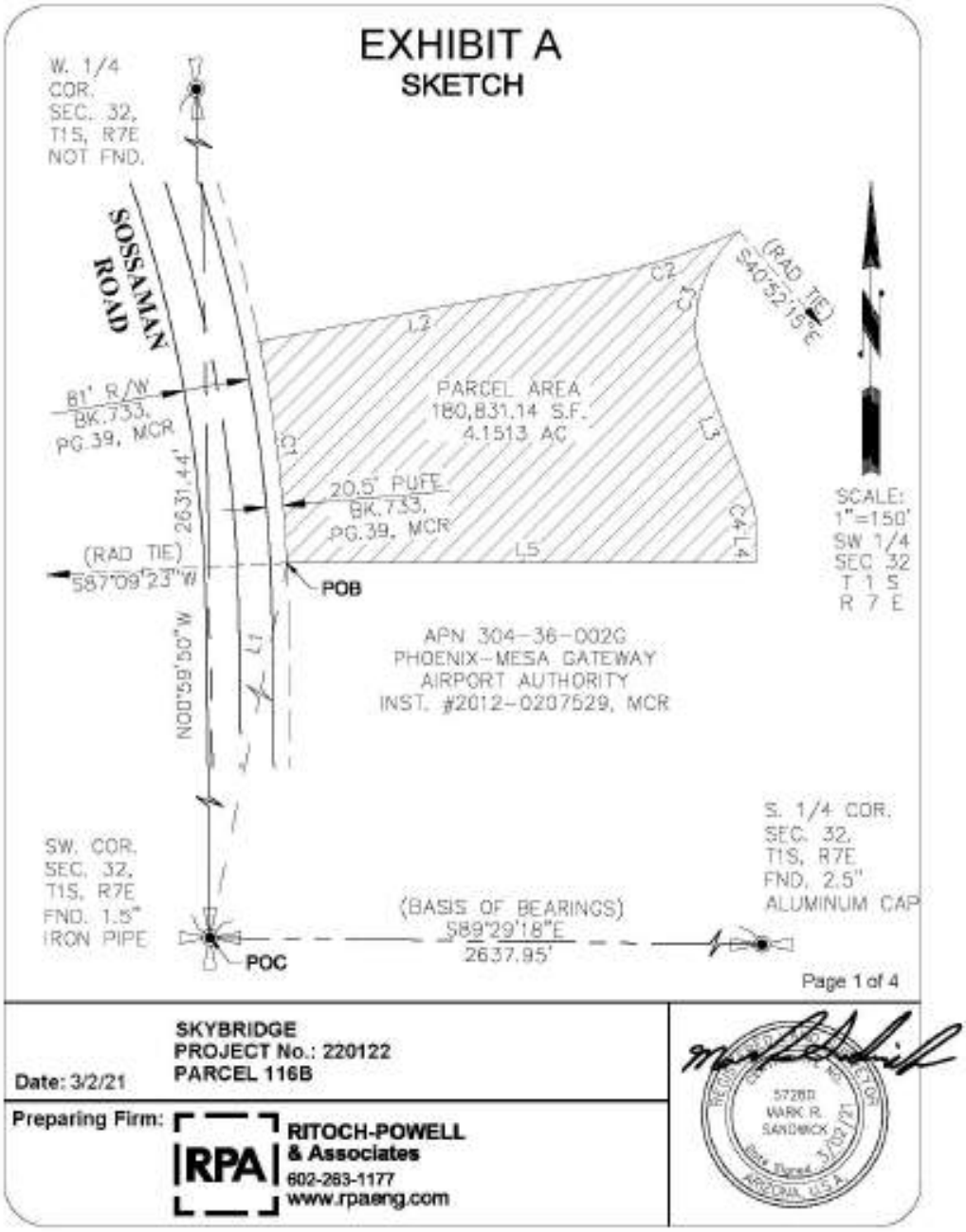


EXHIBIT A
TABLES

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SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

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A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 LOCATED WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS S 89°29'18" E A DISTANCE OF 2637.95 FEET;

THENCE N 4°09'50" E A DISTANCE OF 1067.41 FEET TO A POINT ON THE EAST LINE OF A PUBLIC UTILITY AND FACILITY EASEMENT (PUFE) AS SHOWN ON THE MAP OF DEDICATION FOR VELOCITY WAY, SOUTH TAXIWAY CIRCLE AND SOUTH CARGO WAY RECORDED IN BOOK 733, PAGE 39, MARICOPA COUNTY RECORDS BEING THE WEST BOUNDARY LINE OF SAID ALTA/NSPS LAND TITLE SURVEY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 87°09'23" W, THE POINT OF BEGINNING;

THENCE ACROSS SAID PHOENIX-MESA GATEWAY AIRPORT AUTHORITY TRACT THE REMAINING COURSES AND DISTANCES:

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT AND ALONG SAID EAST PUFE LINE HAVING A RADIUS OF 1811.00 FEET, THROUGH A CENTRAL ANGLE OF 08°40'07" AND HAVING AN ARC LENGTH OF 274.00 FEET;

THENCE N 79°16'10" E A DISTANCE OF 414.41 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 775.00 FEET, THROUGH A CENTRAL ANGLE OF 14°10'04" AND HAVING AN ARC LENGTH OF 191.64 FEET TO A CUSP AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 40°52'15" E;

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED CIVIL ENGINEER
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT A
LEGAL DESCRIPTION

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 155.00 FEET, THROUGH A CENTRAL ANGLE OF 69°19'34" AND HAVING AN ARC LENGTH OF 187.55 FEET;

THENCE S 20°11'49" E A DISTANCE OF 169.18 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 20°11'49" AND HAVING AN ARC LENGTH OF 33.49 FEET;

THENCE S 00°00'00" E A DISTANCE OF 44.94 FEET;

THENCE N 90°00'00" W A DISTANCE OF 575.15 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 180,831.14 SQUARE FEET OR 4.1513 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTIONS IS S 89°29'18" E FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS SHOWN ON THE PLSS SUBDIVISION RECORD OF SURVEY-MARICOPA COUNTY GEODETIC DENSIFICATION AND CADASTRAL SURVEY RECORDED IN BOOK 609, PAGE 29, MARICOPA COUNTY RECORDS.

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
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REGISTERED CIVIL ENGINEER
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT C

Legal Description of the Easement Area

[Current Image is for Demonstrative Purposes – To Be Updated with More Accurate Depiction and Legal Description Prior to Recording]

EXHIBIT C

Legal Description of the Easement Area (continued)

CONSENT OF THE 116-B LESSEE

The 116-B Parcel is currently subject to that certain Lease Agreement dated June 1, 2023 made between PMGAA and SkyB Lot 116-B LLC, an Arizona limited liability company.

The undersigned is the current 116-B Lessee under the 116-B Lease. The undersigned hereby consents to this Declaration, agrees that the 116-B Lease is subordinated and subject to the Declaration, and agrees to be bound by this Declaration.

116-B LESSEE:

SkyB Lot 116-B LLC, a Arizona limited liability company

By: _____

Name: Felipe Monroy Torres

Its: Manager

STATE OF _____)

) ss.

COUNTY OF _____)

This instrument was acknowledged before me this _____ day of _____, 202___, by Felipe Monroy Torres, in his capacity as Manager of SKYB LOT 116-B LLC, and Arizona limited liability company, on behalf of the company.

_____

NOTARY PUBLIC

My Commission Expires:

LENDER RATIFICATION OF DECLARATION OF RECIPROCAL ACCESS EASEMENT

TBD (lender) hereby ratifies, affirms and approves the foregoing Declaration of Reciprocal Access Easement.

TBD,

By:_____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 202__ by _____ as _____ of TBD.

_____
NOTARY PUBLIC

My Commission Expires:

Phoenix-Mesa Gateway Airport Authority

DEVELOPMENT LEASE NO. 006
Non-Aeronautical Development Parcel for Lot 116-B

with

SKYB LOT 116-B LLC, an Arizona limited liability company

Effective Date:

June 1, 2023

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Phoenix-Mesa Gateway Airport Authority
DEVELOPMENT LEASE

a Non-Aeronautical Development Parcel for Lot 116-B

This Development Lease ("**Lease**") is executed to be effective the FIRST (1st) day of June 2023 ("**Effective Date**") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **SKYB LOT 116-B LLC**, an Arizona limited liability company ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

RECITALS:

A. Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona ("**Airport**"); and

B. Lessor has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Lease in respect thereof; and

C. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport known as Lot 116-B on the Master Plan containing approximately 180,831.14 square feet of land, as set forth in **Exhibit A** attached hereto ("**Premises**");

D. The Premises is identified in the Master Plan and the Airport Layout Plan as a Non-Aeronautical Development Parcel; and

E. Lessor desires to lease the Premises to Lessee on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. LEASE.

Lessor hereby leases the Premises to Lessee, subject to all easements, deed restrictions and other similar matters of record in the Official Records of Maricopa County, Arizona, that encumber the Premises, and further subject to all operational and use restrictions and other terms and conditions expressly set forth in this Lease.

1.1 Right to Use Premises. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor and those claiming through Lessor. Lessee specially acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect

to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed, except for representations and warranties contained in this Lease. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense, subject to Lessor's duty to cooperate with Lessee (at no or nominal cost to Lessor) in connection with such activities and undertakings.

1.2 Intentionally Omitted.

1.3 Access. Lessee is granted the right of access to and from the Premises via such portions of the Airport as are or may be reasonably necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport, provided that Lessor reserves the right to limit access to the Premises in emergencies and in connection with Lessor's construction activities on the Airport, so long as Lessor provides Lessee with reasonable advance written notice of any limitations on Lessee's access to the Premises due to Lessor's construction activities, and Lessor and Lessee coordinate such construction activities and cooperate one with the other to minimize any interference with, or disruption of, Lessee's business activities. Lessor reserves the right to designate the location of such alternative access due to emergencies and Lessor's construction activities, and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 Permitted Uses. Subject to the provisions of Section 1.5, Lessee may use the Premises for commercial zoning (light industrial) applications as per current Zoning and Master Plan, retail and restaurant use, educational facilities and classrooms, general office, and other uses relating or incidental thereto and for no other use. Lessee shall not use any portion of the Premises for a Prohibited Use, which Prohibited Uses are set forth on **Exhibit E**. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules and regulations of any governmental authority, including Lessor, and to Lessee's compliance with applicable provisions of the *Airport Rules and Regulations* and *Airport Minimum Standards*.

1.5 Prohibited Activities. Lessee shall not use, or permit its agents, employees or contractors acting for or on behalf of Lessee in connection with their scope of employment to use, the Premises or the Airport for any use that is in violation of the *Airport Rules and Regulations*, the *Airport Minimum Standards*, any matters of record, or applicable laws, or for any other activity or operation not specified in Section 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director or other authorized signatory of Lessor.

Lessor agrees to reasonably consult with Lessee prior to executing or entering into any agreement that could reasonably be expected to have a material effect on the Premises, or on Lessee or its subtenants, or on any Permitted Uses, with the stated purpose of attempting in good faith to avoid any interference with, disruption of, or restriction or limitation on Lessee's intended use and development of the Premises in accordance with this Lease.

1.6 On-Site Manager. Upon commencement of business operations at and on the Premises, Lessee shall designate an on-site manager for the Term of this Lease who shall generally be available to Lessor and Lessee's customers, if any, during Lessee's normal business hours, and otherwise as required by the *Airport Minimum Standards*, as applicable. Lessee may change Lessee's on-site manager from time to time.

1.7 Lessee Acknowledgement. Lessee acknowledges that, except as otherwise provided in this Lease, its obligations to pay Base Rent and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against

Lessor or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

2. TERM.

2.1 Initial Term. The term of this Lease shall be for a period of SIXTY (60) years, commencing on the Effective Date and terminating on May 31, 2083 ("**Term**").

2.2 Renewal Term(s). Provided that no Event of Default shall have occurred and is continuing, Lessee shall have the right and option ("**Renewal Option**") to extend the Term of this Lease for a period of FIFTEEN (15) years ("**Renewal Term**"). If Lessee elects to exercise Lessee's Renewal Option, Lessee shall notify Lessor in writing of such exercise at least one (1) year prior to the expiration of the initial 60-year Term. At the commencement of the Renewal Term, Base Rent per square foot of the Premises per year shall be an amount equal to fair market base rental rate as determined herein, subject to the triennial CPI Adjustments set forth in Section 4.2 below, which CPI Adjustment shall first be made on the first day of the calendar month following the THIRD (3rd) anniversary of the Renewal Term, and thereafter on each THREE (3) year anniversary thereof. Lessor shall determine the fair market base rental rate for the Premises for the commencement of the Renewal Term and shall notify Lessee of Lessor's determination no later than SIXTY (60) calendar days after Lessor's receipt of Lessee's exercise of Lessee's Renewal Option. If Lessee disputes Lessor's determination of such fair market base rental rate, Lessee shall deliver written notice of such dispute, together with Lessee's determination of such fair market base rent rate, to Lessor within SIXTY (60) calendar days of Lessee's receipt of Lessor's determination. The Parties shall then attempt in good faith to agree upon such fair market base rental rate. The fair market base rental rate shall take into consideration and reflect the limitations and restrictions on Lessee and on the use and development of the Premises and the location of the Premises relative to other regional, national and international airport facilities in the Metropolitan Phoenix area, and also take into consideration the differences between the Airport and other regional, national and international airport facilities in the Metropolitan Phoenix area. If the Parties fail to agree within FIFTEEN (15) business days, they shall, within TEN (10) calendar days after the expiration of such 15-business day period, mutually appoint an appraiser to determine the fair market base rental rate. Said appraiser shall be a qualified MAI appraiser, licensed in the state of Arizona, with at least FIVE (5) years of recent continuous experience in determining the fair market rental rates for commercial properties similar to the Premises and be a member of the Appraisal Institute or comparable professional organization. If the Parties are unable to agree upon an appraiser within such 10-day period, they shall, within FIVE (5) business days thereafter, jointly apply to the president of the local Board of Realtors for the selection of a qualified appraiser. The president of the Board of Realtors shall be asked to select a qualified appraiser within FIFTEEN (15) business days who has not acted in any capacity for either Party within the prior TEN (10) years. Within SEVEN (7) calendar days of the appointment (either by agreement or selection) of the appraiser, the Parties shall submit to the appraiser their respective determinations of the fair market base rental rate and any/all relevant information. Within TWENTY (20) business days of the selected qualified appraiser's receipt of the Parties' respective determinations, the appraiser shall review each Parties' submittal (and such other information as the appraiser deemed necessary) and select on Parties' determination as representing the most reasonable approximation of such fair market base rental. The appraiser's fees and expenses shall be paid one half by each Party. Upon determining the Base Rent for the Premises at the commencement of the Renewal Term, Lessor and Lessee will promptly enter into an amendment to this Lease to memorialize the Renewal Terms and the Base Rent. All other terms of this Lease apply during the Renewal Term.

3. NONEXCLUSIVE RIGHTS.

Lessee shall have the exclusive right to lease, use, occupy and develop the Premises in compliance with the terms and conditions of this Lease during the Term. All other rights granted to Lessee under this Lease are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport (other than on the Premises) that Lessor deems appropriate, provided that such activities do not limit, prevent, materially interfere with, or prevent or disrupt the use and development of the Premises by Lessee.

4. RENT.

4.1 Base Rent. Lessee agrees to pay Lessor annual rental ("**Base Rent**") for the use of the Premises as follows:

4.1.1 Subject to Section 4.4 below, commencing on the Effective Date through the end of the SECOND (2nd) Lease Year, Base Rent shall be $0.00 per square foot of the Premises per year.

4.1.2 Commencing on June 1, 2025 through March 31, 2048, Base Rent shall be $0.10 per square foot of the Premises per year, subject to the triennial CPI Adjustment set forth in Section 4.2 below.

4.1.3 Commencing on April 1, 2048 through the end of the Term, Base Rent per square foot of the Premises per year shall be an amount equal to fair market value as determined in accordance with Section 4.3 below, subject to the triennial CPI Adjustments set forth in Section 4.2 below.

4.2 Base Rent Adjustments. Commencing on the SIXTH (6th) anniversary of the Effective Date and continuing thereafter on every THREE (3) year anniversary of the Effective Date of this Lease, the annual Base Rent paid by Lessee shall be adjusted (whether increased or decreased) by a percentage equal to the percentage that the Consumer Price Index (CPI) (as defined below) changed during the immediately preceding THIRTY-SIX (36) month period ending NINETY (90) days prior to the end of the adjustment period during the Term hereof ("**CPI Adjustment**"). For purposes of this Lease, CPI means the United States Department of Labor, Bureau of Statistics Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average (1982-1984=100). If at any time CPI ceases to exist, Lessor may substitute any official index published by the Bureau of Labor Statistics or by a successor or similar government agency as may then exist and which in Lessor's reasonable business judgment shall be most nearly equivalent to the CPI. Lessor agrees to promptly notify Lessee of any CPI Adjustment (and in any event at least THIRTY (30) days prior to any adjustment in Base Rent payments as a result of any CPI Adjustment), and to provide Lessee with a reasonably-detailed description of Lessor's calculations of any CPI Adjustment and any adjustment in Base Rent payments.

4.3 Market Adjustments to Base Rent.

4.3.1 Notwithstanding the Base Rent increases referenced in Section 4.2, on: (a) April 1, 2048 and (b) each subsequent TEN (10) year anniversary of April 1, 2048, the annual Base Rent shall be adjusted (each, a "**Market Adjustment Date**") as hereinafter set forth in this Section. On each such Market Adjustment Date, the Base Rent shall be adjusted to the fair market base rental rate of the Premises, in relation to comparable (in quality, size, and value) airport-related facilities.

4.3.2 Lessor's determination of such fair market base rental rate for the Premises shall be delivered to Lessee no later than ONE HUNDRED TWENTY (120) calendar days prior to the Market Adjustment Date. If Lessee disputes Lessor's determination of such fair market base rental rate, Lessee shall deliver written notice of such dispute, together with Lessee's determination of such fair market base rent rate, to Lessor within SIXTY (60) calendar days of Lessee's receipt of Lessor's determination. The Parties shall then attempt in good faith to agree upon such fair market base rental rate. The fair market base rental rate shall take into consideration and reflect the limitations and restrictions on Lessee and on the use and development of the Premises and the

location of the Premises relative to other regional, national and international airport facilities. If the Parties fail to agree within FIFTEEN (15) business days, they shall, within TEN (10) calendar days thereafter, mutually appoint an appraiser to determine the fair market base rental rate. Said appraiser shall be a qualified MAI appraiser, licensed in the state of Arizona, with at least FIVE (5) years of recent continuous experience in determining the fair market rates for commercial properties similar to the Premises and be a member of the Appraisal Institute or comparable professional organization. If the Parties are unable to agree upon an appraiser within such 10-day period, they shall, within FIVE (5) business days thereafter, jointly apply to the president of the local Board of Realtors for the selection of an appraiser. The president of the Board of Realtors shall, within FIFTEEN (15) business days, select an appraiser with the above qualifications who has not acted in any capacity for either Party within the prior FIVE (5) years. Within SEVEN (7) calendar days of the appointment (either by agreement or selection) of the appraiser, the Parties shall submit to the appraiser their respective determinations of the fair market base rental rate and any/all substantiated information. Within TWENTY (20) business days thereafter, the appraiser shall review each Party's submittal (and such other information as the appraiser deems necessary) and shall select one Party's submittal as representing the most reasonable approximation of such fair market base rental rate, and the appraiser's fees and expenses shall be paid one-half each by each Party.

4.4 Vacancy Relief Periods. Provided no Event of Default shall have occurred and is continuing, Lessee shall have the continuing option to exercise up to TWO (2) Vacancy Relief Periods of up to TWELVE (12) months for each Vacancy Relief Period during any period of time that the Improvements on the Premises are at least FIFTY PERCENT (50%) vacant. Lessee may initiate a Vacancy Relief Period by giving written notice ("**Vacancy Relief Notice**") to Lessor of its desire to do so. Lessee's use and occupancy of the Premises shall not be taken into consideration in determining whether the Improvements are vacant, unless Lessee is actively conducting Lessee's business activities for a Permitted Use within such Improvements. An office maintained by Lessee in the Premises for the purpose of marketing and subleasing the Premises shall not be considered as Lessee actively conducting Lessee's business activities. The Vacancy Relief Notice shall identify the starting date and ending date for the Vacancy Relief Period (not to exceed TWELVE (12) months), and Lessee shall provide, simultaneously with each Vacancy Relief Notice, evidence reasonably satisfactory to Lessor that the Improvements on the Premises are at least FIFTY PERCENT (50%) vacant. During a Vacancy Relief Period, Lessee shall be entitled to pay a reduced Base Rent equal to FIFTY PERCENT (50%) of the Base Rent that would otherwise be applicable during such time. A Vacancy Relief Period shall terminate on the earlier of (a) the expiration of the TWELVE (12)-month period identified in the Vacancy Relief Notice, or (b) the date on which FIFTY-ONE PERCENT (51%) of the occupiable Improvements on the Premises are occupied, evidenced by executed subleases. Upon expiration of the Vacancy Relief Period, Lessee shall resume paying full Base Rent.

4.5 Construction Rent Period. A modified base rent for a construction period during the first TWO (2) Lease years ("**Construction Base Rent Period**") has been granted to Lessee as additional consideration for entering into this Lease and agreeing to pay the Base Rent and all other charges hereunder, and to perform the terms and provisions otherwise required under this Lease. If an Event of Default by Lessee occurs, which is not cured within the applicable cure period, in addition to all other rights and remedies of Lessor provided by law, equity, statute or otherwise provided in this Lease, at Lessor's option in its sole and absolute discretion, (i) if the Event of Default occurs within the Construction Base Rent Period, Lessee shall commence paying the full Base Rent at the rate of $0.10 per square foot per year for the balance of the Construction Base Rent Period, and (ii) if an Event of Default by Lessee occurs during the initial Term, which is not cured within the applicable cure period, Lessee shall immediately pay to Lessor an amount equal to the unamortized portion of Base Rent at the rate of $0.10 per square foot per year during the Construction Base Rent Period, which Lessor shall amortize over the initial Term on a straight-line basis.

4.6 Payment.

4.6.1 Base Rent shall be payable in equal monthly installments, in advance, without any prior

demand therefor and without any abatement, deductions or set-offs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer. Base Rent and any other charges due for any period during the Term less than ONE (1) calendar month shall be prorated on a daily basis based on a THREE HUNDRED SIXTY-FIVE (365) day year.

4.6.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.6.3 All payments (and reports, if any) required by this Section 4.6 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in advance in writing by Lessor to Lessee.

4.7 Finance Charges and Late Fees. If Lessee fails to pay any installment of Base Rent or any other charge due and owing to Lessor in full on or before the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum from the due date until payment in full is made. In addition, in the event any installment of Base Rent or other charge owing to Lessor is paid more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent Base Rent installment or other charge shall be due and payable in addition thereto.

4.8 Taxes. In the event any governmental authority shall impose a tax or imposition based upon any Base Rent payments or any other sums paid or owing hereunder, or the receipt of such payments by Lessor, Lessee shall pay such amounts to Lessor at the same time and in addition to payments hereunder, which amounts may include, but are not limited to, any or all rental, transaction privilege, sales, excise or other similar tax except income taxes.

4.9 Survival. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

4.10 Airport Rates and Charges Schedule. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* is included as **Exhibit B** and is subject to change upon prior notice to Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* at any time at Lessor's sole discretion, and that no fee shall apply to the use or occupancy of the Premises or access to and from the Premises.

5. PERFORMANCE GUARANTEE; CONSTRUCTION ESCROW.

5.1 Security Deposit.

5.1.1 On or before the Effective Date, Lessee shall pay to Lessor an amount equal to TWO (2) months' worth of Base Rent payments as of the Effective Date of this Lease, THREE THOUSAND ONE

HUNDRED-THREE and 84/100 DOLLARS ($3,103.84) as a security deposit ("**Security Deposit**") to insure the faithful performance of all of Lessee's obligations hereunder.

5.1.2 The Security Deposit, upon the occurrence of an Event of Default, at the election of Lessor, may be applied to any actual loss and/or actual damage sustained by Lessor by reason of the occurrence of such Event of Default by Lessee under this Lease without the waiver of any other right or remedy available to Lessor at law, in equity or under the terms of this Lease. If any portion of the Security Deposit is so used or applied, Lessee shall, within FIVE (5) business days after written notice from Lessor, deposit with Lessor immediately available funds in an amount sufficient to restore the Security Deposit to its original amount. In the event of a sale or other transfer of the Premises by Lessor, Lessor shall transfer the remaining balance (if any) of the Security Deposit to Lessor's successor in interest, whereupon the transferor Lessor shall be released from liability to Lessee for the return of such Security Deposit. Unless this Lease is terminated as a result of Lessee's default whereupon Lessee shall immediately forfeit its Security Deposit to Lessor, upon termination or expiration, Lessor shall return to Lessee all portions of the Security Deposit which were not otherwise applied by Lessor as permitted above. Lessor shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

5.2 Improvement Construction Guarantee.

5.2.1 Payment Guarantee. Notwithstanding and in addition to the Security Deposit, Lessee shall protect claimants supplying labor and materials in connection with the construction, by providing, at Lessee's sole cost and expense and prior to commencement of construction of said improvements, one of the following instruments, chosen at Lessee's discretion:

(a) Payment Bond. Lessee shall require the contractor to provide a labor and materials payment bond in the full contract amount to protect claimants supplying labor and materials in connection with the construction. The bond shall comply in all respects with the requirements of A.R.S. S 33-1003 as it may be amended or renumbered from time to time. The parties agree that Lessee is not a public body, and the improvements to be constructed under this Lease by Lessee at Lessee's sole cost are not public buildings, public works or public improvements. The bond shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the State of Arizona and shall be accompanied by a power of attorney disclosing the authority of the person executing on behalf of the surety. The bond and a copy of the contract shall be recorded in the office of the Maricopa County Recorder as required under A.R.S. S 33-1003, and a copy of the bond provided to the Lessor; or

(b) Letter of Credit. Such instrument ("**Letter of Credit**") shall be irrevocable, in the amount equal to the total amount of the construction contract(s) for the construction of the improvements (described in Section 7 herein) plus TEN PERCENT (10%) of such amount ("**Improvement Costs**") and should be issued to Lessee by a financial institution ("**Bank**") reasonably acceptable to the Lessor. The Letter of Credit shall have a term extending from the date of commencement of construction until the date with is TWENTY-FOUR (24) months thereafter, after which the date it shall be renewed on a year-to-year basis until construction of such improvements are completed, and final and unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Should Lessee utilize the Letter of Credit option hereunder, and should Lessee fail to pay any sum owing to contractors supplying labor and materials in connection with the construction then, in addition to any other remedies set forth in this Lease, Lessor shall be entitled to apply to the Bank, following a period of THIRTY (30) calendar days prior written notice to Lessee (which notice shall include reasonably-detailed description of the Lessee's failure to pay any sum owing), for release to Lessor (in accordance with the terms of the Letter of Credit) from the Letter of Credit of a dollar amount sufficient to pay amounts owing to contractors supplying labor and materials in connection with the construction and obtain final, unconditional lien waivers in connection therewith. Lessor's application shall contain evidence of the failure of payment and the estimated dollar amount needed to satisfy

payment obligations. The terms of the Letter of Credit shall require prompt payment to Lessor for the amount set forth in Lessor's application upon satisfaction of the conditions set forth in the Letter of Credit. Upon and following any partial payment to the Lessor, the Letter of Credit shall remain in full force for the remaining undisbursed amount of the Letter of Credit to accommodate further applications, if any, and shall not be subject to cancellation or revocation until fully drawn or otherwise released or satisfied upon completion of construction of the improvements and final, unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Lessor must approve the form and content of any Letter of Credit in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.

5.2.2 **Performance Guarantee.** In addition to the Security Deposit, Lessee's obligation to timely complete the improvements described in Section 7 herein shall be secured, at Lessee's sole cost and expense and prior to commencement of construction of said improvements, by any one of the following instruments, chosen at Lessee's discretion:

(a) **Performance Bond.** Lessee shall require the contractor to provide a performance bond in the full contract amount conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to the Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.; or

(b) **Completion Bond.** Lessee shall deliver to Lessor a completion bond in form and substance reasonably acceptable to Lessor pursuant to which Lessor shall have the unconditional, direct and unilateral right to draw upon or use such bond for completion of construction of the Improvements under Section 7.1 of this Lease if an Event of Default occurs and is continuing under Section 7.2.2 of this Lease. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.

6. AIRCRAFT OPERATIONS GUIDELINES.

If and to the extent that Lessee operates aircraft at or on the Airport, Lessee shall be subject to the provisions of **Exhibit C**. If any subtenant, contractor or agent of Lessee conducting activities on or at the Premises for or on behalf of Lessee and acting within the scope of their employment operates aircraft at the Airport, all shall be subject to the provisions of **Exhibit C**, which Lessor may enforce directly against such subtenant, contractor or agent, but Lessee shall have no direct liability or responsibility with respect to such matters; except, however, Lessee shall be responsible for compliance by its subtenants, contractors and/or agents with the *Airport Rules and Regulations* and *Airport Minimum Standards*, as appropriate.

7. IMPROVEMENTS.

7.1 Construction by Lessee. Lessee shall, at its sole cost and expense, construct improvements on the Premises that are generally described as two approximately 16,800 square foot buildings (for a total of approximately 33,600 square feet of building space) and associated parking and site improvements within the eighteen (18) month construction time frame and generally shall consist an approximate budget of $6,800,000 for the Work ("**Improvements**") in accordance with a site plan prepared by Lessee and approved by Lessor or by Lessor's Design Review Committee, if any, such approval not to be unreasonably withheld, conditioned, or delayed, and in compliance with all applicable governmental regulations, restrictions, building codes and any declaration of covenants, conditions, restrictions and easements of record affecting the Premises and any design guidelines promulgated pursuant thereto that are applicable to the Premises. Lessor and Lessee agree that Lessee shall be solely responsible for: (i) any connection(s) between the Premises and the terminating point of the

existing vehicular access way to the Premises that is required by applicable or utility provider or is requested by Lessee; (ii) constructing all improvements necessary to bring all utilities to the Improvements; (iii) installing all utility meters and water and sewer lines to service all Improvements constructed on the Premises; and (iv) if applicable, constructing all Improvements necessary to connect the Premises to existing taxiways or taxilanes in accordance with and if allowable under all Airport and FAA rules, regulations and other requirements.

7.2 Construction Milestones; Termination. Lessee shall construct its Improvements pursuant to the following schedule (each of which events are herein called a "**Construction Milestone**"):

7.2.1 Lessee shall submit its Improvement design plans to Lessor for review and approval no later than TWO (2) months from the Effective Date.

7.2.2 Lessee shall complete construction of all Improvements to be constructed by the Lessee at and on the Premises and shall have obtained a CofO (or its equivalent) from the City of Mesa therefor, no later than EIGHTEEN (18) months from the Effective Date.

7.2.3 If Lessee fails to commence construction within NINETY (90) calendar days after the issuance of all necessary construction permits and receipt of all approvals required for such, including any approvals required from the FAA, but subject to any applicable notice and cure periods provided for in Section 11, Lessor shall have the right to terminate this Lease by written notice to Lessee delivered at any time prior to commencement of construction. For purposes of this section "commencement of construction" shall be the date on which Lessee has obtained it permits, has executed a contract for construction of the Improvements and engaged in material work, such as grading or pouring of footings and slabs.

7.3 No Alterations. Lessee shall make no material improvements or alterations to the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld, conditioned, or delayed including, if and to the extent applicable, the approval by Lessor's Design Review Committee. The process of approving any material improvements or alterations by Lessor and Lessor's Design Review Committee shall occur within the same period of time (without duplication) given to Lessor for approval of the same. Lessor will have FORTY-FIVE (45) days following receipt of a written request by Lessee for approval of material improvements or alterations to either approve or disapprove the same. If Lessor disapproves, Lessor shall provide Lessee with a reasonably-detailed explanation for Lessor's disapproval and suggestions for revisions that would reasonably satisfy Lessor's disapproval. If Lessor fails to respond within such FORTY-FIVE (45)-day period Lessee may give a second notice to Lessor requesting approval of material improvements or alterations, on which the following language must appear in bold print: "**FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE (5) BUSINESS DAYS FROM ITS RECEIPT SHALL RESULT IN THE LESSEE'S PROPOSED IMPROVEMENTS AND ALTERATIONS BEING DEEMED APPROVED**." If Lessor fails to respond in writing (in the manner described above) to any matter in such second notice within FIVE (5) business days following delivery of such notice, Lessee's proposed improvements and alterations shall be deemed to have been approved by Lessor. If Lessor disapproves a request for approval and sets forth the reason for its disapproval, then Lessee may resubmit a revised description of the improvements or alterations for review and approval. This cycle will repeat itself until Lessor either approves the request or is deemed to have approved the same. Lessee shall provide Lessor with electronic as-built drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 Title to Alterations and Improvements. Title to all Improvements and alterations on the Premises (but not personal property or trade fixtures) shall vest in Lessor upon the expiration of this Lease, and Lessee agrees to execute and deliver to Lessor, within TEN (10) business days after Lessor's written request therefor, a quitclaim deed quitclaiming such Improvements and alterations to Lessor.

7.5 Mechanics' Liens. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within THIRTY (30) calendar days of notice thereof.

7.6 Permit Required. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction of the Improvements shall conform to City of Mesa ("**City**") construction and technical codes. No such work shall be commenced without first obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment or use, as required by applicable laws. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and a copy of the final stamped approval and the associated plans and specifications.

7.7 Damage or Destruction. Lessee shall maintain insurance on all of Lessee's Improvements to the Premises. In the event that all or any portion Lessee's Improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall replace, repair, restore, modify or improve said Improvements, subject to the provisions of Section 7.6, using available insurance proceeds together with any additional funds from other available sources. Notwithstanding the foregoing, if any damage or destruction occurs to the Premises during the last 5 years of the Initial Term or any Extension Term and the cost to repair the damage exceeds 65% of the total replacement cost, Lessee may terminate this Lease upon giving Lessor thirty (30) days' written notice, whereupon Lessee shall pay the replacement cost of the Improvements to Lessor.

8. MAINTENANCE.

8.1 Lessee Responsibilities. Lessee shall, at its sole cost and expense, keep the Premises in a clean condition and in good order, condition and repair throughout the Term, reasonable wear and tear excepted. Lessee's maintenance of the Premises shall consist of, as reasonably necessary, the inspection, servicing and repair of all improvements, including pest control, landscaping and grounds maintenance.

8.2 Damage to Lessor Property. Any real or personal property of Lessor damaged or destroyed by Lessee (or its agents, contractors, employees, managers and representatives) as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the reasonable satisfaction of Lessor; provided however, that Lessor acknowledges and agrees that Lessor's real property will be permanently altered, changed and modified as a result of the development and use of the Premises, and Lessor hereby consents thereto, and agrees that such development and use of the Premises as permitted in accordance with this Lease shall not constitute waste, damage or destruction to Lessor's real property. Lessor also approves of Lessee demolishing any and all improvements located on or under the Premises.

8.3 Trash Removal. Lessee shall at all times keep the Premises in a clean, safe, sanitary and orderly condition and shall keep such area reasonably free of all trash and debris, and in any event in compliance with all applicable laws and ordinances. Lessee shall be responsible for all trash removal from the Premises and Lessee shall deposit all trash and debris only at collection stations located on or in proximity to the Premises, in accordance with City code.

8.4 Emergency Repairs. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as necessary.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS.

9.1 Assignment.

9.1.1 Consent Required. Subject to Lessee's rights under Section 24, Liens and Mortgages, Lessee may not transfer or assign ("**Transfer**") its interest in this Lease or any right or interest hereunder without the prior consent of Lessor, which consent may not be unreasonably withheld, delayed or conditioned. Lessor will have FORTY-FIVE (45) days following receipt of a written request by Lessee for approval of a Transfer to either approve or disapprove the same. If Lessor disapproves, Lessor shall provide Lessee with a reasonably-detailed explanation for Lessor's disapproval. If Lessor fails to respond within such FORTY-FIVE (45)-day period Lessee may give a second notice to Lessor requesting approval of a Transfer, on which the following language must appear in bold print: "**FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE (5) BUSINESS DAYS FROM ITS RECEIPT SHALL RESULT IN THE LESSEE'S PROPOSED TRANSFER BEING DEEMED APPROVED**." If Lessor fails to respond in writing (in the manner described above) to any matter in such second notice within FIVE (5) business days following delivery of such notice, Lessee's proposed Transfer shall be deemed to have been approved by Lessor. If Lessor disapproves a request for approval and sets forth the reason for its disapproval, then Lessee may resubmit a revised proposal for a Transfer for review and approval. This cycle will repeat itself until Lessor either approves the request or is deemed to have approved the same. Notwithstanding the foregoing, however, Lessee may assign or encumber its leasehold interest, including any title to any improvements, as security in conjunction with or as part of one or more leasehold mortgages or deeds of trust, including assignments by means of a foreclosures or trustee's sales thereunder without Lessor's consent. In the case of an assignment (other than an assignment or encumbrance as security), the assignee must expressly assume in writing all of Lessee's obligations under this Lease from and after the date of such assignment.

9.1.2 Deemed Transfers. For the purposes of this Lease, a Transfer shall be deemed to include the following: (i) the transfer of any ownership interest in Lessee resulting in a change in the present control of Lessee by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; and (ii) the sale of greater than FORTY-NINE PERCENT (49%) or more in value of the assets of Lessee, whether in a single transaction or a series of transactions.

9.2 Subletting.

9.2.1 Lessee may sublease all or portions of the Premises if the following conditions are met:

(a) The sublease and any amendments or modifications thereto are approved in advance and in writing by Lessor (which approval shall not be unreasonably withheld, delayed or conditioned), or is/are in a form which shall have been previously approved in writing (except for changes that do not materially impact Lessor's rights and interests) by Lessor. If a pre-approved form is used, Lessor's advance approval of the actual sublease and any amendments or modifications thereto is not required. Lessor will have FORTY-FIVE (45) days with respect to a new sublease, or FIFTEEN (15) days with respect to amendments or modifications to a sublease, following receipt of a written request by Lessee for approval of a Transfer to either approve or disapprove the same. If Lessor disapproves, Lessor shall provide Lessee with a reasonably-detailed explanation for Lessor's disapproval. If Lessor fails to respond within such FORTY-FIVE (45)-day or FIFTEEN (15)-day period, as the case may be, Lessee may give a second notice to Lessor requesting approval of a Transfer, on which the following language must appear in bold print: "**FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE (5) BUSINESS DAYS FROM ITS RECEIPT SHALL RESULT IN THE LESSEE'S PROPOSED TRANSFER BEING DEEMED APPROVED**." If Lessor fails to respond in writing (in the manner described above) to any matter in such second notice within FIVE (5) business days following delivery of such notice, Lessee's proposed sublease, amendment or modification, as the case may be, shall be deemed to have been approved by Lessor. If Lessor disapproves a request for approval and sets forth

the reason for its disapproval, then Lessee may resubmit a revised proposal for a Transfer for review and approval. This cycle will repeat itself until Lessor either approves the request or is deemed to have approved the same.

(b) Rent for subleased premises shall not be less than fair market value unless otherwise approved in writing by Lessor.

(c) The sublease(s) and sublessee(s) shall at all times be subject to the terms and conditions of this Lease.

(d) The permitted uses of the Premises under any sublease shall be the same as that permitted under this Lease. Sublessees shall agree in the sublease not to engage in any Prohibited Use.

(e) The term of any sublease shall not extend beyond the stated expiration of this Lease.

(f) Except for the payment of a security deposit, the sublessee under such sublease shall not pay rent more than SIX (6) months in advance of its due date under the sublease unless otherwise approved in writing by Lessor.

9.2.2 Upon request from Lessee and/or any sublessee, Lessor shall enter into a Non-Disturbance and Attornment Agreement (in form and substance reasonably acceptable to Lessor, Lessee, sublessee and any applicable Mortgagee of Lessee or sublessee) so long as (i) the conditions of Section 9.2.1 have been met; (ii) the sublessee is not then in default beyond an applicable notice and cure period under the sublease and there is no existing Event of Default under this Lease; and (iii) the sublessee does not have a history of five (5) or more documented events of noncompliance with the *Airport Rules and Regulations* or *Airport Minimum Standards*. All reasonable legal fees incurred by Lessor in connection with any reasonably necessary third-party legal counsel review and approval of a Non-Disturbance and Attornment Agreement shall be paid by Lessee or sublessee.

9.2.3 Lessee shall not permit any sublessee unescorted access to the secured areas of the Airport unless and until the sublessee has obtained its own valid Airport security clearance and access credentials from Lessor. Lessee acknowledges that it may take THIRTY (30) calendar days or more to process sublessee for security clearance and access credentials.

9.2.4 Lessee shall submit a copy of each fully executed sublease to Lessor as soon as possible, but no later than FIVE (5) business days after Lessee receives the fully executed sublease.

9.3 Non-Disturbance. Lessor agrees, for the benefit of all subtenants of all or any part of the Premises, that if this Lease or Lessee's right to possession of the Premises is terminated for default or otherwise, all subleases of all or any part of the Premises, except any sublease to an Affiliate of Lessee, shall continue in full force and effect, notwithstanding the termination, as direct leases between Lessor and the subtenants and all such subtenants shall, upon request, attorn in writing to Lessor.

10. SIGNS.

Lessee may install on the Premises, including the Improvements, one or more signs, including signs identifying its business and, if Lessee so desires, a monument sign on the Premises; provided, however, that the general type, size, and location of such sign(s) shall conform to Lessee's Comprehensive Sign Plan, be approved in writing by Lessor in advance of installation, which approval may not be unreasonably withheld, conditioned or delayed, and be subject to any signage rules, codes and/or regulations of any governmental authority.

11. DEFAULT; TERMINATION BY LESSOR.

11.1 Events of Default. Each of the following shall constitute a material default of this Lease by Lessee ("**Event of Default**"):

11.1.1 Failure to pay any installment of Base Rent or other amount due from Lessee hereunder, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 Failure to perform any of its other obligations under this Lease or failure to perform any of its obligations as a "Lessee" under the Declaration (as defined in Section 44 below), as such obligations relate to the Premises, provided that Lessee does not cure such failure within THIRTY (30) calendar days after delivery by Lessor to Lessee of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

11.1.3 The filing of any mechanic's, materialmen's or other lien or any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Lessee.

11.1.4 The Transfer or attempted transfer of any interest in the Lease to any transferee in violation of Section 9, provided that Lessee does not cancel or otherwise negate such Transfer or attempted transfer within THIRTY (30) calendar days after delivery by Lessor to Lessee of a written notice of such default.

11.1.5 Failure to pay its Proportionate Share of any Common Area Assessment in accordance with the Declaration as provided in Section 44 below, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor to Lessee of a written notice of such failure.

11.2 Lessor's Remedies. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Base Rent, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

Lessor agrees that Lessor's right to re-enter the Premises under Arizona Revised Statutes Section 33-361 and other similar rights shall arise after, and only after, the applicable notice and cure or grace periods under this Lease have been given and expired without such default or failure having been cured by Lessee.

11.3 No Implied Termination. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Except for Lessor's

negligence or willful misconduct, Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and Lessee shall reimburse Lessor for all reasonable costs incurred by Lessor occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 Lessor's Current Damages. Upon the occurrence and during the continuance of an Event of Default, Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the reasonable costs and expenses incurred in respect of such repairs, redecorating, refurbishments and improvements shall be paid by Lessee to Lessor within TEN (10) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all actual damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the equivalent of the amount of the present value of Base Rent and all other payments which would be payable under this Lease by Lessee for the remainder of the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's reasonable expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs, redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence ("**Deficiency**"), in monthly installments on the days on which the Base Rent would have been payable under this Lease as if this Lease were still in effect. In no event shall Lessee be liable for punitive, consequential or speculative damages under this Lease. Lessor agrees to satisfy its obligations to mitigate its damages.

11.5 Lessor's Final Damages. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover (without duplication) from Lessee, and Lessee shall pay to Lessor, promptly on demand, as Lessor's final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount at the rate of SIX PERCENT (6%) per annum) of (i) the aggregate of the Base Rent and all other amounts to be paid by Lessee hereunder for the unexpired portion of the Term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of Rent and any losses that could have been reasonably avoided, plus (b) reasonable repossession costs, reasonable Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), reasonable attorneys' fees, reasonable legal expenses, and all other actual damages incurred by Lessor as a result of such Event of Default.

11.6 No Waiver by Lessor. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any of such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 Content of Default Notice. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it reasonably describes the nature of such default, and is made in accordance with Section 20 herein.

11.8 Limitation on Exercise of Termination Remedy by Lessor. Notwithstanding anything to the contrary in Section 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay Base Rent or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Nothing in this Section 11 shall limit the exercise of any such other remedy.

11.9 Waiver of Landlord's Lien. Lessor hereby waives all statutory or common law landlord's lien rights with respect to personal property located on the Premises.

12. [RESERVED].

13. INDEMNIFICATION.

13.1 Lessee's Indemnity. Except for the actions and omissions of Lessor and its agents, contractors, employees, managers and representatives, to the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this Section 13.1 for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term caused by Lessee or its agents, employees, contractors, or subcontractors, or (ii) any negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessee" for purposes of this Section 13.1) on the Property or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor, or (iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors or agents.

13.2 Lessor's Indemnity. Except for the actions and omissions of Lessee and its agents, contractors, employees, managers and representatives, to the fullest extent permitted by law, Lessor hereby agrees to defend, indemnify and hold harmless Lessee and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessee" for purposes of this Section 13.2) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any negligent act or omission or intentional misconduct by Lessor or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessor" for purposes of this Section 13.2) on the Property or the Airport, and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessee, or (ii) the failure of Lessor to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessee or its employees, contractors or agents.

13.3 Lessor's Damage to Improvements. Lessor shall be responsible and liable for any damage to any Improvements or alterations on the Property to the extent caused by Lessor or its agents, employees, contractors or subcontractors, and Lessor shall promptly repair any damage caused by Lessor or its agents, employees, contractors or subcontractors.

14. ENVIRONMENTAL PROTECTION.

14.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this Section 14.1 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 *Environmental Laws*. The term "**Environmental Laws**" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and*

Liability Act, 42 USC Section 9601 et seq.; the *Resource Conservation and Recovery Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; the *Arizona Hazardous Waste Management Act*, A.R.S. Section 49-921 et seq. the *Arizona Environmental Quality Act*, A.R.S. Title 49, as amended; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

14.1.2 *Hazardous Material*. The term "**Hazardous Material**" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Law and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils).

14.2 [Intentionally Omitted].

14.3 Environmental Compliance.

14.3.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Law, including any amendments thereto, affecting Lessee's activities on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter Environmental Law, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.3.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Law. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Law.

14.3.3 If Lessee desires and receives written authorization from Lessor to install any underground storage tanks ("**USTs**") on the Premises or elsewhere on the Airport, Lessee shall submit the plans for such USTs to Lessor for prior written approval and shall comply with all applicable Environmental Laws related thereto, including Title 40, Code of Federal Regulations, Part 280, as adopted by the State of Arizona ("**Part 280**"), and Lessee shall be the owner of such USTs for statutory purposes. Installation of USTs shall comply with the "code of practice" set forth in Part 280. Lessee is solely responsible for the design, construction, installation, operation, monitoring, inspection, repair and maintenance of any and all USTs, including any connected piping and/or dispensing apparatus. Lessee shall provide to Lessor a copy of the Arizona Department of Environmental Quality *Notification of Underground Storage Tank Registration* that Lessee submits to the state. All USTs shall meet or exceed the tank performance standard for USTs installed after December 22, 1998, including corrosion protection, leak detection and spill/overflow protection. Any UST that stores flammable and combustible liquids shall meet the provisions of NFPA 30, *Flammable and Combustible*

Liquids Code. Records demonstrating compliance with release detection requirements, including product inventories, calibration and maintenance, sampling, tightness testing and any other records, fees and taxes required by the state or federal governments shall be the responsibility of Lessee. Upon the expiration of this Lease, Lessee shall remove all USTs in compliance with all UST closure requirements under all applicable Environmental Laws in effect at that time unless otherwise allowed by Lessor.

14.4 Indemnification. To the fullest extent permitted by law, Lessee shall indemnify, defend (with counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this Section 14.4 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity. This Section 14.4 explicitly excludes Lessee duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is exacerbated by Lessee or unknown contamination is exacerbated by Lessee's negligence.

14.5 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Law, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this Section 14.5, Lessor is not responsible for directing or managing any remediation action. For purposes of this Section 14.5, the term "**Release**" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. This Section 14.5 also applies to Lessee's remediation of any contamination of any kind existing on the Premises or Airport prior to the Effective Date, including any such contamination that may be first discovered after the Effective Date but not caused by Lessee, except and only to the extent known contamination is exacerbated by Lessee or unknown contamination is exacerbated by Lessee's negligence.

14.6 Governmental Submittals. Lessee shall, at Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any spills or discharges of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at the Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.7 Information Sharing.

14.7.1 Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a significant violation of Environmental Law (as defined below), and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Premises, to the extent that such investigations or claims are related to Lessee's activities thereon. A "significant violation of Environmental Law" shall be any violation that requires more than ONE HUNDRED EIGHTY (180) calendar days to resolve.

14.7.2 Lessee shall install on any UST that it is permitted to install pursuant to Section 14.3.3, a method or a combination of methods for Release detection that can detect a Release from any portion of the UST and any connected underground piping. Lessee shall immediately notify Lessor's Operations and Maintenance Department upon discovering a Release or Suspected Release of any amount of material that is stored inside a UST. For purposes of this Section, a "Suspected Release" is any discovery of released Hazardous Material at the UST site or surrounding area, erratic behavior of Hazardous Material dispensing equipment, the sudden loss of a Hazardous Material, an unexplained presence of water in the UST, or when monitoring indicates that a Release has occurred. In the case of inventory control, Lessee shall notify the Lessor's Operations and Maintenance Department when the second consecutive month of inventory reconciliation data indicates that there is a discrepancy in the figures recorded.

14.8 Sublease. Lessee shall insert provisions substantially identical to the provisions of this Section 13.1 in any sublease agreement or contract by which it grants a right or privilege to any person, firm, corporation or other entity under this Lease.

14.9 Actions of Lessee. The activities or actions of Lessee under this Section 13.1 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors, invitees and successors.

14.10 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.11 Environmental Assessments.

14.11.1If, during the Term of this Lease, any of Lessee's USTs are suspected of or known to be leaking, Lessee shall perform, or cause to be performed, a site characterization of the Premises and/or UST site using all appropriate sections of the LUST Site Characterization Manual dated January 15, 1999, or the most current edition, including tables 1 through 6, as applicable ("**Site Characterization**").

14.11.2Within THIRTY (30) calendar days immediately preceding the expiration of this Lease or within THIRTY (30) calendar days of any earlier termination of the Lease, Lessee shall:

(a) Deliver to Lessor: (i) a Phase I environmental site assessment that conforms to the standards set forth in 42 USC § 9601(35)(B), as amended by Pub. L. 107-118 (Jan. 11, 2002), section 223(2), and as may be further amended, and any regulations thereunder; and (ii) an environmental compliance audit assessing the status of regulatory compliance of the Premises and all operations and activities thereon; both prepared by a qualified engineer licensed by the State of Arizona; and

(b) In the event Lessee installs any USTs upon the Premises or elsewhere on the Airport, perform or cause to be performed a Site Characterization of the Premises in the event there is evidence that there has been or may be a leak or Release of the UST contents; and

(c) If either the assessment described in Section 14.11.2(a)(i) above or the Site Characterization described in Section 14.11.2(a)(ii) above identifies any "recognized environmental condition," or any other condition indicating a known or potential liability, including, but not limited to, a known or potential violation of any Environmental Law or a past, present, or material threat of a future release of a hazardous substance or a petroleum product into the environment, Lessor reserves the right, at Lessor's sole discretion, to require Lessee to conduct, at Lessee's sole expense and with a scope of work subject to Lessor's approval, further reasonable investigations and reasonable remediation.

14.12 Protective Devices and Plans. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge, and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.13 Right to Enter Premises. In addition to the rights afforded to Lessor in Section 19, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency (the EPA), ADEQ and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.14 U.S. Air Force Use and Remedial Action.

14.14.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation

under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this Section 14.14, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release. The terms, "**Occupation**" or "**Use**" shall mean any activity or presence (in or upon) such portion of, or such building, facility or other improvement on the Premises.

14.14.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Lessor or Lessee is a potentially responsible party with respect to any portion of the Premises or the Airport.

14.15 Cleanup Requirements. Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have no claim against Lessor or the United States or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by Governmental Authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.16 Spill Protection Plan. In the event Lessee undertakes any type of manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Lessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements, and shall be approved by all agencies that are obligated by law to approve such plan. Such plan shall be independent of Lessor's spill prevention and response plans, if any. Lessee shall not rely on use of Lessor or Lessor personnel or equipment in execution of its plan. Lessee shall file a copy of the plan and amendments thereto with Lessor's Environmental and Archeological Coordinator prior to the date that Lessee commences any manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws. Notwithstanding the foregoing, should Lessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Lessee, or because Lessee was not, in the opinion of Lessor, conducting fire-fighting, containment or timely cleanup actions, Lessee agrees to reimburse Lessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Lessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Lessor or its employees, agents or contractors.

14.17 Wells. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor, except to the extent that the installation of a monitoring well is required by Governmental Authorities.

14.18 Surface Disturbances. After construction of Lessee's improvements on the Premises, if any, either in the future or as otherwise provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface other than what is usual and customary for the anticipated uses

without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned or delayed.

14.19 Later Discovered Hazmat. If any Hazardous Material is newly discovered on a portion of the Property after the Effective Date that: (a) (i) were not placed on or introduced to the Property by Lessee, and (ii) were present on the Premises prior to the Effective Date (collectively, "**Later-Discovered, Pre- Existing Hazmat**"); and (b) such Later-Discovered, Pre-Existing Hazmat will cause Unavoidable Delay in the construction of Improvements; Lessee shall immediately notify Lessor and cease development activity in the impacted area of the Premises, and Lessee shall have the right to either (a) conduct such investigations and remedial actions as necessary under applicable Environmental Law and continue development activity as the remedial process allows (and reserve any rights it may have to seek whatever compensation it is entitled to recover), if Lessor does not agree, within SEVEN (7) business days of receiving notice contemplated under this Section, to promptly investigate and remediate the detected contamination in accordance with Environmental Law, and on a schedule and in a manner that does not interfere with Lessee's development, use or construction plans, or (b) terminate this Lease upon written notice to Lessor.

15. PROTECTION OF WETLANDS.

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises. Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the permitting authority and obtain a permit or waivers under Section 404 of the Clean Water Act. For purposes of this Section 15, the term, "new construction," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. SPECIAL PROVISIONS.

16.1 Lessee shall comply with all applicable Federal, State, and local occupational safety and health regulations.

16.2 Lessee shall be responsible for determining whether it is subject to State and local sanitation, licensing, building code or building permit requirements and whether or not it requires a permit to do business and for compliance with them to the extent they are applicable.

17. INSURANCE.

17.1 Coverage Required. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

17.1.1 *Builders Risk* insurance covering the insured's premises and all replacements and/or additions thereto for their full insurable value plus ten percent (Cost + 10%) on a "replacement cost" basis with an ISO Special Causes of Loss form or equivalent required until completion of construction of the improvements upon the Premises. Builder's Risk Insurance shall be in place during active construction of the Improvements. Lessor agrees that Builder's Risk Insurance shall be, upon acceptance of the Improvements by the City of Mesa and/or occupancy of the Improvements for the intended use, no longer required in the form of Builder's Risk Insurance and shall be replaced by Lessor's General Liability and Property coverage as placed upon completion of the construction of the Improvements. Lessor agrees to perform this transition without any lapse or gap in coverage.

17.1.2 *Comprehensive General Liability* $5,000,000 per occurrence covering third party bodily injury and property damage on an occurrence basis in an amount not less than, including coverage for "premises/operations", "products and completed operations", "professional", "host liquor" and "blanket

contractual liabilities".

17.1.3 *Commercial Auto Liability* - $1,000,000 per occurrence covering all owned, non-owned and hire vehicles operated on the Airport that are assigned to or used in the performance of commercial activities. If any hazardous materials are transported with Airport boundaries in conjunction with the operator's business activities, and MSC-90 Endorsement is required.

17.1.4 *Environmental Coverage* $2,000,000 per occurrence. – covering third party bodily injury and property damage associated with hazardous material storage facilities, tanks, pining, ancillary equipment and containment structures, or structures that are used, controlled, constructed or maintained at the Airport, and including expenses for defense, release mitigation and off-and on-site remediation.

17.1.5 *Personal Property Coverage* – covers all essential personal property (property essential to continued business operations) and all operator improvements made to buildings or facilities on the Airport, including all replacements and./or additions thereto, for their full insurable value (All Risks) on a replacement cost basis, and requires and ISO Special Cause of Loss form. Coverage shall be for risks of direct physical loss or damage, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth Movement. The limit shall be equivalent to at least full replacement cost value of personal property & improvements. Coverage shall be on a replacement cost basis. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Lessee's policy shall name Lessor as Loss Payee as their interest may appear.

17.1.6 *Worker's Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000 covering work-related injuries to employees and others permitted to operate or otherwise conduct business on the Premises.

17.2 Form. Each insurance policy obtained pursuant to this Section, except for *Worker's Compensation and Employer's Liability* policies, shall: (i) name Lessor as a certificate holder and additional named insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than THIRTY (30) calendar days before such cancellation or modification takes effect TEN (10) days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

17.3 Certificates of Insurance. Lessee shall deliver to Lessor a certificate of insurance for each policy required herein to Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the Term of this Lease.

17.4 Additional Insurance. At any time during the Term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this Section 17 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

17.5 Blanket Insurance. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

17.6 Insurance by Lessor. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this Section. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within TEN (10) business days after Lessor advises Lessee of the cost thereof.

18. SURRENDER OF POSSESSION.

18.1 Condition of Property.

18.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear, casualty (subject to Lessee's obligation under Section 7.7) and condemnation. Lessee shall not be responsible for the removal or remediation of any Hazardous Material that was present on, under or near the Premises prior to occupancy, regardless of the date of discovery of such Hazardous Material, and shall not be responsible for returning the Premises in a better condition than existed on the Effective Date, except as expressly provided hereunder. All trade fixtures, equipment, and other personal property installed or placed by Lessee on the Premises which are not permanently affixed thereto shall remain the property of Lessee, and Lessee shall have the right at any time during the Term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall become a part of the Premises, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

18.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required in a written notice to Lessee from Lessor at the time of Lessor's approval of the same, be removed from the Premises by Lessee, at Lessee's expense, within FIFTEEN (15) business days after Lease termination. Should Lessee fail to remove such trade fixtures, equipment or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

18.2 Holding Over. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Base Rent and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee solely as a result of Lessee's holding over.

19. INSPECTION BY LESSOR.

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, in which event Lessor shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee on the Premises.

20. NOTICES.

20.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses:

TO LESSOR: Phoenix-Mesa Gateway Airport Authority
Attn: Business Development Department
5835 South Sossaman Road
Mesa, Arizona 85212

TO LESSEE: SkyB Lot 116-B LLC
Attn.: Felipe Monroy Torres
2415 E. Camelback Road, Suite 700
Phoenix, AZ 85016

With a required copy to: Warner Angle Hallam Jackson & Formanek PLC
Attention: James Valletta
2555 E. Camelback Road, Suite 800
Phoenix, AZ 85016-9256

20.2 Any notice shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service. Any Party may designate in writing a different address for notice purposes pursuant to this Section.

21. SEVERABILITY.

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

22. SALES AND PROPERTY TAXES.

Lessee shall pay any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax assessed as the result of its occupancy of Premises or conduct of any activity at the Airport under authority of this Lease, including any such tax assessable on Lessor as a result thereof. In the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor, such tax shall also be paid by Lessee for the period this Lease is in effect, to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business.

23. APPROVALS, CONSENTS AND NOTICES.

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

24. LIENS AND MORTGAGES.

24.1 General Provisions.

24.1.1 Except as provided in this Section 24, Lessee shall not engage in any financing or other transaction creating any mortgage or deed of trust upon the Premises, place or suffer to be placed upon the Premises any lien or other encumbrance, or suffer any levy or attachment to be made on Lessee's interest in

the Premises. Any such mortgage or deed of trust, encumbrance or lien shall be deemed a violation of this Section, constituting a failure by Lessee to comply with the terms of the Lease, on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

24.1.2 Notwithstanding anything to the contrary in this Lease to the contrary, Lessee shall, during the Term, be permitted to pledge Lessee's ownership interests and/or mortgage, collaterally assign, or otherwise encumber its leasehold interest (including any interest in the improvements) under this Lease pursuant to one or more Mortgages, as defined below, to secure indebtedness, including, without limitation, one or more loans to finance construction of improvements and other development on the Premises, and including refinancings thereof, subject to the restrictions of Section 24.1.4.

24.1.3 Any such encumbrance, including leasehold deed of trust, is referred to as a "**Mortgage**" and the holder thereof a "**Mortgagee**." The Mortgagee, upon taking possession or upon foreclosure or taking an assignment in lieu thereof, shall be liable for all future rents and obligations hereunder and shall attorn to Lessor. In no event shall any Mortgagee be responsible or liable for any claims against Lessee or any of Lessee's agents, employees, invitees, contractors or representatives for any death, injury, illness, damage to or loss of property (except only to the extent provided hereinafter with respect to a default by Lessee under this Lease), or tort related claims. In no event shall any Mortgagee be liable for the actions or omissions of Lessee or Lessee's agents, representatives, employees, contractors, or invitees (except only to the extent provided hereinafter with respect to a default by Lessee under this Lease). The Mortgagee shall not be responsible or liable for any default by Lessee under this Lease, except, and only, to the extent that such default continues for a period of THIRTY (30) days (or such additional time as is reasonably necessary for Mortgagee to cure such default, so long as Mortgagee is diligently pursuing action to cure the default) after (i) Mortgagee shall have obtained possession through a court-appointed receiver or ownership of the Premises, (ii) the Mortgagee shall have received written notice of such default at the same time that Lessor notifies Lessee of such default, (iii) any notice or cure period related to such default as provided in this Lease and in Section 24.2 and Section 24.3 below shall have elapsed without such default having been cured, and (iv) such default is reasonably capable of being cured by the Mortgagee. No Mortgage shall encumber Lessor's interest in the Premises or Lessor's interest in the improvements thereon. Further and promptly after Lessee assigns or encumbers any portion of the Premises or the improvements thereon, Lessee shall furnish Lessor with a written notice setting forth the name and address of such Mortgagee or trustee.

24.1.4 No Mortgage or deed of trust shall extend to or affect the fee, the reversionary fee interest or the estate of Lessor in the Premises. No Mortgage or deed of trust shall be binding upon Lessor in the enforcement of its rights and remedies under this Lease and by law provided, unless and until a copy thereof shall have been delivered to Lessor and such Mortgage or deed of trust is authorized in accordance with provisions of this Section 24.

24.1.5 Notwithstanding anything to the contrary in this Section 24, Lessor shall have all rights and remedies under Section 11 with respect to any Event of Default that continues after expiration of all applicable notice and cure periods set forth in Section 11.1 and this Section 24.

24.2 Lessor Agreement. With respect to Mortgagees of the Premises, Lessor agrees that:

24.2.1 If requested by a Mortgagee which shall have duly registered in writing with Lessor its name and address, and if Lessor shall give any notice, demand, election or other communication required hereunder (hereafter, collectively, "**Notices**") to Lessee, Lessor shall concurrently give a copy of each such Notice to the Mortgagee at the address designated by it. Notices shall be sent by registered or certified mail, return receipt requested, and shall be deemed given seventy-two (72) hours after the time they are deposited in a United States Post Office with postage charges prepaid, addressed to the Mortgagee. No Notice given by Lessor to Lessee shall be binding upon or affect Lessee or the Mortgagee unless a copy of the Notice shall be

given to the Mortgagee pursuant to this Section 24.2.1.

24.2.2 Such Mortgagee entitled to such Notices, as specified above, shall have any and all rights of Lessee with respect to the curing of any default hereunder by Lessee.

24.2.3 If Lessor shall elect to terminate this Lease by reason of any default by Lessee with respect to the Premises, the Mortgagee that shall have become entitled to Notice as provided in this Section 24.2 shall have any and all rights of Lessee with respect to curing of any default with respect to the Premises.

24.2.4 Nothing herein contained shall be deemed to impose any obligation on the part of Lessor to deliver physical possession of the Premises to such holder of a Mortgage. To the extent the physical possession of the Premises by a secured creditor is not inconsistent with the terms of this Lease, or is incompatible with the Lessor's selection of available remedies in the Event of Default, Lessor shall not prevent such physical possession. If more than one Mortgagee shall seek to exercise any of the rights provided for in this Section 24, the holder of the Mortgage having priority of lien over the other Mortgagees shall be entitled, as against the others, to exercise such rights. Should a dispute arise among Mortgagees regarding the priority of lien, the Mortgagees shall prove to the satisfaction of Lessor that they have settled that dispute.

24.3 Protection of Mortgagee(s). Until the time, if any, that an approved Mortgage shall be satisfied and released of record:

24.3.1 A Mortgagee shall have the right, for a period equal to the period afforded Lessee under this Lease to perform any term, covenant, or condition and to remedy any default by Lessee hereunder, plus such additional time that is reasonably needed for Mortgagee to exercise Lessee's rights to cure any defaults subject to the following: (a) if the default cannot be cured by Mortgage, no additional time shall be allowed; (b) if the default can be cured by Mortgagee, such additional period of time shall not exceed SIX (6) months after Mortgagee's receipt of such Notice, unless a longer period of time is otherwise approved by Lessor in writing; (c) if curing the default requires that Mortgagee has possession through a court-appointed receiver or ownership of the Premises, Mortgagee shall be diligently pursuing action to take possession through a court-appointed receiver or ownership of the Premises; and (d) Mortgagee shall not be entitled to more than TEN (10) days of additional time to cure any defaults in the payment of Base Rent. Lessor shall accept such performance with the same force and effect as if furnished by Lessee, and the Mortgagee shall thereby and hereby be subrogated to the rights of Lessor. Such Mortgagee cure period shall begin on the later of: (i) the date Mortgagee receives notice pursuant to Section 24.2, or (ii) the date that Lessee's cure period expires under this Lease. During such Mortgagee cure period, Lessor will not terminate this Lease or disturb possession, interest or quiet enjoyment by the Lessee or Mortgagee in the Premises or improvements for any reason, subject to the terms of this Lease, until such Mortgagee cure period has expired. The Mortgagees and their respective designees shall have the right to enter upon the Premises to give such performance.

24.3.2 In case of an Event of Default by Lessee in the performance or observance of any non-monetary term, covenant or condition to be performed by it hereunder, if such Event of Default cannot practicably be cured by the Mortgagee without taking possession or ownership of the Premises, in such Mortgagee's reasonable opinion, or if such Event of Default is not susceptible of being cured by the Mortgagee, then:

(a) The Mortgagee shall proceed diligently to obtain possession through a court-appointed receiver or ownership of the Premises, and, upon obtaining such possession, shall proceed diligently to cure such defaults as are reasonably susceptible of cure (subject to any order by a court of competent jurisdiction staying or otherwise precluding such Mortgagee from obtaining such possession); or

(b) The Mortgagee shall institute foreclosure proceedings and diligently prosecute

the same to completion (unless in the meantime it shall acquire Lessee's estate hereunder, either in its own name or through a nominee, by assignment in lieu of foreclosure), subject to any order by a court of competent jurisdiction staying or otherwise precluding such Mortgagee from obtaining such possession.

(c) The Mortgagee shall not be required to obtain possession or to continue in possession of the Premises pursuant to Section 24.3.2(a), or to continue to prosecute foreclosure proceedings pursuant to Section 24.3.2(b), if and when such Event of Default shall be cured.

(d) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Lessee, the times for commencing or prosecuting foreclosure or other proceedings, including proceedings to obtain possession, shall be extended for the period of the prohibition.

24.4 New Lease

24.4.1 Lessor agrees that, in the event of early termination of this Lease for any reason (including but not limited to any default by Lessee), Lessor, if requested by any Mortgagee, will enter into a new lease of the Premises with the most senior Mortgagee requesting a new lease, which new lease shall commence as of the date of termination of this Lease and shall run for the remainder of the original Term of this Lease (plus any applicable Renewal Term if exercised), at the rent and upon the terms, covenants and conditions herein contained, provided that:

(a) Such Mortgagee shall make written request upon Lessor for the new lease within SIXTY (60) calendar days after the date such Mortgagee receives written notice from Lessor that this Lease has been terminated;

(b) Such Mortgagee shall pay to Lessor, at the time of the execution and delivery of the new lease, any and all Base Rent payments, finance charges and late fees which would, at that time, be due and unpaid pursuant to this Lease but for its termination, and in addition thereto all reasonable expenses, including reasonable attorneys' fees, which Lessor shall have incurred by reason of the preparation of such new lease;

(c) Such Mortgagee shall perform and observe all covenants in this Lease to be performed and observed by the lessee under such new lease from and after full execution and delivery of such new lease, and shall within a reasonable period of time (not to exceed the time frames set forth in Section 24.3.1 above) after full execution and delivery of such new lease remedy any other conditions which Lessee under the terminated Lease was obligated to perform under its terms and did not perform, to the extent the same are reasonably susceptible of being cured by the Mortgagee; and

(d) The lessee under the new lease shall have the same rights, including the right of occupancy to the buildings and improvements on the Premises and elsewhere on the Airport as Lessee had under this Lease immediately prior to its termination.

Notwithstanding anything to the contrary expressed or implied in this Lease, any new lease made pursuant to this Section 24 shall have the same priority as this Lease with respect to any mortgage, deed of trust, or other lien, charge, or encumbrance on the fee of the Premises, and any sublease under this Lease shall be a sublease under the new Lease and shall not be deemed to have been terminated by the termination of this Lease.

24.4.2 Nothing herein contained shall require any Mortgagee to enter into a new lease

pursuant to this Section 24.4, or to cure any default of Lessee referred to above.

24.4.3 If any Mortgagee shall request a new lease as provided in this Section 24.4, Lessor agrees, at the request of, on behalf of and at the expense of the Mortgagee, to institute and pursue diligently to conclusion the appropriate legal remedy or remedies to oust or remove the original Lessee from the Premises, but not any authorized subtenants actually occupying the Premises or any part thereof.

24.4.4 Unless and until Lessor has received notice from each Mortgagee that the Mortgagee elects not to demand a new lease as provided herein, or until the period therefor has expired, Lessor shall not cancel or agree to the termination or surrender of any existing subleases nor enter into any new leases or subleases with respect to the Premises without the prior written consent of each Mortgagee.

24.5 Effect of Transfer. Neither the foreclosure of any Mortgage (whether by judicial proceedings or by virtue of any power of sale contained in the Mortgage), nor any conveyance of the leasehold estate created by this Lease by Lessee to any Mortgagee or its designee by an assignment or deed in lieu of foreclosure or other similar instrument, shall require the consent of Lessor or constitute a default or Event of Default under this Lease, and upon such foreclosure, sale or conveyance, Lessor shall recognize the purchaser or other transferee in connection therewith as the Lessee under this Lease, subject only to an assumption in writing by such purchaser or transferee of all obligations of Lessee under this Lease from and after the date of such assumption.

25. GOVERNING LAW; ATTORNEY'S FEES.

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

26. RULES AND REGULATIONS.

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act*), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall at all times comply with the *Airport Minimum Standards* and *Airport Rules and Regulations*, as the same may be amended from time to time. Copies of the current *Airport Minimum Standards* and *Airport Rules and Regulations* are attached hereto as **Exhibit D**. Lessee acknowledges and agrees that Lessor may amend the *Airport Minimum Standards* and *Airport Rules and Regulations* at any time in Lessor's commercially reasonable discretion. Lessee shall, within a reasonable period of time, reasonably display to Lessor any permits or licenses required by law or other evidence of compliance with laws upon written request.

Lessor shall use commercially reasonable efforts to timely notify Lessee of any updates in the *Airport Rules and Regulations*, the *Airport Minimum Standards*, the *Aviation Fuel Storage, Dispensing and Handling Guidelines*, and the Airport *Fly Friendly Procedures*.

27. CORPORATE AUTHORIZATION.

In executing this Agreement, each of Lessor and Lessee represents and warrants to the other that if such Party is a corporation, or other legal entity, each Party has obtained and been granted the full right, power and authority to enter into this Lease.

28. UTILITY LINES AND SERVICE CHARGES.

28.1 Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested to do so by Lessee from time to time during the Term, Lessor will grant reasonable easements and rights-of-way on or across the Airport for the development and use of the Premises (in accordance with this Lease), including, without limitation, to suppliers of public or private utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to reasonably designate the lands along which such easements and rights-of-way shall be granted so as to minimize the disruption of the operation of the Airport and other Airport tenants.

28.2 Lessee shall pay for all utilities, including trash collection, used in its operations at the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

28.3 Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises (so long as Lessor's use does not interfere with or disrupt Lessee's use, occupancy, development and subleasing activities), and the right to repair the same when necessary in Lessor's reasonable discretion, including but not limited to, any utility easements on the Premises. Lessor agrees to coordinate any entries onto the Premises with Lessee. Lessor shall conduct such use and repairs in such a manner and at such times as to not interfere with Lessee's activities thereon.

29. RESERVATIONS TO LESSOR.

Subject to Lessor's representations, warranties and obligations, the Premises are accepted "as is, where is" by Lessee, subject to any and all existing easements or other encumbrances. In advance consultation with Lessee, Lessor reserves the right to grant reasonable easements, rights-of-way, and permits, over, on, or across any portions of the Premises for commercially reasonable purposes; provided, that Lessor and the grantee, as applicable, shall not exercise such rights so as to interfere with or disrupt Lessee's activities on the Premises, including the development of the Premises, to be determined in the reasonable judgment of Lessor and Lessee, and all such interference shall be minimized. Lessor shall provide Lessee reasonable notice of any plan to undertake the activities contemplated under this Section and shall coordinate with Lessee regarding the execution of such plans to minimize any interference with Lessee's or any subtenant's activities on the Premises, that all work shall be in compliance with all applicable laws, including Environmental Law, and that the surface of the Premises shall be restored to its original condition, including any necessary remediation in accordance with Environmental Law of any contamination associated with any Hazardous Material disturbed during any construction, at no cost to Lessee, upon the completion of any construction. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions obligating such parties to at a minimum the same conditions applicable to Lessor under this Section 29, including but not limited to that the surface of the Premises and any Improvements shall be promptly restored to their original condition, at no cost to Lessee, promptly upon the completion of any construction.

30. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS.

30.1 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, *Nondiscrimination in Federally Assisted Programs of the Department of Transportation,* as it may be amended.

30.2 Lessee agrees that: (i) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, creed, disability, age, sex or national origin in the use of the Premises; (ii) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (iii) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as it may be amended.

30.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age or handicap, be excluded from participating in any activity.

30.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom.

30.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

30.6 This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation or maintenance of the Airport. Lessor agrees to reasonably consult with Lessee prior to executing or entering into any agreement that could reasonably be expected to have a material effect on the Premises, or on Lessee or its subtenants, or on any Permitted Uses, with the stated purpose of attempting in good faith to avoid any interference with, disruption of, or restriction or limitation on Lessee's intended use and development of the Premises in accordance with this Lease.

30.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

30.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

30.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto, or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

30.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

30.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an

exclusive right within the meaning 49 U.S.C. §40103(e) and 47107 (a)(4).

30.12 This Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

30.13 To the extent that Lessee conducts or engages in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users and charge reasonable and not unjustly discriminatory prices for each unit or service; except, however, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

30.14 Lessee shall conform to Lessor and FAA safety and security rules and regulations regarding use of the Airport air operations area including runways, taxiways, taxilanes and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; complete and pass an airfield safe driving instruction program when offered or required by Lessor; and be subject to penalties as prescribed by Lessor for violations of Airport safety and security requirements.

31. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.

31.1 Lessee agrees to comply with pertinent statues, Executive Orders and such rules as are promulgated or identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee understands and acknowledges that the FAA requires inclusion of and adherence to the terms and conditions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) ("**Title VI**") in all airport/aviation lease agreements where Lessor receives federal funding, including the Lease in this instance.

31.2 During the Term, Lessee, for itself, its assignees, and successors in interest agrees as follows:

31.2.1 Compliance with Regulations: Lessee will comply with the Title VI List of Pertinent Non-Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

31.2.2 Non-discrimination: Lessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

31.2.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Lessee of Lessee's obligations under this Lease and the Non-discrimination Acts And Authorities on the grounds of race, color, or national origin.

31.2.4 Information and Reports: Lessee will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to Lessor or the Federal Aviation Administration as appropriate, and will set forth what efforts it has made to obtain the information.

31.2.5 Sanctions for Noncompliance: In the event of Lessee's noncompliance with the Nondiscrimination provisions of this Lease, Lessor will impose such default remedies as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Lessee under the Lease until Lessee complies; and/or

(b) cancelling, terminating, or suspending the Lease, in whole or in part.

31.2.6 Incorporation of Provisions: Lessee will include the provisions subsections 31.2.1 through 31.2.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

31.3 The Lessee for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Non-Discrimination Acts and Authorities.

31.4 During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following (which Lessor is required to disclose and include in such Lease and other agreements, pursuant to FAA regulation):

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 Stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended

(prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq), (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 (2005));

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et *seq.*).

31.5 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

32. FEDERAL FAIR LABOR STANDARDS ACT

This Lease incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. Lessee has full responsibility to monitor compliance to the referenced statue or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

33. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This Lease incorporates by reference the provisions of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

34. INCORPORATION OF QUITCLAIM DEED.

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government ("**Deed**"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

34.1 That this Lease is subject to all terms and conditions of the Deed; and

34.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

35. REQUIRED PROVISIONS OF QUITCLAIM DEED.

35.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

35.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

35.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

35.2 If the Premises are within any of the archaeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

35.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

36. AIRPORT SECURITY.

36.1 Airport Security Plan.

36.1.1 Lessor's Operations Department maintains an approved Airport Security Plan ("**Security Plan**") pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Lessee shall at all times comply with Lessor's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

36.1.2 Lessee is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Lessor's Operations Department.

36.1.3 Lessee shall promptly upon written request from Lessor correct physical or procedural deficiencies caused by Lessee that are located on the Premises which are contrary to Lessor's Operations Department, security directives, security bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Lessor notifying Lessee of any deficiency, Lessor shall provide Lessee with a reasonably-detailed explanation of the deficiencies. Lessee shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

36.1.4 Lessee shall, to the fullest extent permitted by law, indemnify, defend and hold Lessor harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-lessees or independent contractors of Lessee.

36.1.5 Lessee shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("**TSA**") or Lessor's Operations Department and make such audits available for inspection.

36.1.6 Lessee shall designate a primary security coordinator to receive security related briefings, bulletins and sensitive security information.

36.1.7 Lessor reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Lessor's Operations Department shall notify the Lessee security coordinator regarding modifications that effect Lessee.

36.2 Airport Security Badge.

36.2.1 Lessee's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Lessor's Operations Department, TSA or other entity having security jurisdiction at the Airport. Lessee, employees, and contractors will surrender security badges upon request by Lessor's Operations Department; physical security media (badges and keys) remain the property of Lessor. Within SEVENTY-TWO (72) hours of Lessor's confiscation of any security badges, Lessor shall provide Lessee with a reasonably-detailed explanation of the violations that caused Lessor to confiscate the security badges.

36.2.2 Lessee, employees and contractors shall comply with all security related audits, inspections, and screenings conducted by the Lessor's Operations Department.

36.2.3 Lessee will promptly return badges to the Lessor's badging office when badge holders employment is terminated, the badge is no longer needed or the employee/contractor is on extended leave.

36.2.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining, suspension or revocation of one or all misused badges.

37. DEFAULT BY LESSOR.

In the event of any alleged breach by Lessor of its covenants or duties contained in this Lease, Lessee shall have available all rights and remedies provided in contract, at law and/or in equity, provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to pursue a cure of such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Base Rent, or any other payments to be made by Lessee hereunder except as expressly permitted in this Lease.

38. BROKERS.

Lessor and Lessee each represents and warrants to the other Party that it has not had any dealings with any real estate brokers, finders or agents in connection with this Lease. Lessor and Lessee each agrees to indemnify, defend (with counsel selected by the other) and hold the other Party and other Party's nominees, successors and assigns harmless from any and all claims, costs, commissions, fees or damages arising from a breach of such Party's representation and warranty in this Section.

39. SALE BY LESSOR.

Lessee agrees to look solely to Lessor's interest in the Airport, including rents, issues, profits, proceeds, and awards for the recovery of any judgment against Lessor, it being agreed that the members, partners, officers, directors or shareholders of Lessor shall not be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

40. ESTOPPEL CERTIFICATE.

Each of Lessor and Lessee shall, without charge, at any time and from time to time hereafter, within TEN (10) business days after written request from the other Party to do so, certify, by written instrument duly executed and acknowledged by such Party and certified to the other Party and to any prospective lender or purchaser/assignee: (i) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (ii) as to the existence of any default hereunder to the best of such Party's knowledge; (iii) as to the date on which Lessee was obligated to commence paying Base Rent and all other charges hereunder and the expiration date of the Term; (iv) as to whether this Lessee has assigned or transferred its interests or any portion thereof in this Lease; and (v) as to any other matters relating to this Lease and the Premises as may be reasonably requested. The requesting Party and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

41. UNAVOIDABLE DELAY.

In the event either Party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Lease to be performed by such Party ("**Required Act**"), and such delay or hindrance is due to Unavoidable Delay (as defined below), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of Unavoidable Delay. For

purposes of this Lease, "Unavoidable Delay" shall mean, with respect to either Party, an unavoidable delay in the performance by such Party of any non-monetary conditions or obligations under this Lease due including but not limited to: (a) construction delay to the extent caused by the other Party, (b) legal proceeding brought by a non-Party with respect to the Improvements or any provision or requirement of this Lease which by its nature prohibits the Improvements from being commenced, continued and/or completed, (c) a Party not receiving a governmental permit, license, approval or inspection in time to meet a contractual time period imposed hereunder provided that Party, in good faith, was diligent in the application or request for and prosecution of the process to obtain that permit, license, approval or inspection, (d) flood, (e) epidemic, (f) quarantine restriction, (g) unusually severe weather not reasonably anticipated, (h) strike, (i) walkout, (j) lock-out, (k) war, (l) national emergency, (m) fire, (n) act of God, (o) act of terrorism, (p) natural disaster, (q) explosion, (r) default by the other Party hereunder in the performance of its obligations hereunder, (s) a delay caused by the discovery, presences or actions necessary to investigate or remediate Hazardous Material under Article 14 (but excluding Hazardous Material attributable to the Party claiming Unavoidable Delay), or (t) other causes beyond such Party's control; provided that no Unavoidable Delay shall exist unless the Party claiming such Unavoidable Delay shall give written notice to the other Party of the occurrence of the Unavoidable Delay not later than FORTY-FIVE (45) days after the commencement of such Unavoidable Delay.

42. MISCELLANEOUS.

42.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

42.2 No Waiver. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

42.3 Non-Waiver of Rights. No waiver or default by Lessor or Lessee of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by the other shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by such other Party, and neither Party shall be restricted from later enforcing any of the terms and conditions of this Lease.

42.4 Amendment. This Lease contains all agreements of the Parties as of the date hereof with respect to any matter mentioned herein. No prior agreement, correspondence, or understanding pertaining to any such matter shall be effective to interpret or modify the terms hereof. Oral commitments or promises are not enforceable and shall not be binding or made part of this Lease. Any revisions or modifications to this Lease must be in writing and mutually accepted by persons with full and complete authority to bind the party.

42.5 Invalid Provisions. Should any provision of this Lease or any application thereof be held invalid by a court of competent jurisdiction, the remainder of this Lease shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

42.6 Litigation Expenses. In the event of litigation between Lessor and Lessee, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

42.7 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

42.8 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations,

understandings and agreements between the Parties concerning such matters.

42.9 Right of First Offer. Provided there is no existing Event of Default, Lessee shall have a right of first offer to lease the Premises and all Improvements thereon following the expiration of the Term (or Renewal Term, as applicable) in accordance with this Section. If Lessee is interested in leasing the Premises and all Vertical Improvements thereon at fair market rental rate following expiration of the Term (or Renewal Term, as applicable), Lessee shall provide written notice ("**Notice of Interest**") to Lessor of its interest not less than ONE (1) year prior the expiration of the Term (or Renewal Term, as applicable). Lessor shall advise Lessee within THIRTY (30) days after Lessor's receipt of the Notice of Interest if Lessor does not intend to lease (or market for lease) the Premises following expiration of the Term (or Renewal Term, as applicable). If Lessor intends to lease (or market for lease) the Premises, the Parties shall negotiate in good faith to agree on lease terms and conditions, including the fair market rental rate of the Premises and all Improvements thereon. If the Parties have not reached an agreement on the material terms of a lease (other than the fair market rental rate) within NINETY (90) days after Lessor's receipt of the Notice of Interest, neither party shall have any further right or obligation under this Section 42.9. If the Parties have reached an agreement on all material terms of a lease other than the fair market base rental rate within NINETY (90) days of Lessor's receipt of the Notice of Interest, then the Parties shall, within TEN (10) calendar days after the expiration of such NINETY (90)-day period, proceed to determine the fair market base rental rate with the appraisal process as set forth in Section 4.3.2. Upon determining the fair market base rental rate for the Premises, Lessor and Lessee shall promptly enter into a lease.

42.10 Memorandum of Lease. As of the Effective Date, or thereafter upon request from Lessee to Lessor, Lessor and Lessee agree to execute, acknowledge and deliver to one another a short form memorandum of lease for recording purposes in form and substance attached hereto as **Exhibit F**. In the event that such a memorandum of lease has been recorded, upon termination or expiration of this Lease, Lessee shall promptly execute such documents as reasonably requested by Lessor in recordable form to confirm the termination of this Lease.

42.11 Non-Disturbance. In the event that Lessor encumbers or liens any portion of the Premises, now or in the future, Lessor agrees to promptly (and in any event prior to the Effective Date in the event the Airport is encumbered as of such date) obtain for the benefit of Lessee and its leasehold lenders a commercially reasonable non-disturbance agreement (in form reasonably acceptable to Lessor, Lessee and Lessor's lenders) (an "**NDA**") stating that, among other provisions to be included in the NDA, provided no Event of Default has occurred and is continuing under this Lease, then this Lease shall not be terminated and the right of possession of Lessee to the Premises shall not be affected or disturbed in the exercise of any of its rights or remedies under such encumbrance or lien.

43. INCORPORATION OF RECITALS.

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

44. DECLARATION.

44.1 Subordination. The Premises is subject to and subordinate to that certain Declaration of Covenants, Conditions and Restrictions for Skybridge Arizona, dated July 31, 2019, recorded in the Official Records of Maricopa County, Arizona, as Instrument No. 20190580736 ("**Declaration**"). Lessee hereby agrees to fulfill and comply with its duties and obligations as a "Lessee" as defined under the Declaration, as such duties and obligations relate to the Premises.

44.2 Assessments and other Obligations. Lessee shall pay its "Proportionate Share" of "Common

Area Assessments" in accordance with the Declaration. Such payment obligation shall constitute "additional rent" under this Lease. Lessee shall fulfill any other obligations it may have as a "Lessee" in accordance with the Declaration, as such other obligations relate to the Premises.

45. RECIPROCAL ACCESS AGREEMENT.

The Lessor anticipates the need for a declaration of reciprocal access easement over a portion of the Premises generally in form and substance attached hereto as **Exhibit G** ("**REA Form**"). Upon written request from Lessor to Lessee, the Lessor and Lessee hereby agree to: (i) update the REA Form as necessary (for example to include the Lessee's current or anticipated lender and any corrections or updates needed to the exhibits thereto as noted in the REA Form), (ii) execute, acknowledge and deliver and have the Lessee's lender (if applicable) execute, acknowledge and deliver the updated REA Form for recording purposes, and (iii) record the fully executed REA Form against the Premises and property referenced therein..

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

ACKNOWLEDGED before me this____day of_____, 2023, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

LESSEE:

SKYB LOT 116-B LLC, an Arizona limited liability company

STATE OF _____

By: _____

County of _____ Felipe Monroy Torres, Manager

)
) ss.
)

ACKNOWLEDGED before me this _day of_____, 2023, by Felipe Monroy Torres, in his capacity as Manager of SKYB LOT 116-B LLC , an Arizona limited liability company , for and on behalf of said company.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A

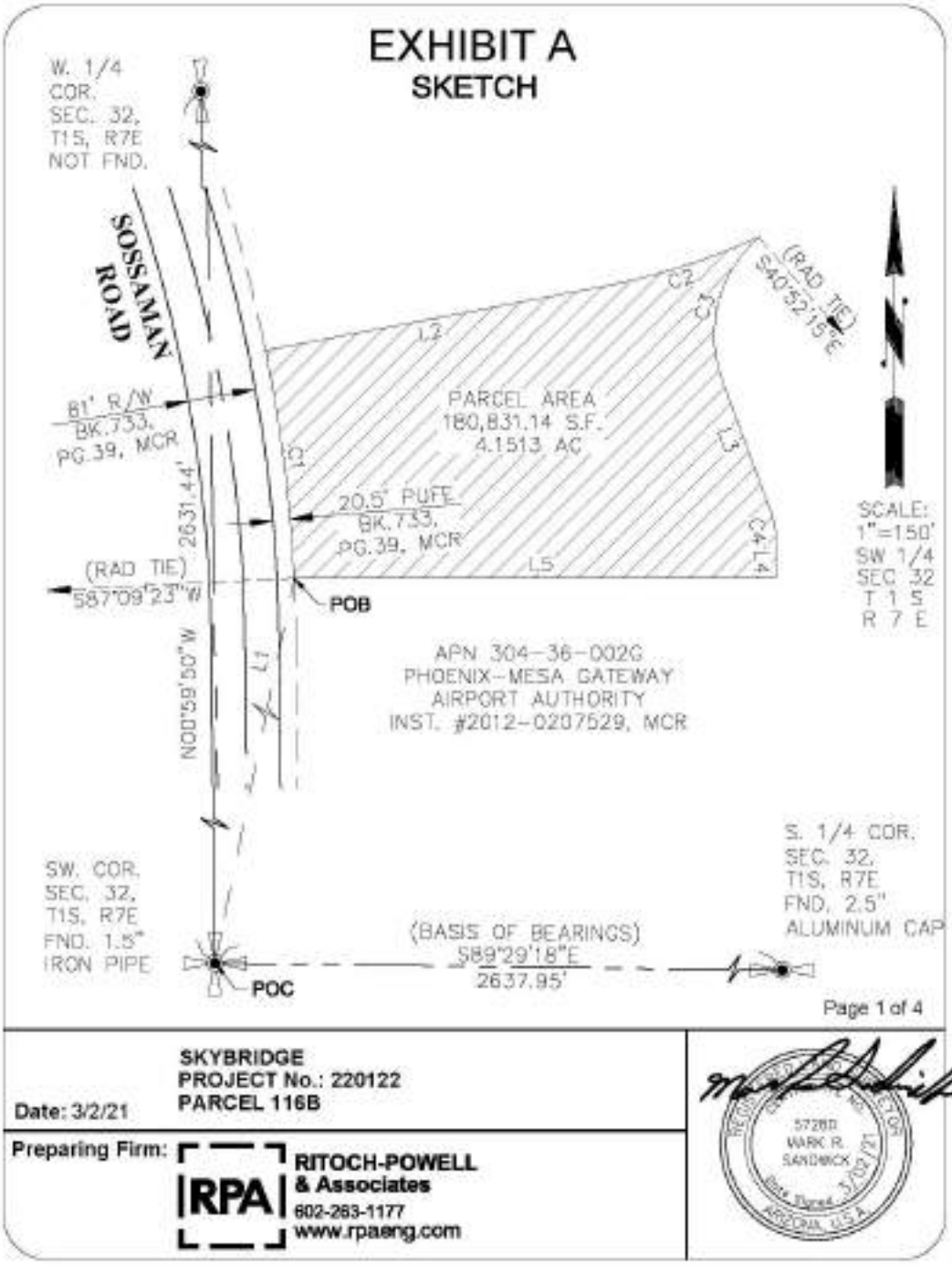
EXHIBIT A
SKETCH
W. 1/4 COR. SEC. 32, T1S, R7E NOT FND.
SOSSAMAN ROAD
81' R/W BK.733, PG.39, MCR
2631.44'
(RAD TIE) S87°09'23"W
N00°59'50"W
L1
L2
L3
L4
L5
C1
C2
C3
C4
(RAD TIE) S40°52'15"E
PARCEL AREA 180,831.14 S.F. 4.1513 AC
20.5' PUFE BK.733, PG.39, MCR
POB
APN 304-36-002G PHOENIX-MESA GATEWAY AIRPORT AUTHORITY INST. #2012-0207529, MCR
SCALE: 1"=150' SW 1/4 SEC 32 T 1 S R 7 E
S. 1/4 COR. SEC. 32, T1S, R7E FND. 2.5" ALUMINUM CAP
SW. COR. SEC. 32, T1S, R7E FND. 1.5" IRON PIPE
POC
(BASIS OF BEARINGS) S89°29'18"E 2637.95'
Page 1 of 4
SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B
Date: 3/2/21
Preparing Firm:
RPA
RITOCH-POWELL & Associates
602-283-1177
www.rpaeng.com
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT A
TABLES

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BRG
C1	08°40'07"	1811.00'	274.00'	273.74'	N07°10'41"W
C2	14°10'04"	775.00'	191.64'	191.15'	N72°11'08"E
C3	69°19'34"	155.00'	187.55'	176.31'	S14°27'58"W
C4	20°11'49"	95.00'	33.49'	33.31'	S10°05'55"E

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N04°09'50"E	1067.41'
L2	N79°16'10"E	414.41'
L3	S20°11'49"E	169.18'
L4	S00°00'00"E	44.94'
L5	N90°00'00"W	575.15'

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SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 LOCATED WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS S 89°29'18" E A DISTANCE OF 2637.95 FEET;

THENCE N 4°09'50" E A DISTANCE OF 1067.41 FEET TO A POINT ON THE EAST LINE OF A PUBLIC UTILITY AND FACILITY EASEMENT (PUFE) AS SHOWN ON THE MAP OF DEDICATION FOR VELOCITY WAY, SOUTH TAXIWAY CIRCLE AND SOUTH CARGO WAY RECORDED IN BOOK 733, PAGE 39, MARICOPA COUNTY RECORDS BEING THE WEST BOUNDARY LINE OF SAID ALTA/NSPS LAND TITLE SURVEY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 87°09'23" W, THE POINT OF BEGINNING;

THENCE ACROSS SAID PHOENIX-MESA GATEWAY AIRPORT AUTHORITY TRACT THE REMAINING COURSES AND DISTANCES:

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT AND ALONG SAID EAST PUFE LINE HAVING A RADIUS OF 1811.00 FEET, THROUGH A CENTRAL ANGLE OF 08°40'07" AND HAVING AN ARC LENGTH OF 274.00 FEET;

THENCE N 79°16'10" E A DISTANCE OF 414.41 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 775.00 FEET, THROUGH A CENTRAL ANGLE OF 14°10'04" AND HAVING AN ARC LENGTH OF 191.64 FEET TO A CUSP AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 40°52'15" E;

Page 3 of 4

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT A
LEGAL DESCRIPTION

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 155.00 FEET, THROUGH A CENTRAL ANGLE OF 69°19'34" AND HAVING AN ARC LENGTH OF 187.55 FEET;

THENCE S 20°11'49" E A DISTANCE OF 169.18 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 20°11'49" AND HAVING AN ARC LENGTH OF 33.49 FEET;

THENCE S 00°00'00" E A DISTANCE OF 44.94 FEET;

THENCE N 90°00'00" W A DISTANCE OF 575.15 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 180,831.14 SQUARE FEET OR 4.1513 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTIONS IS S 89°29'18" E FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS SHOWN ON THE PLSS SUBDIVISION RECORD OF SURVEY-MARICOPA COUNTY GEODETIC DENSIFICATION AND CADASTRAL SURVEY RECORDED IN BOOK 609, PAGE 29, MARICOPA COUNTY RECORDS.

Page 4 of 4

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
CERTIFICATE NO. 57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT B

AIRPORT RATES & CHARGES SCHEDULE

https://www.gatewayairport.com/Documents/DocumentLibrary/ExecDirSect/Airport%20Fees,%20Services%20and%20Rental%20Rates2019.pdf?Uniqueifier=BN0bRb1WgM

AIRPORT FEES, SERVICES & RENTAL RATES

https://www.gatewayairport.com/Documents/DocumentLibrary/ExecDirSect/Airport%20Fees,%20Services%20and%20Rental%20Rates2019.pdf?Uniqueifier=krpqAZPV2H

EXHIBIT C

AIRCRAFT OPERATIONS GUIDELINES

C1. Use of Airport. Lessee, Lessee's assigns, sublessees, or transferees who operate aircraft at the Airport and who are engaged in a private, government, or commercial aeronautical business or service and desire to use the Airport landing facilities for certain types of operations including, but not limited to: 1) taxiing and maneuvering on Airport runways, taxiways, ramps and aprons; 2) landings and approaches ("touch and go", "stop and go"); and 3) low approaches shall be subject to the provisions of this **Exhibit C.**

C2. Fees. As appropriate, Lessee shall pay Lessor fees as outlined below:

C2.1 *Landing Fee*: Lessee shall pay a landing fee at a rate equal to the amount reflected on the most current *Airport Rates and Charges Schedule* at the time of the aircraft operation, for each flight subject to a landing fee operated by or in conjunction with Lessee. The weight of any particular aircraft shall be its maximum certificated gross landing weight ("**MGLW**"). The amount owed to Lessor for each chargeable aircraft landing for each preceding calendar month shall be due and payable no later than the TWENTIETH (20th) day of the month succeeding the calendar month in which said aircraft landings took place. Lessee's written listing of all aircraft landings subject to such fee shall accompany said payment. Each entry in such listing shall include the date of the landing, the aircraft registration number, the type and model aircraft, the aircraft MGLW and the amount of the fee due.

C2.2 *Aircraft Ramp Space*. Lessee shall pay Lessor monthly, an aircraft-parking fee in an amount equal to that specified in the most current Airport Rates and Charges Schedule at the time of use, for each overnight aircraft parking position used by Lessee that is situated on Airport ramp outside the Premises. Such fees, if any, shall be payable to Lessor no later than the TWENTIETH (20th) day of the month following that in which Lessee occupied or used such space, and such payment shall be accompanied by a written listing of the aircraft (including registration number, make and model), dates and times of usage.

C2.3 *Other Space*. When available and specifically assigned to Lessee, Lessee shall pay Lessor monthly, in advance, a fee established in the *Airport Rates and Charges Schedule* for Lessee's non-exclusive use of other space not situated on or part of the Premises.

C2.4 *Additional Space/Services*. In the event that Lessee requires space or special services such as, but not limited to, aircraft line services, out-of-station ARFF standby, operations safety officers, ground service equipment, or fuel spills response teams, Lessee shall pay Lessor's standard fees for such services at the time the service is rendered, unless a secured account or agreement is established prior to requesting additional services.

C3. Books and Records. Lessee shall maintain for not less than THIRTY-SIX (36) months books, records and ledgers accurately reflecting the total number of monthly Aircraft landings for each aircraft subject to a landing fee and any other aforementioned fee indicating the make, type (including model designation), registration, maximum certificated gross landing weight, and arrival and departure time of each aircraft involved. These records or copies thereof shall be made available to Lessor upon Lessor's written request. In addition to monthly payment as set forth in Section C2 herein and together therewith, Lessee shall provide Lessor with a written report, indicating all aircraft operations and related information for the preceding calendar month.

C4. Disabled or Abandoned Aircraft. Should any aircraft owned or operated by Lessee through accident or for any other reason, become disabled or be abandoned in any area which could interfere with the continuous, normal operations of any of the runways, taxiways and airfield facilities at the Airport, Lessee shall:

C4.1 Immediately remove said aircraft to such location as may be designated by Lessor, unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agency or agencies of the federal government; and

C4.2 In the event of any accident where federal investigation in place is required, promptly upon receiving clearance to do so from the appropriate federal agency, remove said aircraft and any wreckage or debris resulting therefrom to the area(s) designated by said federal agency authorizing such removal; otherwise, such aircraft wreckage and debris shall be immediately removed from the Airport or stored at a location approved by Lessor.

C4.3 Should Lessee fail to proceed immediately to remove disabled aircraft, or should aircraft owned or operated by Lessee be abandoned on the Airport, Lessor shall have the right to remove such aircraft by any means Lessor deems necessary under the circumstances, and Lessee shall indemnify, defend, keep and hold Lessor, its members, board of directors, officers, agents, officials, servants, employees and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense (including costs of suit and attorneys' fees and expenses) incurred by Lessor by reason of removal of said aircraft, injury to persons or property or damages to such aircraft caused by such removal, as well as storage costs therefor. Lessee shall reimburse Lessor for any costs incurred by Lessor in removing and storing any aircraft, any property damage to the Airport caused by such aircraft or removal within TEN (10) business days of demand therefor.

C5. Aviation Fuel. Lessee, at Lessee's sole cost and expense, shall procure aviation fuel delivered to its aircraft on the Airport. If fueling or defueling aircraft owned or operated by Lessee, or under Lessee's direct control, Lessee shall comply fully with Lessor's *Aviation Fuel Storage, Dispensing and Handling Guidelines*.

C6. Fly Friendly Procedures. Lessee acknowledges receipt of Lessor's Fly Friendly noise abatement procedures, and shall provide such information to flight crews, post the information in the Lessee's flight planning area, and use the procedures to the extent possible, when consistent with safety and Air Traffic Control directives.

EXHIBIT D

AIRPORT MINIMUM STANDARDS
&
AIRPORT RULES AND REGULATIONS

(Links Provided Below)

Minimum Standards

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Airport%20Minimum%20Standards.pdf?Uniqueifier=NMDDAKF1A5

Rules and Regulations

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Rules%20and%20Regulations_19-20.pdf?Uniqueifier=NMDDAKF1A5

EXHIBIT E

PROHIBITED USES

1. Outdoor activities or entertainment accessory to a day care center or a wedding or reception center
2. Any residential development including but not limited to a dwelling unit in conjunction with a primary use intended for occupancy by the proprietor, caretaker or night-watchman of the primary use; a Multiple residence development including apartments, condominiums, and townhouses; and single-family residential development.
3. Crematories
4. Construction yards
5. Wedding and reception centers
6. Fraternal organizations, service and social clubs, lodges, fraternities and sororities.
7. Nursing and convalescent homes, philanthropic and charitable institutions, residential and out-patient care and rehabilitation centers, hospices
8. Hospitals
9. Mortuaries
10. Self Storage
11. Outdoor display areas for the sale and rental of items characteristically not enclosed in a building, limited to the following:
    a. Plant nurseries
    b. Building materials such as lumber and masonry supplies
12. Amusement enterprises, such as miniature golf courses, water slides, driving ranges. Batting cages, and similar outdoor uses, but indoor facilities for such uses shall be permitted
13. Commercial automobile, recreational vehicle, and similar vehicular parking and storage lots and garages, as a primary use
14. Plasma centers, charity dining services, homeless shelters, day labor hiring centers, substance abuse detoxification and treatment centers, rescue missions, and similar social service uses
15. Pawn shops and tattoo parlors
16. Assisted living facilities
17. Car washes
18. Automobile service stations with or without accessory auto repair facilities
19. Swap meets, farmer's markets, and similar outdoor sales operations
20. Auto towing and impound yards
21. Animal hospitals, clinics, and boarding kennels
22. Churches

EXHIBIT F

WHEN RECORDED,
RETURN TO:

James Valletta,
Attorney at Law
Warner, Angle, Hallam,
Jackson & Formanek,
PLC
2555 E. Camelback Road, Suite 800
Phoenix, AZ 85016

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE ("Memorandum"), is made and executed as of the 1st day of June, 2023 (the "Effective Date"), by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Landlord**"), whose mailing address is Phoenix-Mesa Gateway Airport Authority, Attn: Business Development Department, 5835 South Sossaman Road, Mesa, Arizona 85212, and **SKYB LOT 116-B LLC** , an Arizona limited liability company ("**Tenant**"), whose mailing address is 2415 E. Camelback Road, Suite 700, Phoenix, AZ 85016 .

RECITALS:

A. Landlord and Tenant entered into that certain Development Lease dated June 1, 2023 (the "Lease"), covering that certain real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Leased Premises").

B. Landlord and Tenant have agreed to enter into this Memorandum for the purposes of providing record notice of the Lease, and to protect the rights and interests of Landlord and Tenant as to third parties. All capitalized terms not specifically defined herein shall have the meaning ascribed to such terms in the Lease.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Lease and Premises. Subject to the covenants and conditions contained in the Lease, Landlord has leased to Tenant, and Tenant has leased from Landlord, the Leased Premises. Notice to the world is hereby given of the Lease and of the terms of the Lease.

2. Term. The term of the Lease commenced on June 1, 2023 and expires on May 31, 2083, unless earlier terminated or extended pursuant to the terms of the Lease.

3. Conflict. This Memorandum is prepared for the purpose of constructive notice and in no way modifies the provisions of the Lease. In the event of any conflict or any inconsistency between the terms and provisions of the Lease and the terms and provisions of this Memorandum, the terms and provisions of the Lease shall control.

4. Successors and Assigns. This Memorandum shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

5. Counterparts. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document, provided that all parties are furnished a copy thereof reflecting the signature of all parties.

(*Signatures appear on the following page*.)

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum as of the Effective Date set forth above.

LANDLORD:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

ACKNOWLEDGED before me this____day of_____, 2023, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

TENANT:

SKYB LOT 116-B LLC, an Arizona limited liability company

By: _____
Felipe Monroy Torres, Manager

STATE OF _____)
County of _____) ss.
)

ACKNOWLEDGED before me this_____day of_____, 2023, by Felipe Monroy Torres in his capacity as Manager of SKYB LOT 116-B LLC , an Arizona limited liability company, for and on behalf of said company.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A

EXHIBIT G

[FORM OF DECLARATION OF RECIPROCAL ACCESS EASEMENT – TO BE INSERTED]

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-27

To: Board of Directors
From: Shea Joachim, CEcD, Business Development Director
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: SkyBridge Arizona – Lot 118-A Adjustment Amendment & Development Lease
Date: May 16, 2023

Proposed Motion

To authorize a Development Lease with SkyB Lot 118 LLC, an Arizona limited liability company, for 2.11 acres located within the SkyBridge Arizona project identified as Lot 118-A. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 118-A from the Master Lease Agreement.

Narrative

The Phoenix-Mesa Gateway Airport Authority ("PMGAA") and Mesa SkyBridge, LLC ("SkyBridge") entered into a Master Lease Agreement on April 1, 2018 for the approximately 360-acres located at the southeast corner of Sossaman Road and Velocity Way ("Property"). The Master Lease transferred leasehold control of the Property to SkyBridge but did not convey vertical development rights. As part of the Master Lease, PMGAA and SkyBridge agreed to "spin out" property from the Master Lease into Development Leases as projects became ready for vertical development.

SkyBridge has proposed to build two buildings collectively consisting of 5,529 SF. Lot 118-A is approximately 91,903.73 SF and has been identified as a non-aeronautical parcel. The proposed development is compliant with the SkyBridge Arizona Master Plan. The attached Adjustment Amendment will formally remove Lot 118-A from the Master Lease and allow Lot 118-A to be included in the proposed Development Lease.

Agreement Term and Rate

The Lot 118-A Development Lease proposes a lease term of SIXTY (60) years with ONE (1) renewal options of FIFTEEN (15) years. The Base Rent for Lot 118-A will be $0.00 annually for the first TWO (2) years and $9,190.37 annually starting on the Third (3rd) anniversary of the Effective Date subject to Base Rent Adjustments and Market Adjustments as stipulated in the Development Lease.

Attachment(s)

Lot 118-A Development Lease
Master Lease Adjustment Amendment #12

RESOLUTION NO. 23-27

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Development Lease with SkyB Lot 118 LLC, an Arizona limited liability company, for 2.11 acres located within the SkyBridge Arizona project identified as Lot 118-A. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 118-A from the Master Lease Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

The Board of Directors of the Authority hereby authorizes a Development Lease with SkyB Lot 118 LLC, an Arizona limited liability company, for 2.11 acres located within the SkyBridge Arizona project identified as Lot 118-A. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 118-A from the Master Lease Agreement. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.

Passed and adopted by the Authority this 16th day of May, 2023.

_____
Brigette Peterson, Chair

ATTEST:

_____
Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

_____
Jill Casson Owen, Attorney

ADJUSTMENT AMENDMENT TO MASTER LEASE

Development Parcel for Lot 118-A, SkyB Lot 118 LLC, an Arizona limited liability company

THIS ADJUSTMENT AMENDMENT TO MASTER LEASE ("**Amendment**") is made as of the 1st day of June 2023, by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **MESA SKYBRIDGE LLC**, an Arizona limited liability company ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

RECITALS

A. Lessor and Lessee are parties to that certain Master Lease dated April 1, 2018 ("**Lease**") covering certain property commonly known as Gateway Aerospace Park at the Phoenix-Mesa Gateway Airport, which property is more particularly described in the Lease, and referred to in the Lease and in this Amendment as "**Property**."

B. The Parties desire to modify the Lease to remove Development Parcel Lot 118-A from the Property in accordance with Section 2.1.4 of the Lease.

NOW, THEREFORE, in exchange for the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. Recitals. The above recitals are hereby confirmed as true and correct and are reaffirmed herein.

2. Property Adjustment. Lot 118-A, as described in Exhibit A, is hereby removed from the Lease and from the Rentable Premises. As of the date of this Amendment, after removing Lot 118-A from the Lease, the Rentable Premises is 12,874,377.47 square feet.

4. Miscellaneous.

(a) Capitalized Terms/Definitions. Each capitalized term used in this Amendment and not defined herein shall be deemed to have the same meaning ascribed to it in the Lease.

(b) Continuing Effect. Except as specifically provided in this Amendment, the provisions of the Lease shall remain unchanged and in full force and effect. In the event of a conflict between the Lease and this Amendment, this Amendment shall control.

(c) Authority. Each person executing this Amendment on behalf of a Party represents and warrants that it has the full power, authority, and legal right to execute and deliver this Amendment on behalf of such Party and that this Amendment constitutes the legal, valid and binding obligations of such Party, its heirs, representatives, successors and assigns, enforceable against such Party or Parties in accordance with its terms.

(d) Counterparts. To facilitate execution of this Amendment, this Amendment may be executed in one or more counterparts as may be convenient or required, and an executed copy of

this Amendment delivered electronically by e-mail shall have the effect of an original, executed instrument. All counterparts of this Amendment shall collectively constitute a single instrument; but, in making proof of this Amendment it shall not be necessary to produce or account for more than one such counterpart executed by each Party hereto. It shall not be necessary for the signature of, or on behalf of, each Party hereto, or that the signature of all persons required to bind any such Party appear on each counterpart of this Amendment.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By:_____

J. Brian O'Neill, A.A.E.

Executive Director/CEO

LESSEE:

MESA SKYBRIDGE LLC, an Arizona limited liability company

By:_____

Felipe Monroy Torres

CEO

EXHIBIT A

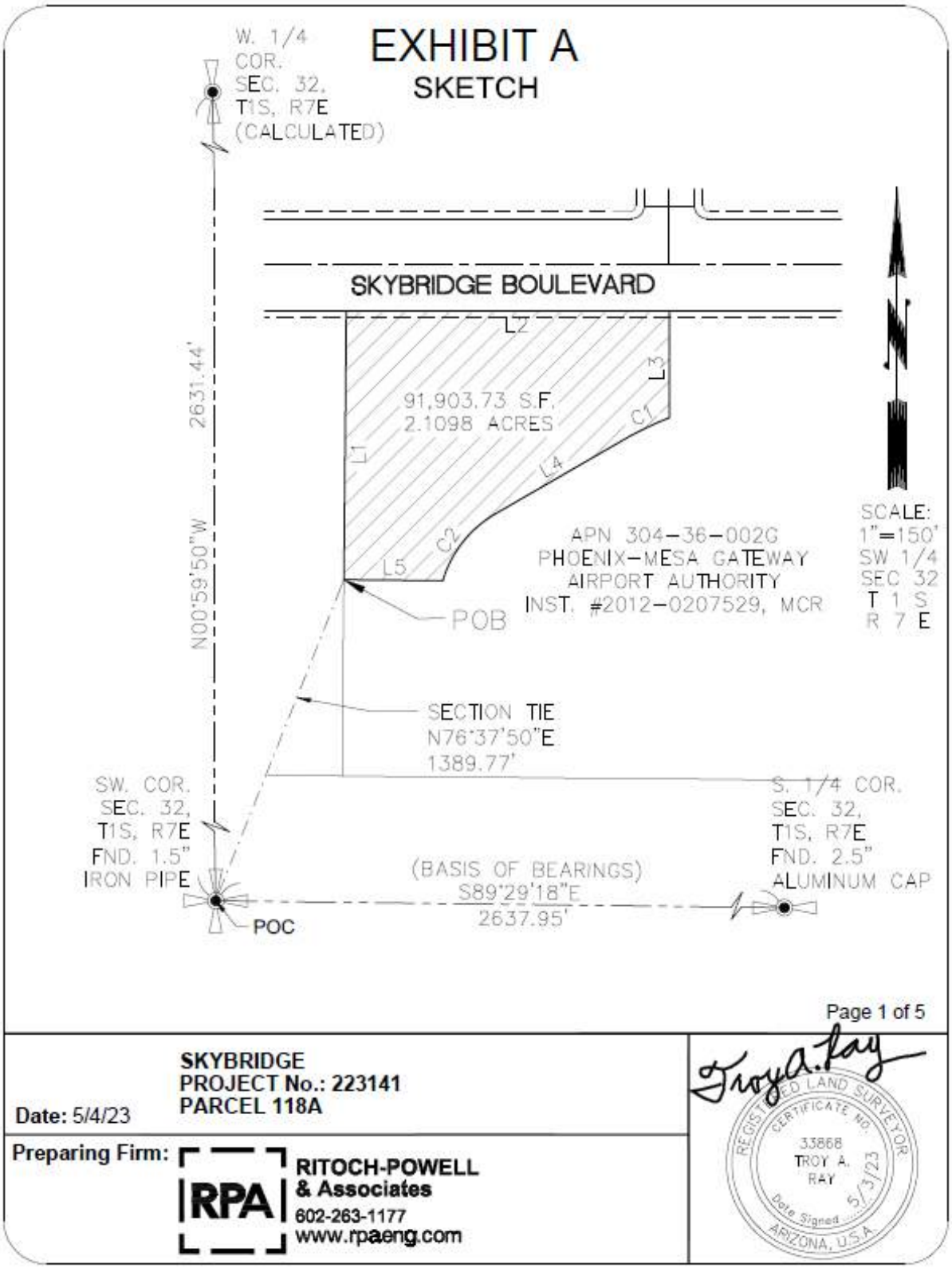
EXHIBIT A
SKETCH
W. 1/4 COR. SEC. 32, T1S, R7E (CALCULATED)
SKYBRIDGE BOULEVARD
L2
L3
C1
L1
L4
C2
L5
91,903.73 S.F.
2.1098 ACRES
2631.44'
N00°59'50"W
APN 304-36-002G
PHOENIX-MESA GATEWAY
AIRPORT AUTHORITY
INST. #2012-0207529, MCR
POB
SCALE: 1"=150'
SW 1/4 SEC 32 T 1 S R 7 E
SECTION TIE
N76°37'50"E
1389.77'
SW. COR. SEC. 32, T1S, R7E FND. 1.5" IRON PIPE
POC
(BASIS OF BEARINGS)
S89°29'18"E
2637.95'
S. 1/4 COR. SEC. 32, T1S, R7E FND. 2.5" ALUMINUM CAP
Page 1 of 5
SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A
Date: 5/4/23
Preparing Firm:
RPA
RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
TABLES

LINE TABLE		
LINE	BEARING	LENGTH
L1	N0°30'21"E	319.69'
L2	N90°00'00"W	384.85'
L3	S0°00'00"E	126.86'
L4	S60°00'00"W	174.82'
L5	N89°29'39"W	117.84'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHD BRNG
C1	8°27'37"	420.00'	62.02'	S64°13'49"W
C2	43°31'43"	136.49'	103.70'	S38°14'11"W

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
602-263-1177
www.rpaeng.com

Troy A. Ray

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A.
RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY PREPARED BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 AND LOCATED WITHIN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS SOUTH 89 DEGREES 29 MINUTES 18 SECONDS EAST A DISTANCE OF 2637.95 FEET;

THENCE NORTH 76 DEGREES 37 MINUTES 50 SECONDS EAST, A DISTANCE OF 1389.77 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 30 MINUTES 21 SECONDS EAST A DISTANCE OF 319.69 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SKYBRIDGE BOULEVARD;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID RIGHT-OF-WAY LINE , A DISTANCE OF 384.85 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 126.86 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, FROM WHICH THE RADIUS POINT BEARS SOUTH 21 DEGREES 32 MINUTES 23 SECONDS EAST;

THENCE SOUTHWESTERLY 62.02 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT , HAVING A RADIUS OF 420.00 FEET, THROUGH A CENTRAL ANGLE OF 8 DEGREES 27 MINUTES 37 SECONDS AND A CHORD BEARING SOUTH 61 DEGREES 13 MINUTES 49 SECONDS WEST;

THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 174.82 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH THE RADIUS POINT BEARS SOUTH 29 DEGREES 59 MINUTES 58 SECONDS EAST;

THENCE SOUTHWESTERLY 103.70 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 136.49 FEET, THROUGH A CENTRAL ANGLE OF 43 DEGREES 31 MINUTES 43 SECONDS AND A CHORD BEARING SOUTH 38 DEGREES 14 MINUTES 11 SECONDS WEST;

THENCE NORTH 89 DEGREES 29 MINUTES 39 SECONDS WEST, A DISTANCE OF 117.84 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 91,903.73 SQUARE FEET OR 2.1098 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTION IS SOUTH 89 DEGREES 29 MINUTES 18" SECONDS EAST FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA AS DETERMINED BY GPS DATA COLLECTION PERFORMED IN THE FIELD.

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
602-263-1177
www.rpaeng.com

Troy A. Ray

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A.
RAY
5/3/23
Date Signed
ARIZONA, U.S.A.

EXHIBIT A
CLOSURE

SEGMENT #1 : LINE

COURSE: N0° 30' 21"E LENGTH: 319.69'
NORTH: 834842.2223' EAST: 776965.6902'

SEGMENT #2 : LINE

COURSE: N90° 00' 00"E LENGTH: 384.85'
NORTH: 834842.2223' EAST: 777350.5402'

SEGMENT #3 : LINE

COURSE: S0° 00' 00"E LENGTH: 126.86'
NORTH: 834715.3623' EAST: 777350.5402'

SEGMENT #4 : CURVE

LENGTH: 62.02' RADIUS: 420.00'
DELTA: 8°27'37" TANGENT: 31.07'
CHORD: 61.96' COURSE: S64° 13' 49"W
COURSE IN: S21° 32' 23"E COURSE OUT: N30° 00' 00"W
RP NORTH: 834324.6937' EAST: 777504.7416'
END NORTH: 834688.4244' EAST: 777294.7416'

SEGMENT #5 : LINE

COURSE: S60° 00' 00"W LENGTH: 174.82'
NORTH: 834601.0144' EAST: 777143.3431'

SEGMENT #6 : CURVE

LENGTH: 103.70' RADIUS: 136.49'
DELTA: 43°31'43" TANGENT: 54.49'
CHORD: 101.22' COURSE: S38° 14' 11"W
COURSE IN: S29° 59' 58"E COURSE OUT: N73° 31' 41"W
RP NORTH: 834482.8099' EAST: 777211.5869'
END NORTH: 834521.5111' EAST: 777080.6986'

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
602-263-1177
www.rpaeng.com

Troy A. Ray

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A.
RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
CLOSURE (CONTINUED)

SEGMENT #7 : LINE

COURSE: N89° 29' 39"W LENGTH: 117.84'
NORTH: 834522.5514' EAST: 776962.8632'

PERIMETER: 1289.77
AREA: 91,903.73 SQ. FT. (2.1098 ACRES)
ERROR CLOSURE: 0.0081 COURSE: N34° 54' 24"W
ERROR NORTH: 0.00667 EAST: -0.00466

PRECISION 1: 159230.86

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm:

RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

Troy A. Ray

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A.
RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

Phoenix-Mesa Gateway Airport Authority

DEVELOPMENT LEASE NO. 007
Non-Aeronautical Development Parcel for Lot 118-A

with

SKYB LOT 118 LLC, an Arizona limited liability company

Effective Date:

June 1, 2023

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Phoenix-Mesa Gateway Airport Authority
DEVELOPMENT LEASE

a Non-Aeronautical Development Parcel for Lot 118-A

This Development Lease ("**Lease**") is executed to be effective the FIRST (1st) day of June 2023 ("**Effective Date**") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **SKYB LOT 118 LLC** , an Arizona limited liability company ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

RECITALS:

A. Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona ("**Airport**"); and

B. Lessor has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Lease in respect thereof; and

C. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport known as Lot 118-A on the Master Plan containing approximately 91,903.73 square feet of land, as set forth in **Exhibit A** attached hereto ("**Premises**");

D. The Premises is identified in the Master Plan and the Airport Layout Plan as a Non-Aeronautical Development Parcel; and

E. Lessor desires to lease the Premises to Lessee on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. LEASE.

Lessor hereby leases the Premises to Lessee, subject to all easements, deed restrictions and other similar matters of record in the Official Records of Maricopa County, Arizona, that encumber the Premises, and further subject to all operational and use restrictions and other terms and conditions expressly set forth in this Lease.

1.1 Right to Use Premises. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor and those claiming through Lessor. Lessee specially acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any

particular or specific purpose, and all such warranties are hereby disclaimed, except for representations and warranties contained in this Lease. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense, subject to Lessor's duty to cooperate with Lessee (at no or nominal cost to Lessor) in connection with such activities and undertakings.

1.2 Intentionally Omitted.

1.3 Access. Lessee is granted the right of access to and from the Premises via such portions of the Airport as are or may be reasonably necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport, provided that Lessor reserves the right to limit access to the Premises in emergencies and in connection with Lessor's construction activities on the Airport, so long as Lessor provides Lessee with reasonable advance written notice of any limitations on Lessee's access to the Premises due to Lessor's construction activities, and Lessor and Lessee coordinate such construction activities and cooperate one with the other to minimize any interference with, or disruption of, Lessee's business activities. Lessor reserves the right to designate the location of such alternative access due to emergencies and Lessor's construction activities, and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 Permitted Uses. Subject to the provisions of Section 1.5, Lessee may use the Premises for commercial Light Industrial applications as per current Zoning and Master Plan, including light manufacturing and assembly, product and component testing (including wind tunnel testing), general office, and other uses relating or incidental thereto and for no other use. Lessee shall not use any portion of the Premises for a Prohibited Use, which Prohibited Uses are set forth on **Exhibit E**. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules and regulations of any governmental authority, including Lessor, and to Lessee's compliance with applicable provisions of the *Airport Rules and Regulations* and *Airport Minimum Standards*.

1.5 Prohibited Activities. Lessee shall not use, or permit its agents, employees or contractors acting for or on behalf of Lessee in connection with their scope of employment to use, the Premises or the Airport for any use that is in violation of the *Airport Rules and Regulations*, the *Airport Minimum Standards*, any matters of record, or applicable laws, or for any other activity or operation not specified in Section 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director or other authorized signatory of Lessor.

Lessor agrees to reasonably consult with Lessee prior to executing or entering into any agreement that could reasonably be expected to have a material effect on the Premises, or on Lessee or its subtenants, or on any Permitted Uses, with the stated purpose of attempting in good faith to avoid any interference with, disruption of, or restriction or limitation on Lessee's intended use and development of the Premises in accordance with this Lease.

1.6 On-Site Manager. Upon commencement of business operations at and on the Premises, Lessee shall designate an on-site manager for the Term of this Lease who shall generally be available to Lessor and Lessee's customers, if any, during Lessee's normal business hours, and otherwise as required by the *Airport Minimum Standards*, as applicable. Lessee may change Lessee's on-site manager from time to time.

1.7 Lessee Acknowledgement. Lessee acknowledges that, except as otherwise provided in this Lease, its obligations to pay Base Rent and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Lessor or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due

authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

2. TERM.

2.1 Initial Term. The term of this Lease shall be for a period of SIXTY (60) years, commencing on the Effective Date and terminating on May 31, 2083 ("**Term**").

2.2 Renewal Term(s). Provided that no Event of Default shall have occurred and is continuing, Lessee shall have the right and option ("**Renewal Option**") to extend the Term of this Lease for a period of FIFTEEN (15) years ("**Renewal Term**"). If Lessee elects to exercise Lessee's Renewal Option, Lessee shall notify Lessor in writing of such exercise at least one (1) year prior to the expiration of the initial 60-year Term. At the commencement of the Renewal Term, Base Rent per square foot of the Premises per year shall be an amount equal to fair market base rental rate as determined herein, subject to the triennial CPI Adjustments set forth in Section 4.2 below, which CPI Adjustment shall first be made on the first day of the calendar month following the THIRD (3rd) anniversary of the Renewal Term, and thereafter on each THREE (3) year anniversary thereof. Lessor shall determine the fair market base rental rate for the Premises for the commencement of the Renewal Term and shall notify Lessee of Lessor's determination no later than SIXTY (60) calendar days after Lessor's receipt of Lessee's exercise of Lessee's Renewal Option. If Lessee disputes Lessor's determination of such fair market base rental rate, Lessee shall deliver written notice of such dispute, together with Lessee's determination of such fair market base rent rate, to Lessor within SIXTY (60) calendar days of Lessee's receipt of Lessor's determination. The Parties shall then attempt in good faith to agree upon such fair market base rental rate. The fair market base rental rate shall take into consideration and reflect the limitations and restrictions on Lessee and on the use and development of the Premises and the location of the Premises relative to other regional, national and international airport facilities in the Metropolitan Phoenix area, and also take into consideration the differences between the Airport and other regional, national and international airport facilities in the Metropolitan Phoenix area. If the Parties fail to agree within FIFTEEN (15) business days, they shall, within TEN (10) calendar days after the expiration of such 15-business day period, mutually appoint an appraiser to determine the fair market base rental rate. Said appraiser shall be a qualified MAI appraiser, licensed in the state of Arizona, with at least FIVE (5) years of recent continuous experience in determining the fair market rental rates for commercial properties similar to the Premises and be a member of the Appraisal Institute or comparable professional organization. If the Parties are unable to agree upon an appraiser within such 10-day period, they shall, within FIVE (5) business days thereafter, jointly apply to the president of the local Board of Realtors for the selection of a qualified appraiser. The president of the Board of Realtors shall be asked to select a qualified appraiser within FIFTEEN (15) business days who has not acted in any capacity for either Party within the prior TEN (10) years. Within SEVEN (7) calendar days of the appointment (either by agreement or selection) of the appraiser, the Parties shall submit to the appraiser their respective determinations of the fair market base rental rate and any/all relevant information. Within TWENTY (20) business days of the selected qualified appraiser's receipt of the Parties' respective determinations, the appraiser shall review each Parties' submittal (and such other information as the appraiser deemed necessary) and select on Parties' determination as representing the most reasonable approximation of such fair market base rental. The appraiser's fees and expenses shall be paid one half by each Party. Upon determining the Base Rent for the Premises at the commencement of the Renewal Term, Lessor and Lessee will promptly enter into an amendment to this Lease to memorialize the Renewal Terms and the Base Rent. All other terms of this Lease apply during the Renewal Term.

3. NONEXCLUSIVE RIGHTS.

Lessee shall have the exclusive right to lease, use, occupy and develop the Premises in compliance with

the terms and conditions of this Lease during the Term. All other rights granted to Lessee under this Lease are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport (other than on the Premises) that Lessor deems appropriate, provided that such activities do not limit, prevent, materially interfere with, or prevent or disrupt the use and development of the Premises by Lessee.

4. RENT.

4.1 Base Rent. Lessee agrees to pay Lessor annual rental ("**Base Rent**") for the use of the Premises as follows:

4.1.1 Subject to Section 4.4 below, commencing on the Effective Date through the end of the SECOND (2nd) Lease Year, Base Rent shall be $0.00 per square foot of the Premises per year.

4.1.2 Commencing on June 1, 2025 through March 31, 2048, Base Rent shall be $0.10 per square foot of the Premises per year, subject to the triennial CPI Adjustment set forth in Section 4.2 below.

4.1.3 Commencing on April 1, 2048, through the end of the Term, Base Rent per square foot of the Premises per year shall be an amount equal to fair market value as determined in accordance with Section 4.3 below, subject to the triennial CPI Adjustments set forth in Section 4.2 below.

4.2 Base Rent Adjustments. Commencing on the SIXTH (6th) anniversary of the Effective Date and continuing thereafter on every THREE (3) year anniversary of the Effective Date of this Lease, the annual Base Rent paid by Lessee shall be adjusted (whether increased or decreased) by a percentage equal to the percentage that the Consumer Price Index (CPI) (as defined below) changed during the immediately preceding THIRTY-SIX (36) month period ending NINETY (90) days prior to the end of the adjustment period during the Term hereof ("**CPI Adjustment**"). For purposes of this Lease, CPI means the United States Department of Labor, Bureau of Statistics Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average (1982-1984=100). If at any time CPI ceases to exist, Lessor may substitute any official index published by the Bureau of Labor Statistics or by a successor or similar government agency as may then exist and which in Lessor's reasonable business judgment shall be most nearly equivalent to the CPI. Lessor agrees to promptly notify Lessee of any CPI Adjustment (and in any event at least THIRTY (30) days prior to any adjustment in Base Rent payments as a result of any CPI Adjustment), and to provide Lessee with a reasonably-detailed description of Lessor's calculations of any CPI Adjustment and any adjustment in Base Rent payments.

4.3 Market Adjustments to Base Rent.

4.3.1 Notwithstanding the Base Rent increases referenced in Section 4.2, on: (a) April 1, 2048 and (b) each subsequent TEN (10) year anniversary of April 1, 2048, the annual Base Rent shall be adjusted (each, a "**Market Adjustment Date**") as hereinafter set forth in this Section. On each such Market Adjustment Date, the Base Rent shall be adjusted to the fair market base rental rate of the Premises, in relation to comparable (in quality, size, and value) airport-related facilities.

4.3.2 Lessor's determination of such fair market base rental rate for the Premises shall be delivered to Lessee no later than ONE HUNDRED TWENTY (120) calendar days prior to the Market Adjustment Date. If Lessee disputes Lessor's determination of such fair market base rental rate, Lessee shall deliver written notice of such dispute, together with Lessee's determination of such fair market base rent rate, to Lessor within SIXTY (60) calendar days of Lessee's receipt of Lessor's determination. The Parties shall then attempt in good faith to agree upon such fair market base rental rate. The fair market base rental rate shall take into consideration and reflect the limitations and restrictions on Lessee and on the use and development of the Premises and the location of the Premises relative to other regional, national and international airport facilities. If the Parties fail to agree within FIFTEEN (15) business days, they shall, within TEN (10) calendar days thereafter, mutually appoint an appraiser to determine the fair market base rental rate. Said appraiser shall be a qualified MAI appraiser, licensed in the state of Arizona, with at least FIVE (5) years of recent continuous experience in

determining the fair market rates for commercial properties similar to the Premises and be a member of the Appraisal Institute or comparable professional organization. If the Parties are unable to agree upon an appraiser within such 10-day period, they shall, within FIVE (5) business days thereafter, jointly apply to the president of the local Board of Realtors for the selection of an appraiser. The president of the Board of Realtors shall, within FIFTEEN (15) business days, select an appraiser with the above qualifications who has not acted in any capacity for either Party within the prior FIVE (5) years. Within SEVEN (7) calendar days of the appointment (either by agreement or selection) of the appraiser, the Parties shall submit to the appraiser their respective determinations of the fair market base rental rate and any/all substantiated information. Within TWENTY (20) business days thereafter, the appraiser shall review each Party's submittal (and such other information as the appraiser deems necessary) and shall select one Party's submittal as representing the most reasonable approximation of such fair market base rental rate, and the appraiser's fees and expenses shall be paid one-half each by each Party.

4.4 Vacancy Relief Periods. Provided no Event of Default shall have occurred and is continuing, Lessee shall have the continuing option to exercise up to TWO (2) Vacancy Relief Periods of up to TWELVE (12) months for each Vacancy Relief Period during any period of time that the Improvements on the Premises are at least FIFTY PERCENT (50%) vacant. Lessee may initiate a Vacancy Relief Period by giving written notice ("**Vacancy Relief Notice**") to Lessor of its desire to do so. Lessee's use and occupancy of the Premises shall not be taken into consideration in determining whether the Improvements are vacant, unless Lessee is actively conducting Lessee's business activities for a Permitted Use within such Improvements. An office maintained by Lessee in the Premises for the purpose of marketing and subleasing the Premises shall not be considered as Lessee actively conducting Lessee's business activities. The Vacancy Relief Notice shall identify the starting date and ending date for the Vacancy Relief Period (not to exceed TWELVE (12) months), and Lessee shall provide, simultaneously with each Vacancy Relief Notice, evidence reasonably satisfactory to Lessor that the Improvements on the Premises are at least FIFTY PERCENT (50%) vacant. During a Vacancy Relief Period, Lessee shall be entitled to pay a reduced Base Rent equal to FIFTY PERCENT (50%) of the Base Rent that would otherwise be applicable during such time. A Vacancy Relief Period shall terminate on the earlier of (a) the expiration of the TWELVE (12)-month period identified in the Vacancy Relief Notice, or (b) the date on which FIFTY-ONE PERCENT (51%) of the occupiable Improvements on the Premises are occupied, evidenced by executed subleases. Upon expiration of the Vacancy Relief Period, Lessee shall resume paying full Base Rent.

4.5 Construction Rent Period. A modified base rent for a construction period during the first TWO (2) Lease years ("**Construction Base Rent Period**") has been granted to Lessee as additional consideration for entering into this Lease and agreeing to pay the Base Rent and all other charges hereunder, and to perform the terms and provisions otherwise required under this Lease. If an Event of Default by Lessee occurs, which is not cured within the applicable cure period, in addition to all other rights and remedies of Lessor provided by law, equity, statute or otherwise provided in this Lease, at Lessor's option in its sole and absolute discretion, (i) if the Event of Default occurs within the Construction Base Rent Period, Lessee shall commence paying the full Base Rent at the rate of $0.10 per square foot per year for the balance of the Construction Base Rent Period, and (ii) if an Event of Default by Lessee occurs during the initial Term, which is not cured within the applicable cure period, Lessee shall immediately pay to Lessor an amount equal to the unamortized portion of Base Rent at the rate of $0.10 per square foot per year during the Construction Base Rent Period, which Lessor shall amortize over the initial Term on a straight-line basis.

4.6 Payment.

4.6.1 Base Rent shall be payable in equal monthly installments, in advance, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer. Base Rent and any other charges due for any period during the Term less than ONE (1) calendar month shall be prorated on a daily basis based on a THREE HUNDRED SIXTY-FIVE (365) day year.

4.6.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.6.3 All payments (and reports, if any) required by this Section 4.6 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in advance in writing by Lessor to Lessee.

4.7 Finance Charges and Late Fees. If Lessee fails to pay any installment of Base Rent or any other charge due and owing to Lessor in full on or before the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum from the due date until payment in full is made. In addition, in the event any installment of Base Rent or other charge owing to Lessor is paid more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent Base Rent installment or other charge shall be due and payable in addition thereto.

4.8 Taxes. In the event any governmental authority shall impose a tax or imposition based upon any Base Rent payments or any other sums paid or owing hereunder, or the receipt of such payments by Lessor, Lessee shall pay such amounts to Lessor at the same time and in addition to payments hereunder, which amounts may include, but are not limited to, any or all rental, transaction privilege, sales, excise or other similar tax except income taxes.

4.9 Survival. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

4.10 Airport Rates and Charges Schedule. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* is included as **Exhibit B** and is subject to change upon prior notice to Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* at any time at Lessor's sole discretion, and that no fee shall apply to the use or occupancy of the Premises or access to and from the Premises.

5. PERFORMANCE GUARANTEE; CONSTRUCTION ESCROW.

5.1 Security Deposit.

5.1.1 On or before the Effective Date, Lessee shall pay to Lessor an amount equal to TWO (2) months' worth of Base Rent payments as of the Effective Date of this Lease, ONE THOUSAND FIVE HUNDRED THIRTY-ONE and 73/100 ($1,531.73) as a security deposit ("**Security Deposit**") to insure the faithful performance of all of Lessee's obligations hereunder.

5.1.2 The Security Deposit, upon the occurrence of an Event of Default, at the election of Lessor, may be applied to any actual loss and/or actual damage sustained by Lessor by reason of the occurrence of such Event of Default by Lessee under this Lease without the waiver of any other right or remedy available

to Lessor at law, in equity or under the terms of this Lease. If any portion of the Security Deposit is so used or applied, Lessee shall, within FIVE (5) business days after written notice from Lessor, deposit with Lessor immediately available funds in an amount sufficient to restore the Security Deposit to its original amount. In the event of a sale or other transfer of the Premises by Lessor, Lessor shall transfer the remaining balance (if any) of the Security Deposit to Lessor's successor in interest, whereupon the transferor Lessor shall be released from liability to Lessee for the return of such Security Deposit. Unless this Lease is terminated as a result of Lessee's default whereupon Lessee shall immediately forfeit its Security Deposit to Lessor, upon termination or expiration, Lessor shall return to Lessee all portions of the Security Deposit which were not otherwise applied by Lessor as permitted above. Lessor shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

5.2 Improvement Construction Guarantee.

5.2.1 Payment Guarantee. Notwithstanding and in addition to the Security Deposit, Lessee shall protect claimants supplying labor and materials in connection with the construction, by providing, at Lessee's sole cost and expense and prior to commencement of construction of said improvements, one of the following instruments, chosen at Lessee's discretion:

(a) Payment Bond. Lessee shall require the contractor to provide a labor and materials payment bond in the full contract amount to protect claimants supplying labor and materials in connection with the construction. The bond shall comply in all respects with the requirements of A.R.S. S 33-1003 as it may be amended or renumbered from time to time. The parties agree that Lessee is not a public body, and the improvements to be constructed under this Lease by Lessee at Lessee's sole cost are not public buildings, public works or public improvements. The bond shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the State of Arizona and shall be accompanied by a power of attorney disclosing the authority of the person executing on behalf of the surety. The bond and a copy of the contract shall be recorded in the office of the Maricopa County Recorder as required under A.R.S. S 33-1003, and a copy of the bond provided to the Lessor; or

(b) Letter of Credit. Such instrument ("**Letter of Credit**") shall be irrevocable, in the amount equal to the total amount of the construction contract(s) for the construction of the improvements (described in Section 7 herein) plus TEN PERCENT (10%) of such amount ("**Improvement Costs**") and should be issued to Lessee by a financial institution ("**Bank**") reasonably acceptable to the Lessor. The Letter of Credit shall have a term extending from the date of commencement of construction until the date with is TWENTY-FOUR (24) months thereafter, after which the date it shall be renewed on a year-to-year basis until construction of such improvements are completed, and final and unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Should Lessee utilize the Letter of Credit option hereunder, and should Lessee fail to pay any sum owing to contractors supplying labor and materials in connection with the construction then, in addition to any other remedies set forth in this Lease, Lessor shall be entitled to apply to the Bank, following a period of THIRTY (30) calendar days prior written notice to Lessee (which notice shall include reasonably-detailed description of the Lessee's failure to pay any sum owing), for release to Lessor (in accordance with the terms of the Letter of Credit) from the Letter of Credit of a dollar amount sufficient to pay amounts owing to contractors supplying labor and materials in connection with the construction and obtain final, unconditional lien waivers in connection therewith. Lessor's application shall contain evidence of the failure of payment and the estimated dollar amount needed to satisfy payment obligations. The terms of the Letter of Credit shall require prompt payment to Lessor for the amount set forth in Lessor's application upon satisfaction of the conditions set forth in the Letter of Credit. Upon and following any partial payment to the Lessor, the Letter of Credit shall remain in full force for the remaining undisbursed amount of the Letter of Credit to accommodate further applications, if any, and shall not be subject to cancellation or revocation until fully drawn or otherwise released or satisfied upon completion of construction of the improvements and final, unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Lessor must approve the form and content

of any Letter of Credit in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.

5.2.2 **Performance Guarantee.** In addition to the Security Deposit, Lessee's obligation to timely complete the improvements described in Section 7 herein shall be secured, at Lessee's sole cost and expense and prior to commencement of construction of said improvements, by any one of the following instruments, chosen at Lessee's discretion:

(a) **Performance Bond.** Lessee shall require the contractor to provide a performance bond in the full contract amount conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to the Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.; or

(b) **Completion Bond.** Lessee shall deliver to Lessor a completion bond in form and substance reasonably acceptable to Lessor pursuant to which Lessor shall have the unconditional, direct and unilateral right to draw upon or use such bond for completion of construction of the Improvements under Section 7.1 of this Lease if an Event of Default occurs and is continuing under Section 7.2.2 of this Lease. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.

6. AIRCRAFT OPERATIONS GUIDELINES.

If and to the extent that Lessee operates aircraft at or on the Airport, Lessee shall be subject to the provisions of **Exhibit C**. If any subtenant, contractor or agent of Lessee conducting activities on or at the Premises for or on behalf of Lessee and acting within the scope of their employment operates aircraft at the Airport, all shall be subject to the provisions of **Exhibit C**, which Lessor may enforce directly against such subtenant, contractor or agent, but Lessee shall have no direct liability or responsibility with respect to such matters; except, however, Lessee shall be responsible for compliance by its subtenants, contractors and/or agents with the *Airport Rules and Regulations* and *Airport Minimum Standards*, as appropriate.

7. IMPROVEMENTS.

7.1 Construction by Lessee. Lessee shall, at its sole cost and expense, construct improvements on the Premises that are generally described as two buildings collectively consisting of 5,529 square feet which include (1) a tilt concrete and steel building containing a cross flow facility housing air flow equipment, and (2) a tilt concrete and steel building containing a control center and office, and associated parking and site improvements within the eighteen (18) month construction time frame and generally shall consist an approximate budget of $18,000,000.00 for the Work ("**Improvements**") in accordance with a site plan prepared by Lessee and approved by Lessor or by Lessor's Design Review Committee, if any, such approval not to be unreasonably withheld, conditioned, or delayed, and in compliance with all applicable governmental regulations, restrictions, building codes and any declaration of covenants, conditions, restrictions and easements of record affecting the Premises and any design guidelines promulgated pursuant thereto that are applicable to the Premises. Lessor and Lessee agree that Lessee shall be solely responsible for: (i) any connection(s) between the Premises and the terminating point of the existing vehicular access way to the Premises that is required by applicable or utility provider or is requested by Lessee; (ii) constructing all improvements necessary to bring all utilities to the Improvements; (iii) installing all utility meters and water and sewer lines to service all Improvements constructed on the Premises; and (iv) if applicable, constructing all Improvements necessary to connect the Premises to existing taxiways or taxilanes in accordance with and if allowable under all Airport and FAA rules, regulations and other requirements.

7.2 Construction Milestones; Termination. Lessee shall construct its Improvements pursuant to the following schedule (each of which events are herein called a "**Construction Milestone**"):

7.2.1 Lessee shall submit its Improvement design plans to Lessor for review and approval no later than TWO (2) months from the Effective Date.

7.2.2 Lessee shall complete construction of all Improvements to be constructed by the Lessee at and on the Premises and shall have obtained a CofO (or its equivalent) from the City of Mesa therefor, no later than EIGHTEEN (18) months from the Effective Date.

7.2.3 If Lessee fails to commence construction within NINETY (90) calendar days after the issuance of all necessary construction permits and receipt of all approvals required for such, including any approvals required from the FAA, but subject to any applicable notice and cure periods provided for in Section 11, Lessor shall have the right to terminate this Lease by written notice to Lessee delivered at any time prior to commencement of construction. For purposes of this section "commencement of construction" shall be the date on which Lessee has obtained it permits, has executed a contract for construction of the Improvements and engaged in material work, such as grading or pouring of footings and slabs.

7.3 No Alterations. Lessee shall make no material improvements or alterations to the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld, conditioned, or delayed including, if and to the extent applicable, the approval by Lessor's Design Review Committee. The process of approving any material improvements or alterations by Lessor and Lessor's Design Review Committee shall occur within the same period of time (without duplication) given to Lessor for approval of the same. Lessor will have FORTY-FIVE (45) days following receipt of a written request by Lessee for approval of material improvements or alterations to either approve or disapprove the same. If Lessor disapproves, Lessor shall provide Lessee with a reasonably-detailed explanation for Lessor's disapproval and suggestions for revisions that would reasonably satisfy Lessor's disapproval. If Lessor fails to respond within such FORTY-FIVE (45)-day period Lessee may give a second notice to Lessor requesting approval of material improvements or alterations, on which the following language must appear in bold print: "**FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE (5) BUSINESS DAYS FROM ITS RECEIPT SHALL RESULT IN THE LESSEE'S PROPOSED IMPROVEMENTS AND ALTERATIONS BEING DEEMED APPROVED**." If Lessor fails to respond in writing (in the manner described above) to any matter in such second notice within FIVE (5) business days following delivery of such notice, Lessee's proposed improvements and alterations shall be deemed to have been approved by Lessor. If Lessor disapproves a request for approval and sets forth the reason for its disapproval, then Lessee may resubmit a revised description of the improvements or alterations for review and approval. This cycle will repeat itself until Lessor either approves the request or is deemed to have approved the same. Lessee shall provide Lessor with electronic as-built drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 Title to Alterations and Improvements. Title to all Improvements and alterations on the Premises (but not personal property or trade fixtures) shall vest in Lessor upon the expiration of this Lease, and Lessee agrees to execute and deliver to Lessor, within TEN (10) business days after Lessor's written request therefor, a quitclaim deed quitclaiming such Improvements and alterations to Lessor.

7.5 Mechanics' Liens. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within THIRTY (30) calendar days of notice thereof.

7.6 Permit Required. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are

applicable. All structural, electrical, plumbing or mechanical construction or reconstruction of the Improvements shall conform to City of Mesa ("**City**") construction and technical codes. No such work shall be commenced without first obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment or use, as required by applicable laws. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and a copy of the final stamped approval and the associated plans and specifications.

7.7 Damage or Destruction. Lessee shall maintain insurance on all of Lessee's Improvements to the Premises. In the event that all or any portion Lessee's Improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall replace, repair, restore, modify or improve said Improvements, subject to the provisions of Section 7.6, using available insurance proceeds together with any additional funds from other available sources. Notwithstanding the foregoing, if any damage or destruction occurs to the Premises during the last 5 years of the Initial Term or any Extension Term and the cost to repair the damage exceeds 65% of the total replacement cost, Lessee may terminate this Lease upon giving Lessor thirty (30) days' written notice, whereupon Lessee shall pay the replacement cost of the Improvements to Lessor.

8. MAINTENANCE.

8.1 Lessee Responsibilities. Lessee shall, at its sole cost and expense, keep the Premises in a clean condition and in good order, condition and repair throughout the Term, reasonable wear and tear excepted. Lessee's maintenance of the Premises shall consist of, as reasonably necessary, the inspection, servicing and repair of all improvements, including pest control, landscaping and grounds maintenance.

8.2 Damage to Lessor Property. Any real or personal property of Lessor damaged or destroyed by Lessee (or its agents, contractors, employees, managers and representatives) as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the reasonable satisfaction of Lessor; provided however, that Lessor acknowledges and agrees that Lessor's real property will be permanently altered, changed and modified as a result of the development and use of the Premises, and Lessor hereby consents thereto, and agrees that such development and use of the Premises as permitted in accordance with this Lease shall not constitute waste, damage or destruction to Lessor's real property. Lessor also approves of Lessee demolishing any and all improvements located on or under the Premises.

8.3 Trash Removal. Lessee shall at all times keep the Premises in a clean, safe, sanitary and orderly condition and shall keep such area reasonably free of all trash and debris, and in any event in compliance with all applicable laws and ordinances. Lessee shall be responsible for all trash removal from the Premises and Lessee shall deposit all trash and debris only at collection stations located on or in proximity to the Premises, in accordance with City code.

8.4 Emergency Repairs. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as necessary.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS.

9.1 Assignment.

9.1.1 Consent Required. Subject to Lessee's rights under Section 24, Liens and Mortgages, Lessee may not transfer or assign ("**Transfer**") its interest in this Lease or any right or interest hereunder without the prior consent of Lessor, which consent may not be unreasonably withheld, delayed or conditioned. Lessor will have FORTY-FIVE (45) days following receipt of a written request by Lessee for approval of a Transfer to either approve or disapprove the same. If Lessor disapproves, Lessor shall provide Lessee with a reasonably-detailed explanation for Lessor's disapproval. If Lessor fails to respond within such FORTY-FIVE

(45)-day period Lessee may give a second notice to Lessor requesting approval of a Transfer, on which the following language must appear in bold print: "**FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE (5) BUSINESS DAYS FROM ITS RECEIPT SHALL RESULT IN THE LESSEE'S PROPOSED TRANSFER BEING DEEMED APPROVED**." If Lessor fails to respond in writing (in the manner described above) to any matter in such second notice within FIVE (5) business days following delivery of such notice, Lessee's proposed Transfer shall be deemed to have been approved by Lessor. If Lessor disapproves a request for approval and sets forth the reason for its disapproval, then Lessee may resubmit a revised proposal for a Transfer for review and approval. This cycle will repeat itself until Lessor either approves the request or is deemed to have approved the same. Notwithstanding the foregoing, however, Lessee may assign or encumber its leasehold interest, including any title to any improvements, as security in conjunction with or as part of one or more leasehold mortgages or deeds of trust, including assignments by means of a foreclosures or trustee's sales thereunder without Lessor's consent. In the case of an assignment (other than an assignment or encumbrance as security), the assignee must expressly assume in writing all of Lessee's obligations under this Lease from and after the date of such assignment.

9.1.2 Deemed Transfers. For the purposes of this Lease, a Transfer shall be deemed to include the following: (i) the transfer of any ownership interest in Lessee resulting in a change in the present control of Lessee by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; and (ii) the sale of greater than FORTY-NINE PERCENT (49%) or more in value of the assets of Lessee, whether in a single transaction or a series of transactions.

9.2 Subletting.

9.2.1 Lessee may sublease all or portions of the Premises if the following conditions are met:

(a) The sublease and any amendments or modifications thereto are approved in advance and in writing by Lessor (which approval shall not be unreasonably withheld, delayed or conditioned), or is/are in a form which shall have been previously approved in writing (except for changes that do not materially impact Lessor's rights and interests) by Lessor. If a pre-approved form is used, Lessor's advance approval of the actual sublease and any amendments or modifications thereto is not required. Lessor will have FORTY-FIVE (45) days with respect to a new sublease, or FIFTEEN (15) days with respect to amendments or modifications to a sublease, following receipt of a written request by Lessee for approval of a Transfer to either approve or disapprove the same. If Lessor disapproves, Lessor shall provide Lessee with a reasonably-detailed explanation for Lessor's disapproval. If Lessor fails to respond within such FORTY-FIVE (45)-day or FIFTEEN (15)-day period, as the case may be, Lessee may give a second notice to Lessor requesting approval of a Transfer, on which the following language must appear in bold print: "**FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE (5) BUSINESS DAYS FROM ITS RECEIPT SHALL RESULT IN THE LESSEE'S PROPOSED TRANSFER BEING DEEMED APPROVED**." If Lessor fails to respond in writing (in the manner described above) to any matter in such second notice within FIVE (5) business days following delivery of such notice, Lessee's proposed sublease, amendment or modification, as the case may be, shall be deemed to have been approved by Lessor. If Lessor disapproves a request for approval and sets forth the reason for its disapproval, then Lessee may resubmit a revised proposal for a Transfer for review and approval. This cycle will repeat itself until Lessor either approves the request or is deemed to have approved the same.

(b) Rent for subleased premises shall not be less than fair market value unless otherwise approved in writing by Lessor.

(c) The sublease(s) and sublessee(s) shall at all times be subject to the terms and conditions of this Lease.

(d) The permitted uses of the Premises under any sublease shall be the same as that permitted under this Lease. Sublessees shall agree in the sublease not to engage in any Prohibited Use.

(e) The term of any sublease shall not extend beyond the stated expiration of this Lease.

(f) Except for the payment of a security deposit, the sublessee under such sublease shall not pay rent more than SIX (6) months in advance of its due date under the sublease.

9.2.2 Upon request from Lessee and/or any sublessee, Lessor shall enter into a Non-Disturbance and Attornment Agreement (in form and substance reasonably acceptable to Lessor, Lessee, sublessee and any applicable Mortgagee of Lessee or sublessee) so long as (i) the conditions of Section 9.2.1 have been met; (ii) the sublessee is not then in default beyond an applicable notice and cure period under the sublease and there is no existing Event of Default under this Lease; and (iii) the sublessee does not have a history of five (5) or more documented events of noncompliance with the *Airport Rules and Regulations* or *Airport Minimum Standards*. All reasonable legal fees incurred by Lessor in connection with any reasonably necessary third-party legal counsel review and approval of a Non-Disturbance and Attornment Agreement shall be paid by Lessee or sublessee.

9.2.3 Lessee shall not permit any sublessee unescorted access to the secured areas of the Airport unless and until the sublessee has obtained its own valid Airport security clearance and access credentials from Lessor. Lessee acknowledges that it may take THIRTY (30) calendar days or more to process sublessee for security clearance and access credentials.

9.2.4 Lessee shall submit a copy of each fully executed sublease to Lessor as soon as possible, but no later than FIVE (5) business days after Lessee receives the fully executed sublease.

9.3 Non-Disturbance. Lessor agrees, for the benefit of all subtenants of all or any part of the Premises, that if this Lease or Lessee's right to possession of the Premises is terminated for default or otherwise, all subleases of all or any part of the Premises, except any sublease to an Affiliate of Lessee, shall continue in full force and effect, notwithstanding the termination, as direct leases between Lessor and the subtenants and all such subtenants shall, upon request, attorn in writing to Lessor.

10. SIGNS.

Lessee may install on the Premises, including the Improvements, one or more signs, including signs identifying its business and, if Lessee so desires, a monument sign on the Premises; provided, however, that the general type, size, and location of such sign(s) shall conform to Lessee's Comprehensive Sign Plan, be approved in writing by Lessor in advance of installation, which approval may not be unreasonably withheld, conditioned or delayed, and be subject to any signage rules, codes and/or regulations of any governmental authority.

11. DEFAULT; TERMINATION BY LESSOR.

11.1 Events of Default. Each of the following shall constitute a material default of this Lease by Lessee ("**Event of Default**"):

11.1.1 Failure to pay any installment of Base Rent or other amount due from Lessee hereunder, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 Failure to perform any of its other obligations under this Lease or failure to perform any of its obligations as a "Lessee" under the Declaration (as defined in Section 44 below), as such obligations relate to the Premises, provided that Lessee does not cure such failure within THIRTY (30) calendar days after

delivery by Lessor to Lessee of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

11.1.3 The filing of any mechanic's, materialmen's or other lien or any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Lessee.

11.1.4 The Transfer or attempted transfer of any interest in the Lease to any transferee in violation of Section 9, provided that Lessee does not cancel or otherwise negate such Transfer or attempted transfer within THIRTY (30) calendar days after delivery by Lessor to Lessee of a written notice of such default.

11.1.5 Failure to pay its Proportionate Share of any Common Area Assessment in accordance with the Declaration as provided in Section 44 below, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor to Lessee of a written notice of such failure.

11.2 Lessor's Remedies. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Base Rent, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

Lessor agrees that Lessor's right to re-enter the Premises under Arizona Revised Statutes Section 33-361 and other similar rights shall arise after, and only after, the applicable notice and cure or grace periods under this Lease have been given and expired without such default or failure having been cured by Lessee.

11.3 No Implied Termination. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Except for Lessor's negligence or willful misconduct, Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and Lessee shall reimburse Lessor for all reasonable costs incurred by Lessor occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 Lessor's Current Damages. Upon the occurrence and during the continuance of an Event of Default, Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the reasonable costs and expenses incurred in respect of such repairs, redecorating, refurbishments and improvements shall be paid by Lessee to Lessor within TEN (10) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all actual damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the equivalent of the amount of the present value of Base Rent and all other payments which would be payable under this Lease by Lessee for the remainder of

the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's reasonable expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs, redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence ("**Deficiency**"), in monthly installments on the days on which the Base Rent would have been payable under this Lease as if this Lease were still in effect. In no event shall Lessee be liable for punitive, consequential or speculative damages under this Lease. Lessor agrees to satisfy its obligations to mitigate its damages.

11.5 Lessor's Final Damages. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover (without duplication) from Lessee, and Lessee shall pay to Lessor, promptly on demand, as Lessor's final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount at the rate of SIX PERCENT (6%) per annum) of (i) the aggregate of the Base Rent and all other amounts to be paid by Lessee hereunder for the unexpired portion of the Term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of Rent and any losses that could have been reasonably avoided, plus
(b) reasonable repossession costs, reasonable Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), reasonable attorneys' fees, reasonable legal expenses, and all other actual damages incurred by Lessor as a result of such Event of Default.

11.6 No Waiver by Lessor. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any of such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 Content of Default Notice. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it reasonably describes the nature of such default, and is made in accordance with Section 20 herein.

11.8 Limitation on Exercise of Termination Remedy by Lessor. Notwithstanding anything to the contrary in Section 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay Base Rent or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Nothing in this Section 11 shall limit the exercise of any such other remedy.

11.9 Waiver of Landlord's Lien. Lessor hereby waives all statutory or common law landlord's lien rights with respect to personal property located on the Premises.

12. [RESERVED].

13. INDEMNIFICATION.

13.1 Lessee's Indemnity. Except for the actions and omissions of Lessor and its agents, contractors, employees, managers and representatives, to the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this Section 13.1) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any

accident, injury or actual damages occurring within the Premises during the Term caused by Lessee or its agents, employees, contractors, or subcontractors, or (ii) any negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessee" for purposes of this Section 13.1) on the Property or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor, or (iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors or agents.

13.2 Lessor's Indemnity. Except for the actions and omissions of Lessee and its agents, contractors, employees, managers and representatives, to the fullest extent permitted by law, Lessor hereby agrees to defend, indemnify and hold harmless Lessee and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessee" for purposes of this Section 13.2) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any negligent act or omission or intentional misconduct by Lessor or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessor" for purposes of this Section 13.2) on the Property or the Airport, and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessee, or (ii) the failure of Lessor to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessee or its employees, contractors or agents.

13.3 Lessor's Damage to Improvements. Lessor shall be responsible and liable for any damage to any Improvements or alterations on the Property to the extent caused by Lessor or its agents, employees, contractors or subcontractors, and Lessor shall promptly repair any damage caused by Lessor or its agents, employees, contractors or subcontractors.

14. ENVIRONMENTAL PROTECTION.

14.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this Section 14.1 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 *Environmental Laws*. The term "**Environmental Laws**" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 USC Section 9601 et seq.; the *Resource Conservation and Recovery Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; the *Arizona Hazardous Waste Management Act*, A.R.S. Section 49-921 et seq. the *Arizona Environmental Quality Act*, A.R.S. Title 49, as amended; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

14.1.2 *Hazardous Material*. The term "**Hazardous Material**" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Law and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and

used oils).

14.2 [Intentionally Omitted].

14.3 Environmental Compliance.

14.3.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Law, including any amendments thereto, affecting Lessee's activities on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter Environmental Law, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.3.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Law. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Law.

14.3.3 If Lessee desires and receives written authorization from Lessor to install any underground storage tanks ("**USTs**") on the Premises or elsewhere on the Airport, Lessee shall submit the plans for such USTs to Lessor for prior written approval and shall comply with all applicable Environmental Laws related thereto, including Title 40, Code of Federal Regulations, Part 280, as adopted by the State of Arizona ("**Part 280**"), and Lessee shall be the owner of such USTs for statutory purposes. Installation of USTs shall comply with the "code of practice" set forth in Part 280. Lessee is solely responsible for the design, construction, installation, operation, monitoring, inspection, repair and maintenance of any and all USTs, including any connected piping and/or dispensing apparatus. Lessee shall provide to Lessor a copy of the Arizona Department of Environmental Quality *Notification of Underground Storage Tank Registration* that Lessee submits to the state. All USTs shall meet or exceed the tank performance standard for USTs installed after December 22, 1998, including corrosion protection, leak detection and spill/overflow protection. Any UST that stores flammable and combustible liquids shall meet the provisions of NFPA 30, *Flammable and Combustible Liquids Code*. Records demonstrating compliance with release detection requirements, including product inventories, calibration and maintenance, sampling, tightness testing and any other records, fees and taxes required by the state or federal governments shall be the responsibility of Lessee. Upon the expiration of this Lease, Lessee shall remove all USTs in compliance with all UST closure requirements under all applicable Environmental Laws in effect at that time unless otherwise allowed by Lessor.

14.4 Indemnification. To the fullest extent permitted by law, Lessee shall indemnify, defend (with counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this

Section 14.4 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity. This Section 14.4 explicitly excludes Lessee duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is exacerbated by Lessee or unknown contamination is exacerbated by Lessee's negligence.

14.5 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Law, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this Section 14.5, Lessor is not responsible for directing or managing any remediation action. For purposes of this Section 14.5, the term "**Release**" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. This Section 14.5 also applies to Lessee's remediation of any contamination of any kind existing on the Premises or Airport prior to the Effective Date, including any such contamination that may be first discovered after the Effective Date but not caused by Lessee, except and only to the extent known contamination is exacerbated by Lessee or unknown contamination is exacerbated by Lessee's negligence.

14.6 Governmental Submittals. Lessee shall, at Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any spills or discharges of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at the Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.7 Information Sharing.

14.7.1 Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a significant violation of Environmental Law (as defined below), and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Premises, to the extent that such investigations or claims are related to Lessee's activities thereon. A "significant violation of Environmental Law" shall be any violation that requires more than ONE HUNDRED EIGHTY (180) calendar days to resolve.

14.7.2 Lessee shall install on any UST that it is permitted to install pursuant to Section 14.3.3, a method or a combination of methods for Release detection that can detect a Release from any portion of the UST and any connected underground piping. Lessee shall immediately notify Lessor's Operations and

Maintenance Department upon discovering a Release or Suspected Release of any amount of material that is stored inside a UST. For purposes of this Section, a "Suspected Release" is any discovery of released Hazardous Material at the UST site or surrounding area, erratic behavior of Hazardous Material dispensing equipment, the sudden loss of a Hazardous Material, an unexplained presence of water in the UST, or when monitoring indicates that a Release has occurred. In the case of inventory control, Lessee shall notify the Lessor's Operations and Maintenance Department when the second consecutive month of inventory reconciliation data indicates that there is a discrepancy in the figures recorded.

14.8 Sublease. Lessee shall insert provisions substantially identical to the provisions of this Section 13.1 in any sublease agreement or contract by which it grants a right or privilege to any person, firm, corporation or other entity under this Lease.

14.9 Actions of Lessee. The activities or actions of Lessee under this Section 13.1 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors, invitees and successors.

14.10 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.11 Environmental Assessments.

14.11.1 If, during the Term of this Lease, any of Lessee's USTs are suspected of or known to be leaking, Lessee shall perform, or cause to be performed, a site characterization of the Premises and/or UST site using all appropriate sections of the LUST Site Characterization Manual dated January 15, 1999, or the most current edition, including tables 1 through 6, as applicable ("**Site Characterization**").

14.11.2 Within THIRTY (30) calendar days immediately preceding the expiration of this Lease or within THIRTY (30) calendar days of any earlier termination of the Lease, Lessee shall:

(a) Deliver to Lessor: (i) a Phase I environmental site assessment that conforms to the standards set forth in 42 USC § 9601(35)(B), as amended by Pub. L. 107-118 (Jan. 11, 2002), section 223(2), and as may be further amended, and any regulations thereunder; and (ii) an environmental compliance audit assessing the status of regulatory compliance of the Premises and all operations and activities thereon; both prepared by a qualified engineer licensed by the State of Arizona; and

(b) In the event Lessee installs any USTs upon the Premises or elsewhere on the Airport, perform or cause to be performed a Site Characterization of the Premises in the event there is evidence that there has been or may be a leak or Release of the UST contents; and

(c) If either the assessment described in Section 14.11.2(a)(i) above or the Site Characterization described in Section 14.11.2(a)(ii) above identifies any "recognized environmental condition," or any other condition indicating a known or potential liability, including, but not limited to, a known or potential violation of any Environmental Law or a past, present, or material threat of a future release of a hazardous substance or a petroleum product into the environment, Lessor reserves the right, at Lessor's sole discretion, to require Lessee to conduct, at Lessee's sole expense and with a scope of work subject to Lessor's

approval, further reasonable investigations and reasonable remediation.

14.12 Protective Devices and Plans. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge, and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.13 Right to Enter Premises. In addition to the rights afforded to Lessor in Section 19, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency (the EPA), ADEQ and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.14 U.S. Air Force Use and Remedial Action.

14.14.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this Section 14.14, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release. The terms, "**Occupation**" or "**Use**" shall mean any activity or presence (in or upon) such portion of, or such building, facility or other improvement on the Premises.

14.14.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Lessor or Lessee is a potentially responsible party with respect to any portion of the Premises or the Airport.

14.15 Cleanup Requirements. Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have

no claim against Lessor or the United States or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by Governmental Authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.16 Spill Protection Plan. In the event Lessee undertakes any type of manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Lessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements, and shall be approved by all agencies that are obligated by law to approve such plan. Such plan shall be independent of Lessor's spill prevention and response plans, if any. Lessee shall not rely on use of Lessor or Lessor personnel or equipment in execution of its plan. Lessee shall file a copy of the plan and amendments thereto with Lessor's Environmental and Archeological Coordinator prior to the date that Lessee commences any manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws. Notwithstanding the foregoing, should Lessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Lessee, or because Lessee was not, in the opinion of Lessor, conducting fire-fighting, containment or timely cleanup actions, Lessee agrees to reimburse Lessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Lessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Lessor or its employees, agents or contractors.

14.17 Wells. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor, except to the extent that the installation of a monitoring well is required by Governmental Authorities.

14.18 Surface Disturbances. After construction of Lessee's improvements on the Premises, if any, either in the future or as otherwise provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface other than what is usual and customary for the anticipated uses without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned or delayed.

14.19 Later Discovered Hazmat. If any Hazardous Material is newly discovered on a portion of the Property after the Effective Date that: (a) (i) were not placed on or introduced to the Property by Lessee, and (ii) were present on the Premises prior to the Effective Date (collectively, "**Later-Discovered, Pre- Existing Hazmat**"); and (b) such Later-Discovered, Pre-Existing Hazmat will cause Unavoidable Delay in the construction of Improvements; Lessee shall immediately notify Lessor and cease development activity in the impacted area of the Premises, and Lessee shall have the right to either (a) conduct such investigations and remedial actions as necessary under applicable Environmental Law and continue development activity as the remedial process allows (and reserve any rights it may have to seek whatever compensation it is entitled to recover), if Lessor does not agree, within SEVEN (7) business days of receiving notice contemplated under this Section, to promptly investigate and remediate the detected contamination in accordance with Environmental Law, and on a schedule and in a manner that does not interfere with Lessee's development, use or construction plans, or (b) terminate this Lease upon written notice to Lessor.

15. PROTECTION OF WETLANDS.

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises.

Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the permitting authority and obtain a permit or waivers under Section 404 of the Clean Water Act. For purposes of this Section 15, the term, "new construction," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. SPECIAL PROVISIONS.

16.1 Lessee shall comply with all applicable Federal, State, and local occupational safety and health regulations.

16.2 Lessee shall be responsible for determining whether it is subject to State and local sanitation, licensing, building code or building permit requirements and whether or not it requires a permit to do business and for compliance with them to the extent they are applicable.

17. INSURANCE.

17.1 Coverage Required. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

17.1.1 *Builders Risk* insurance covering the insured's premises and all replacements and/or additions thereto for their full insurable value plus ten percent (Cost + 10%) on a "replacement cost" basis with an ISO Special Causes of Loss form or equivalent required until completion of construction of the improvements upon the Premises. Builder's Risk Insurance shall be in place during active construction of the Improvements. Lessor agrees that Builder's Risk Insurance shall be, upon acceptance of the Improvements by the City of Mesa and/or occupancy of the Improvements for the intended use, no longer required in the form of Builder's Risk Insurance and shall be replaced by Lessor's General Liability and Property coverage as placed upon completion of the construction of the Improvements. Lessor agrees to perform this transition without any lapse or gap in coverage.

17.1.2 *Comprehensive General Liability* $5,000,000 per occurrence covering third party bodily injury and property damage on an occurrence basis in an amount not less than, including coverage for "premises/operations", "products and completed operations", "professional", "host liquor" and "blanket contractual liabilities".

17.1.3 *Commercial Auto Liability* - $1,000,000 per occurrence covering all owned, non-owned and hire vehicles operated on the Airport that are assigned to or used in the performance of commercial activities. If any hazardous materials are transported with Airport boundaries in conjunction with the operator's business activities, and MSC-90 Endorsement is required.

17.1.4 *Environmental Coverage* $2,000,000 per occurrence. – covering third party bodily injury and property damage associated with hazardous material storage facilities, tanks, pining, ancillary equipment and containment structures, or structures that are used, controlled, constructed or maintained at the Airport, and including expenses for defense, release mitigation and off-and on-site remediation.

17.1.5 *Personal Property Coverage* – covers all essential personal property (property essential to continued business operations) and all operator improvements made to buildings or facilities on the Airport, including all replacements and./or additions thereto, for their full insurable value (All Risks) on a replacement cost basis, and requires and ISO Special Cause of Loss form. Coverage shall be for risks of direct physical loss or damage, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth Movement. The limit shall be equivalent to at least full replacement cost value of personal property & improvements. Coverage shall be on a replacement cost basis. If there is a coinsurance provision, it shall be waived by an

Agreed Amount endorsement. Lessee's policy shall name Lessor as Loss Payee as their interest may appear.

17.1.6 *Worker's Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000 covering work-related injuries to employees and others permitted to operate or otherwise conduct business on the Premises.

17.2 Form. Each insurance policy obtained pursuant to this Section, except for *Worker's Compensation and Employer's Liability* policies, shall: (i) name Lessor as a certificate holder and additional named insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

17.3 Certificates of Insurance. Lessee shall deliver to Lessor a certificate of insurance for each policy required herein to Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the Term of this Lease.

17.4 Additional Insurance. At any time during the Term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this Section 17 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

17.5 Blanket Insurance. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

17.6 Insurance by Lessor. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this Section. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within TEN (10) business days after Lessor advises Lessee of the cost thereof.

18. SURRENDER OF POSSESSION.

18.1 Condition of Property.

18.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear, casualty (subject to Lessee's obligation under Section 7.7) and condemnation. Lessee shall not be responsible for the removal or remediation of any Hazardous Material that was present on, under or near the Premises prior to occupancy, regardless of the date of discovery of such Hazardous Material, and shall not be responsible for returning the Premises in a better condition than existed on the Effective Date, except as expressly provided hereunder. All trade fixtures, equipment, and other personal property installed or placed by Lessee on the Premises which are not permanently affixed thereto shall remain the property of Lessee, and Lessee shall have the right at any time during the Term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall become a part of the Premises, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from

the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

18.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required in a written notice to Lessee from Lessor at the time of Lessor's approval of the same, be removed from the Premises by Lessee, at Lessee's expense, within FIFTEEN (15) business days after Lease termination. Should Lessee fail to remove such trade fixtures, equipment or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

18.2 Holding Over. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Base Rent and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee solely as a result of Lessee's holding over.

19. INSPECTION BY LESSOR.

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, in which event Lessor shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee on the Premises.

20. NOTICES.

20.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses:

TO LESSOR: Phoenix-Mesa Gateway Airport Authority
Attn: Business Development Department
5835 South Sossaman Road
Mesa, Arizona 85212

TO LESSEE: SkyB Lot 118 LLC
Attn.: Felipe Monroy Torres
2415 E. Camelback Road, Suite 700
Phoenix, AZ 85016

With a required copy to: Warner Angle Hallam Jackson & Formanek PLC
Attention: James Valletta
2555 E. Camelback Road, Suite 800
Phoenix, AZ 85016-9256

20.2 Any notice shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service. Any Party may designate in writing a different address for notice purposes pursuant to this Section.

21. SEVERABILITY.

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

22. SALES AND PROPERTY TAXES.

Lessee shall pay any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax assessed as the result of its occupancy of Premises or conduct of any activity at the Airport under authority of this Lease, including any such tax assessable on Lessor as a result thereof. In the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor, such tax shall also be paid by Lessee for the period this Lease is in effect, to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business.

23. APPROVALS, CONSENTS AND NOTICES.

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

24. LIENS AND MORTGAGES.

24.1 General Provisions.

24.1.1 Except as provided in this Section 24, Lessee shall not engage in any financing or other transaction creating any mortgage or deed of trust upon the Premises, place or suffer to be placed upon the Premises any lien or other encumbrance, or suffer any levy or attachment to be made on Lessee's interest in the Premises. Any such mortgage or deed of trust, encumbrance or lien shall be deemed a violation of this Section, constituting a failure by Lessee to comply with the terms of the Lease, on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

24.1.2 Notwithstanding anything to the contrary in this Lease to the contrary, Lessee shall, during the Term, be permitted to pledge Lessee's ownership interests and/or mortgage, collaterally assign, or otherwise encumber its leasehold interest (including any interest in the improvements) under this Lease pursuant to one or more Mortgages, as defined below, to secure indebtedness, including, without limitation, one or more loans to finance construction of improvements and other development on the Premises, and including refinancings thereof, subject to the restrictions of Section 24.1.4.

24.1.3 Any such encumbrance, including leasehold deed of trust, is referred to as a "**Mortgage**" and the holder thereof a "**Mortgagee**." The Mortgagee, upon taking possession or upon foreclosure or taking an assignment in lieu thereof, shall be liable for all future rents and obligations hereunder and shall attorn to Lessor. In no event shall any Mortgagee be responsible or liable for any claims against Lessee or any of Lessee's agents, employees, invitees, contractors or representatives for any death, injury, illness, damage to or loss of property (except only to the extent provided hereinafter with respect to a default by Lessee under this Lease), or tort related claims. In no event shall any Mortgagee be liable for the actions or omissions of Lessee or Lessee's agents, representatives, employees, contractors, or invitees (except only to the extent provided hereinafter with respect to a default by Lessee under this Lease). The Mortgagee shall not be

responsible or liable for any default by Lessee under this Lease, except, and only, to the extent that such default continues for a period of THIRTY (30) days (or such additional time as is reasonably necessary for Mortgagee to cure such default, so long as Mortgagee is diligently pursuing action to cure the default) after (i) Mortgagee shall have obtained possession through a court-appointed receiver or ownership of the Premises, (ii) the Mortgagee shall have received written notice of such default at the same time that Lessor notifies Lessee of such default, (iii) any notice or cure period related to such default as provided in this Lease and in Section 24.2 and Section 24.3 below shall have elapsed without such default having been cured, and (iv) such default is reasonably capable of being cured by the Mortgagee. No Mortgage shall encumber Lessor's interest in the Premises or Lessor's interest in the improvements thereon. Further and promptly after Lessee assigns or encumbers any portion of the Premises or the improvements thereon, Lessee shall furnish Lessor with a written notice setting forth the name and address of such Mortgagee or trustee.

24.1.4 No Mortgage or deed of trust shall extend to or affect the fee, the reversionary fee interest or the estate of Lessor in the Premises. No Mortgage or deed of trust shall be binding upon Lessor in the enforcement of its rights and remedies under this Lease and by law provided, unless and until a copy thereof shall have been delivered to Lessor and such Mortgage or deed of trust is authorized in accordance with provisions of this Section 24.

24.1.5 Notwithstanding anything to the contrary in this Section 24, Lessor shall have all rights and remedies under Section 11 with respect to any Event of Default that continues after expiration of all applicable notice and cure periods set forth in Section 11.1 and this Section 24.

24.2 Lessor Agreement. With respect to Mortgagees of the Premises, Lessor agrees that:

24.2.1 If requested by a Mortgagee which shall have duly registered in writing with Lessor its name and address, and if Lessor shall give any notice, demand, election or other communication required hereunder (hereafter, collectively, "**Notices**") to Lessee, Lessor shall concurrently give a copy of each such Notice to the Mortgagee at the address designated by it. Notices shall be sent by registered or certified mail, return receipt requested, and shall be deemed given seventy-two (72) hours after the time they are deposited in a United States Post Office with postage charges prepaid, addressed to the Mortgagee. No Notice given by Lessor to Lessee shall be binding upon or affect Lessee or the Mortgagee unless a copy of the Notice shall be given to the Mortgagee pursuant to this Section 24.2.1.

24.2.2 Such Mortgagee entitled to such Notices, as specified above, shall have any and all rights of Lessee with respect to the curing of any default hereunder by Lessee.

24.2.3 If Lessor shall elect to terminate this Lease by reason of any default by Lessee with respect to the Premises, the Mortgagee that shall have become entitled to Notice as provided in this Section 24.2 shall have any and all rights of Lessee with respect to curing of any default with respect to the Premises.

24.2.4 Nothing herein contained shall be deemed to impose any obligation on the part of Lessor to deliver physical possession of the Premises to such holder of a Mortgage. To the extent the physical possession of the Premises by a secured creditor is not inconsistent with the terms of this Lease, or is incompatible with the Lessor's selection of available remedies in the Event of Default, Lessor shall not prevent such physical possession. If more than one Mortgagee shall seek to exercise any of the rights provided for in this Section 24, the holder of the Mortgage having priority of lien over the other Mortgagees shall be entitled, as against the others, to exercise such rights. Should a dispute arise among Mortgagees regarding the priority of lien, the Mortgagees shall prove to the satisfaction of Lessor that they have settled that dispute.

24.3 Protection of Mortgagee(s). Until the time, if any, that an approved Mortgage shall be satisfied and released of record:

24.3.1 A Mortgagee shall have the right, for a period equal to the period afforded Lessee under this Lease to perform any term, covenant, or condition and to remedy any default by Lessee hereunder, plus such additional time that is reasonably needed for Mortgagee to exercise Lessee's rights to cure any defaults subject to the following: (a) if the default cannot be cured by Mortgage, no additional time shall be allowed; (b) if the default can be cured by Mortgagee, such additional period of time shall not exceed SIX (6) months after Mortgagee's receipt of such Notice, unless a longer period of time is otherwise approved by Lessor in writing; (c) if curing the default requires that Mortgagee has possession through a court-appointed receiver or ownership of the Premises, Mortgagee shall be diligently pursuing action to take possession through a court-appointed receiver or ownership of the Premises; and (d) Mortgagee shall not be entitled to more than TEN (10) days of additional time to cure any defaults in the payment of Base Rent. Lessor shall accept such performance with the same force and effect as if furnished by Lessee, and the Mortgagee shall thereby and hereby be subrogated to the rights of Lessor. Such Mortgagee cure period shall begin on the later of: (i) the date Mortgagee receives notice pursuant to Section 24.2, or (ii) the date that Lessee's cure period expires under this Lease. During such Mortgagee cure period, Lessor will not terminate this Lease or disturb possession, interest or quiet enjoyment by the Lessee or Mortgagee in the Premises or improvements for any reason, subject to the terms of this Lease, until such Mortgagee cure period has expired. The Mortgagees and their respective designees shall have the right to enter upon the Premises to give such performance.

24.3.2 In case of an Event of Default by Lessee in the performance or observance of any non-monetary term, covenant or condition to be performed by it hereunder, if such Event of Default cannot practicably be cured by the Mortgagee without taking possession or ownership of the Premises, in such Mortgagee's reasonable opinion, or if such Event of Default is not susceptible of being cured by the Mortgagee, then:

(a) The Mortgagee shall proceed diligently to obtain possession through a court-appointed receiver or ownership of the Premises, and, upon obtaining such possession, shall proceed diligently to cure such defaults as are reasonably susceptible of cure (subject to any order by a court of competent jurisdiction staying or otherwise precluding such Mortgagee from obtaining such possession); or

(b) The Mortgagee shall institute foreclosure proceedings and diligently prosecute the same to completion (unless in the meantime it shall acquire Lessee's estate hereunder, either in its own name or through a nominee, by assignment in lieu of foreclosure), subject to any order by a court of competent jurisdiction staying or otherwise precluding such Mortgagee from obtaining such possession.

(c) The Mortgagee shall not be required to obtain possession or to continue in possession of the Premises pursuant to Section 24.3.2(a), or to continue to prosecute foreclosure proceedings pursuant to Section 24.3.2(b), if and when such Event of Default shall be cured.

(d) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Lessee, the times for commencing or prosecuting foreclosure or other proceedings, including proceedings to obtain possession, shall be extended for the period of the prohibition.

24.4 New Lease

24.4.1 Lessor agrees that, in the event of early termination of this Lease for any reason (including but not limited to any default by Lessee), Lessor, if requested by any Mortgagee, will enter into a new lease of the Premises with the most senior Mortgagee requesting a new lease, which new lease shall commence as of the date of termination of this Lease and shall run for the remainder of the original Term of this Lease (plus any applicable Renewal Term if exercised), at the rent and upon the terms, covenants and conditions herein contained, provided that:

(a) Such Mortgagee shall make written request upon Lessor for the new lease within SIXTY (60) calendar days after the date such Mortgagee receives written notice from Lessor that this Lease has been terminated;

(b) Such Mortgagee shall pay to Lessor, at the time of the execution and delivery of the new lease, any and all Base Rent payments, finance charges and late fees which would, at that time, be due and unpaid pursuant to this Lease but for its termination, and in addition thereto all reasonable expenses, including reasonable attorneys' fees, which Lessor shall have incurred by reason of the preparation of such new lease;

(c) Such Mortgagee shall perform and observe all covenants in this Lease to be performed and observed by the lessee under such new lease from and after full execution and delivery of such new lease, and shall within a reasonable period of time (not to exceed the time frames set forth in Section 24.3.1 above) after full execution and delivery of such new lease remedy any other conditions which Lessee under the terminated Lease was obligated to perform under its terms and did not perform, to the extent the same are reasonably susceptible of being cured by the Mortgagee; and

(d) The lessee under the new lease shall have the same rights, including the right of occupancy to the buildings and improvements on the Premises and elsewhere on the Airport as Lessee had under this Lease immediately prior to its termination.

Notwithstanding anything to the contrary expressed or implied in this Lease, any new lease made pursuant to this Section 24 shall have the same priority as this Lease with respect to any mortgage, deed of trust, or other lien, charge, or encumbrance on the fee of the Premises, and any sublease under this Lease shall be a sublease under the new Lease and shall not be deemed to have been terminated by the termination of this Lease.

24.4.2 Nothing herein contained shall require any Mortgagee to enter into a new lease pursuant to this Section 24.4, or to cure any default of Lessee referred to above.

24.4.3 If any Mortgagee shall request a new lease as provided in this Section 24.4, Lessor agrees, at the request of, on behalf of and at the expense of the Mortgagee, to institute and pursue diligently to conclusion the appropriate legal remedy or remedies to oust or remove the original Lessee from the Premises, but not any authorized subtenants actually occupying the Premises or any part thereof.

24.4.4 Unless and until Lessor has received notice from each Mortgagee that the Mortgagee elects not to demand a new lease as provided herein, or until the period therefor has expired, Lessor shall not cancel or agree to the termination or surrender of any existing subleases nor enter into any new leases or subleases with respect to the Premises without the prior written consent of each Mortgagee.

24.5 Effect of Transfer. Neither the foreclosure of any Mortgage (whether by judicial proceedings or by virtue of any power of sale contained in the Mortgage), nor any conveyance of the leasehold estate created by this Lease by Lessee to any Mortgagee or its designee by an assignment or deed in lieu of foreclosure or other similar instrument, shall require the consent of Lessor or constitute a default or Event of Default under this Lease, and upon such foreclosure, sale or conveyance, Lessor shall recognize the purchaser or other transferee in connection therewith as the Lessee under this Lease, subject only to an assumption in writing by such purchaser or transferee of all obligations of Lessee under this Lease from and after the date of such assumption.

25. GOVERNING LAW; ATTORNEY'S FEES.

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action

brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

26. RULES AND REGULATIONS.

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act*), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall at all times comply with the *Airport Minimum Standards* and *Airport Rules and Regulations*, as the same may be amended from time to time. Copies of the current *Airport Minimum Standards* and *Airport Rules and Regulations* are attached hereto as **Exhibit D**. Lessee acknowledges and agrees that Lessor may amend the *Airport Minimum Standards* and *Airport Rules and Regulations* at any time in Lessor's commercially reasonable discretion. Lessee shall, within a reasonable period of time, reasonably display to Lessor any permits or licenses required by law or other evidence of compliance with laws upon written request.

Lessor shall use commercially reasonable efforts to timely notify Lessee of any updates in the *Airport Rules and Regulations*, the *Airport Minimum Standards*, the *Aviation Fuel Storage, Dispensing and Handling Guidelines*, and the Airport *Fly Friendly Procedures*.

27. CORPORATE AUTHORIZATION.

In executing this Agreement, each of Lessor and Lessee represents and warrants to the other that if such Party is a corporation, or other legal entity, each Party has obtained and been granted the full right, power and authority to enter into this Lease.

28. UTILITY LINES AND SERVICE CHARGES.

28.1 Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested to do so by Lessee from time to time during the Term, Lessor will grant reasonable easements and rights-of-way on or across the Airport for the development and use of the Premises (in accordance with this Lease), including, without limitation, to suppliers of public or private utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to reasonably designate the lands along which such easements and rights-of-way shall be granted so as to minimize the disruption of the operation of the Airport and other Airport tenants.

28.2 Lessee shall pay for all utilities, including trash collection, used in its operations at the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

28.3 Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises (so long as Lessor's use does not interfere with or disrupt Lessee's use, occupancy, development and subleasing activities), and the right to repair the same when necessary in Lessor's reasonable discretion, including but not limited to, any utility easements on the Premises. Lessor agrees to coordinate any entries onto the Premises with Lessee. Lessor shall conduct such use and repairs in such a manner and at such times as to not interfere with Lessee's activities thereon.

29. RESERVATIONS TO LESSOR.

Subject to Lessor's representations, warranties and obligations, the Premises are accepted "as is, where is" by Lessee, subject to any and all existing easements or other encumbrances. In advance consultation with Lessee, Lessor reserves the right to grant reasonable easements, rights-of-way, and permits, over, on, or across any portions of the Premises for commercially reasonable purposes; provided, that Lessor and the grantee, as applicable, shall not exercise such rights so as to interfere with or disrupt Lessee's activities on the Premises, including the development of the Premises, to be determined in the reasonable judgment of Lessor and Lessee, and all such interference shall be minimized. Lessor shall provide Lessee reasonable notice of any plan to undertake the activities contemplated under this Section and shall coordinate with Lessee regarding the execution of such plans to minimize any interference with Lessee's or any subtenant's activities on the Premises, that all work shall be in compliance with all applicable laws, including Environmental Law, and that the surface of the Premises shall be restored to its original condition, including any necessary remediation in accordance with Environmental Law of any contamination associated with any Hazardous Material disturbed during any construction, at no cost to Lessee, upon the completion of any construction. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions obligating such parties to at a minimum the same conditions applicable to Lessor under this Section 29, including but not limited to that the surface of the Premises and any Improvements shall be promptly restored to their original condition, at no cost to Lessee, promptly upon the completion of any construction.

30. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS.

30.1 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, *Nondiscrimination in Federally Assisted Programs of the Department of Transportation,* as it may be amended.

30.2 Lessee agrees that: (i) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, creed, disability, age, sex or national origin in the use of the Premises; (ii) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (iii) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as it may be amended.

30.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age or handicap, be excluded from participating in any activity.

30.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom.

30.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

30.6 This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation or maintenance of the Airport. Lessor agrees to reasonably consult with Lessee prior to executing or entering into any agreement that could reasonably be expected to have a material effect on the Premises, or on Lessee or its subtenants, or on any Permitted Uses, with the stated purpose of attempting in good faith to avoid any interference with,

disruption of, or restriction or limitation on Lessee's intended use and development of the Premises in accordance with this Lease.

30.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

30.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

30.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto, or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

30.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

30.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning 49 U.S.C. §40103(e) and 47107 (a)(4).

30.12 This Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

30.13 To the extent that Lessee conducts or engages in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users and charge reasonable and not unjustly discriminatory prices for each unit or service; except, however, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

30.14 Lessee shall conform to Lessor and FAA safety and security rules and regulations regarding use of the Airport air operations area including runways, taxiways, taxilanes and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; complete and pass an airfield safe driving instruction program when offered or required by Lessor; and be subject to penalties as prescribed by Lessor for violations of Airport safety and security requirements.

31. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.

31.1 Lessee agrees to comply with pertinent statues, Executive Orders and such rules as are promulgated or identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee understands and acknowledges that the FAA

requires inclusion of and adherence to the terms and conditions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) ("**Title VI**") in all airport/aviation lease agreements where Lessor receives federal funding, including the Lease in this instance.

31.2 During the Term, Lessee, for itself, its assignees, and successors in interest agrees as follows:

31.2.1 Compliance with Regulations: Lessee will comply with the Title VI List of Pertinent Non-Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

31.2.2 Non-discrimination: Lessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

31.2.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Lessee of Lessee's obligations under this Lease and the Non-discrimination Acts And Authorities on the grounds of race, color, or national origin.

31.2.4 Information and Reports: Lessee will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to Lessor or the Federal Aviation Administration as appropriate, and will set forth what efforts it has made to obtain the information.

31.2.5 Sanctions for Noncompliance: In the event of Lessee's noncompliance with the Nondiscrimination provisions of this Lease, Lessor will impose such default remedies as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Lessee under the Lease until Lessee complies; and/or

(b) cancelling, terminating, or suspending the Lease, in whole or in part.

31.2.6 Incorporation of Provisions: Lessee will include the provisions subsections 31.2.1 through 31.2.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

31.3 The Lessee for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will

be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Non-Discrimination Acts and Authorities.

31.4 During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following (which Lessor is required to disclose and include in such Lease and other agreements, pursuant to FAA regulation):

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 Stat. 252) (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq), (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority

populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 (2005));

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et *seq.*).

31.5 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

32. FEDERAL FAIR LABOR STANDARDS ACT

This Lease incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. Lessee has full responsibility to monitor compliance to the referenced statue or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

33. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This Lease incorporates by reference the provisions of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

34. INCORPORATION OF QUITCLAIM DEED.

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government ("**Deed**"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

34.1 That this Lease is subject to all terms and conditions of the Deed; and

34.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

35. REQUIRED PROVISIONS OF QUITCLAIM DEED.

35.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

35.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

35.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

35.2 If the Premises are within any of the archaeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

35.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

36. AIRPORT SECURITY.

36.1 Airport Security Plan.

36.1.1 Lessor's Operations Department maintains an approved Airport Security Plan ("**Security Plan**") pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Lessee shall at all times comply with Lessor's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

36.1.2 Lessee is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Lessor's Operations Department.

36.1.3 Lessee shall promptly upon written request from Lessor correct physical or procedural deficiencies caused by Lessee that are located on the Premises which are contrary to Lessor's Operations Department, security directives, security bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Lessor notifying Lessee of any deficiency, Lessor shall provide Lessee with a reasonably-detailed explanation of the deficiencies. Lessee shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

36.1.4 Lessee shall, to the fullest extent permitted by law, indemnify, defend and hold Lessor harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-lessees or independent contractors of Lessee.

36.1.5 Lessee shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("**TSA**") or Lessor's Operations Department and make such audits available for inspection.

36.1.6 Lessee shall designate a primary security coordinator to receive security related briefings, bulletins and sensitive security information.

36.1.7 Lessor reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Lessor's Operations Department shall notify the Lessee security coordinator regarding modifications that effect Lessee.

36.2 <u>Airport Security Badge</u>.

36.2.1 Lessee's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Lessor's Operations Department, TSA or other entity having security jurisdiction at the Airport. Lessee, employees, and contractors will surrender security badges upon request by Lessor's Operations Department; physical security media (badges and keys) remain the property of Lessor. Within SEVENTY-TWO (72) hours of Lessor's confiscation of any security badges, Lessor shall provide Lessee with a reasonably-detailed explanation of the violations that caused Lessor to confiscate the security badges.

36.2.2 Lessee, employees and contractors shall comply with all security related audits, inspections, and screenings conducted by the Lessor's Operations Department.

36.2.3 Lessee will promptly return badges to the Lessor's badging office when badge holders employment is terminated, the badge is no longer needed or the employee/contractor is on extended leave.

36.2.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining, suspension or revocation of one or all misused badges.

37. DEFAULT BY LESSOR.

In the event of any alleged breach by Lessor of its covenants or duties contained in this Lease, Lessee shall have available all rights and remedies provided in contract, at law and/or in equity, provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to pursue a cure of such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Base Rent, or any other payments to be made by Lessee hereunder except as expressly permitted in this Lease.

38. BROKERS.

Lessor and Lessee each represents and warrants to the other Party that it has not had any dealings with any real estate brokers, finders or agents in connection with this Lease. Lessor and Lessee each agrees to indemnify, defend (with counsel selected by the other) and hold the other Party and other Party's nominees, successors and assigns harmless from any and all claims, costs, commissions, fees or damages arising from a breach of such Party's representation and warranty in this Section.

39. SALE BY LESSOR.

Lessee agrees to look solely to Lessor's interest in the Airport, including rents, issues, profits, proceeds, and awards for the recovery of any judgment against Lessor, it being agreed that the members, partners, officers, directors or shareholders of Lessor shall not be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

40. ESTOPPEL CERTIFICATE.

Each of Lessor and Lessee shall, without charge, at any time and from time to time hereafter, within

TEN (10) business days after written request from the other Party to do so, certify, by written instrument duly executed and acknowledged by such Party and certified to the other Party and to any prospective lender or purchaser/assignee: (i) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (ii) as to the existence of any default hereunder to the best of such Party's knowledge; (iii) as to the date on which Lessee was obligated to commence paying Base Rent and all other charges hereunder and the expiration date of the Term; (iv) as to whether this Lessee has assigned or transferred its interests or any portion thereof in this Lease; and (v) as to any other matters relating to this Lease and the Premises as may be reasonably requested. The requesting Party and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

41. UNAVOIDABLE DELAY.

In the event either Party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Lease to be performed by such Party ("**Required Act**"), and such delay or hindrance is due to Unavoidable Delay (as defined below), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of Unavoidable Delay. For purposes of this Lease, "**Unavoidable Delay**" shall mean, with respect to either Party, an unavoidable delay in the performance by such Party of any non-monetary conditions or obligations under this Lease due including but not limited to: (a) construction delay to the extent caused by the other Party, (b) legal proceeding brought by a non-Party with respect to the Improvements or any provision or requirement of this Lease which by its nature prohibits the Improvements from being commenced, continued and/or completed, (c) a Party not receiving a governmental permit, license, approval or inspection in time to meet a contractual time period imposed hereunder provided that Party, in good faith, was diligent in the application or request for and prosecution of the process to obtain that permit, license, approval or inspection, (d) flood, (e) epidemic, (f) quarantine restriction, (g) unusually severe weather not reasonably anticipated, (h) strike, (i) walkout, (j) lock-out, (k) war, (l) national emergency, (m) fire, (n) act of God, (o) act of terrorism, (p) natural disaster, (q) explosion, (r) default by the other Party hereunder in the performance of its obligations hereunder, (s) a delay caused by the discovery, presences or actions necessary to investigate or remediate Hazardous Material under Article 14 (but excluding Hazardous Material attributable to the Party claiming Unavoidable Delay), or (t) other causes beyond such Party's control; provided that no Unavoidable Delay shall exist unless the Party claiming such Unavoidable Delay shall give written notice to the other Party of the occurrence of the Unavoidable Delay not later than FORTY-FIVE (45) days after the commencement of such Unavoidable Delay.

42. MISCELLANEOUS.

42.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

42.2 No Waiver. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

42.3 Non-Waiver of Rights. No waiver or default by Lessor or Lessee of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by the other shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by such other Party, and neither Party shall be restricted from later enforcing any of the terms and conditions of this Lease.

42.4 Amendment. This Lease contains all agreements of the Parties as of the date hereof with respect to any matter mentioned herein. No prior agreement, correspondence, or understanding pertaining to any such matter shall be effective to interpret or modify the terms hereof. Oral commitments or promises are not

enforceable and shall not be binding or made part of this Lease. Any revisions or modifications to this Lease must be in writing and mutually accepted by persons with full and complete authority to bind the party.

42.5 Invalid Provisions. Should any provision of this Lease or any application thereof be held invalid by a court of competent jurisdiction, the remainder of this Lease shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

42.6 Litigation Expenses. In the event of litigation between Lessor and Lessee, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

42.7 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

42.8 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

42.9 Right of First Offer. Provided there is no existing Event of Default, Lessee shall have a right of first offer to lease the Premises and all Improvements thereon following the expiration of the Term (or Renewal Term, as applicable) in accordance with this Section. If Lessee is interested in leasing the Premises and all Vertical Improvements thereon at fair market rental rate following expiration of the Term (or Renewal Term, as applicable), Lessee shall provide written notice ("**Notice of Interest**") to Lessor of its interest not less than ONE (1) year prior the expiration of the Term (or Renewal Term, as applicable). Lessor shall advise Lessee within THIRTY (30) days after Lessor's receipt of the Notice of Interest if Lessor does not intend to lease (or market for lease) the Premises following expiration of the Term (or Renewal Term, as applicable). If Lessor intends to lease (or market for lease) the Premises, the Parties shall negotiate in good faith to agree on lease terms and conditions, including the fair market rental rate of the Premises and all Improvements thereon. If the Parties have not reached an agreement on the material terms of a lease (other than the fair market rental rate) within NINETY (90) days after Lessor's receipt of the Notice of Interest, neither party shall have any further right or obligation under this Section 42.9. If the Parties have reached an agreement on all material terms of a lease other than the fair market base rental rate within NINETY (90) days of Lessor's receipt of the Notice of Interest, then the Parties shall, within TEN (10) calendar days after the expiration of such NINETY (90)-day period, proceed to determine the fair market base rental rate with the appraisal process as set forth in Section 4.3.2. Upon determining the fair market base rental rate for the Premises, Lessor and Lessee shall promptly enter into a lease.

42.10 Memorandum of Lease. As of the Effective Date, or thereafter upon request from Lessee to Lessor, Lessor and Lessee agree to execute, acknowledge and deliver to one another a short form memorandum of lease for recording purposes in form and substance attached hereto as **Exhibit F**. In the event that such a memorandum of lease has been recorded, upon termination or expiration of this Lease, Lessee shall promptly execute such documents as reasonably requested by Lessor in recordable form to confirm the termination of this Lease.

42.11 Non-Disturbance. In the event that Lessor encumbers or liens any portion of the Premises, now or in the future, Lessor agrees to promptly (and in any event prior to the Effective Date in the event the Airport is encumbered as of such date) obtain for the benefit of Lessee and its leasehold lenders a commercially reasonable non-disturbance agreement (in form reasonably acceptable to Lessor, Lessee and Lessor's lenders) (an "**NDA**") stating that, among other provisions to be included in the NDA, provided no Event of Default has occurred and is continuing under this Lease, then this Lease shall not be terminated and the right of possession of Lessee to the Premises shall not be affected or disturbed in the exercise of any of its rights or remedies under such encumbrance or lien.

43. INCORPORATION OF RECITALS.

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

44. DECLARATION.

44.1 Subordination. The Premises is subject to and subordinate to that certain Declaration of Covenants, Conditions and Restrictions for Skybridge Arizona, dated July 31, 2019, recorded in the Official Records of Maricopa County, Arizona, as Instrument No. 20190580736 ("**Declaration**"). Lessee hereby agrees to fulfill and comply with its duties and obligations as a "Lessee" as defined under the Declaration, as such duties and obligations relate to the Premises.

44.2 Assessments and other Obligations. Lessee shall pay its "Proportionate Share" of "Common Area Assessments" in accordance with the Declaration. Such payment obligation shall constitute "additional rent" under this Lease. Lessee shall fulfill any other obligations it may have as a "Lessee" in accordance with the Declaration, as such other obligations relate to the Premises.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

ACKNOWLEDGED before me this____day of_____, 2023, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

LESSEE:

SKYB LOT 118 LLC, an Arizona limited liability company

STATE OF _____

By: _____

County of _____ Felipe Monroy Torres, Manager

)
) ss.
)

ACKNOWLEDGED before me this __day of_____, 2023, by Felipe Monroy Torres, in his capacity as Manager of SKYB LOT 118 LLC , an Arizona limited liability company , for and on behalf of said company.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A

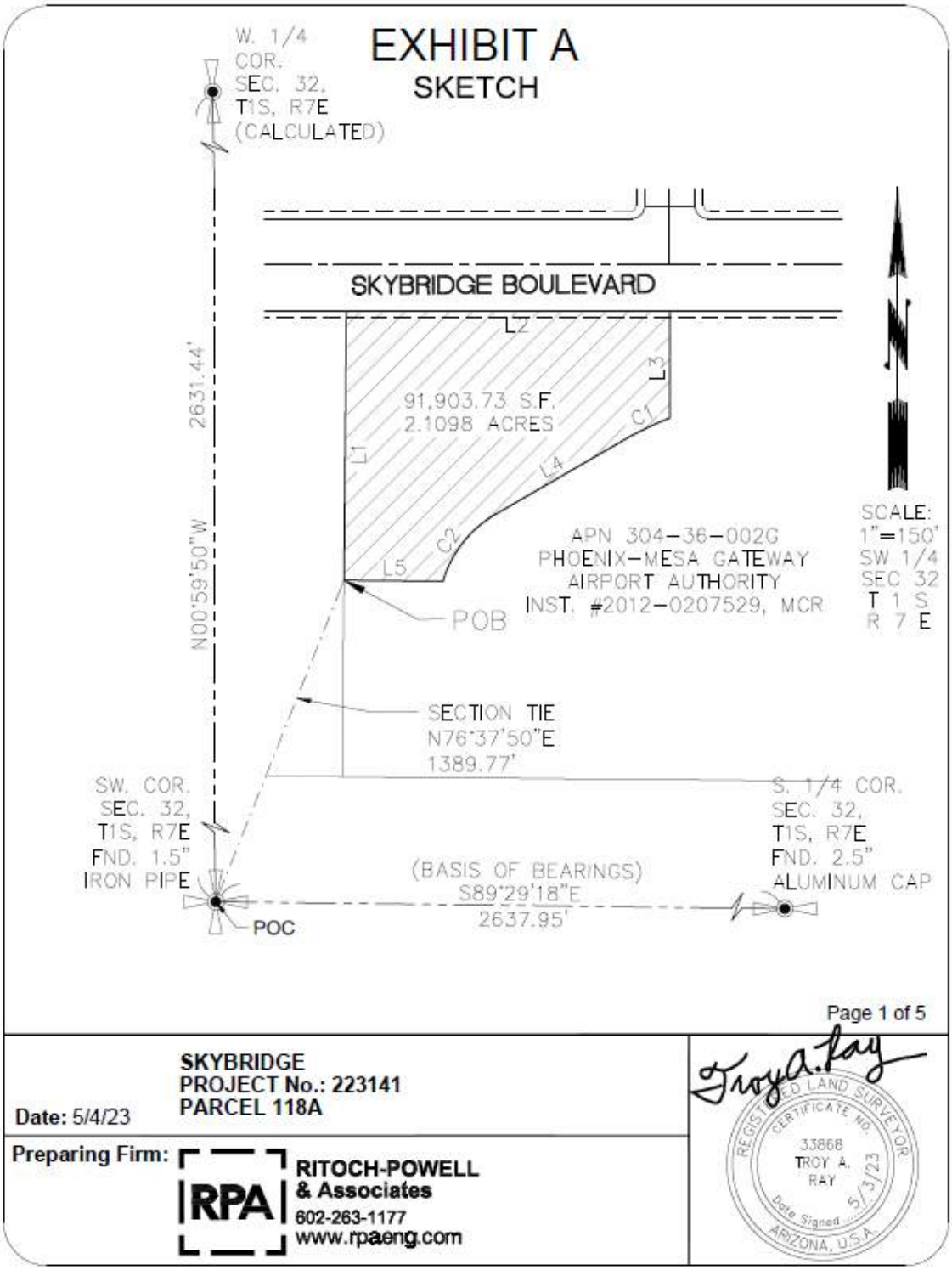
EXHIBIT A
SKETCH
W. 1/4 COR. SEC. 32, T1S, R7E (CALCULATED)
SKYBRIDGE BOULEVARD
2631.44'
N00°59'50"W
91,903.73 S.F.
2.1098 ACRES
L1
L2
L3
L4
L5
C1
C2
APN 304-36-002G
PHOENIX-MESA GATEWAY
AIRPORT AUTHORITY
INST. #2012-0207529, MCR
POB
SCALE: 1"=150'
SW 1/4 SEC 32 T 1 S R 7 E
SECTION TIE
N76°37'50"E
1389.77'
SW. COR. SEC. 32, T1S, R7E FND. 1.5" IRON PIPE
POC
(BASIS OF BEARINGS)
S89°29'18"E
2637.95'
S. 1/4 COR. SEC. 32, T1S, R7E FND. 2.5" ALUMINUM CAP
Page 1 of 5
SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A
Date: 5/4/23
Preparing Firm:
RPA
RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
TABLES

LINE TABLE		
LINE	BEARING	LENGTH
L1	N0°30'21"E	319.69'
L2	N90°00'00"W	384.85'
L3	S0°00'00"E	126.86'
L4	S60°00'00"W	174.82'
L5	N89°29'39"W	117.84'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHD BRNG
C1	8°27'37"	420.00'	62.02'	S64°13'49"W
C2	43°31'43"	136.49'	103.70'	S38°14'11"W

Page 2 of 5

SKYBRIDGE
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Troy A. Ray
REGISTERED LAND SURVEYOR
CERTIFICATE NO. 33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY PREPARED BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 AND LOCATED WITHIN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS SOUTH 89 DEGREES 29 MINUTES 18 SECONDS EAST A DISTANCE OF 2637.95 FEET;

THENCE NORTH 76 DEGREES 37 MINUTES 50 SECONDS EAST, A DISTANCE OF 1389.77 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 30 MINUTES 21 SECONDS EAST A DISTANCE OF 319.69 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SKYBRIDGE BOULEVARD;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID RIGHT-OF-WAY LINE , A DISTANCE OF 384.85 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 126.86 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, FROM WHICH THE RADIUS POINT BEARS SOUTH 21 DEGREES 32 MINUTES 23 SECONDS EAST;

THENCE SOUTHWESTERLY 62.02 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT , HAVING A RADIUS OF 420.00 FEET, THROUGH A CENTRAL ANGLE OF 8 DEGREES 27 MINUTES 37 SECONDS AND A CHORD BEARING SOUTH 61 DEGREES 13 MINUTES 49 SECONDS WEST;

THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 174.82 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH THE RADIUS POINT BEARS SOUTH 29 DEGREES 59 MINUTES 58 SECONDS EAST;

THENCE SOUTHWESTERLY 103.70 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 136.49 FEET, THROUGH A CENTRAL ANGLE OF 43 DEGREES 31 MINUTES 43 SECONDS AND A CHORD BEARING SOUTH 38 DEGREES 14 MINUTES 11 SECONDS WEST;

THENCE NORTH 89 DEGREES 29 MINUTES 39 SECONDS WEST, A DISTANCE OF 117.84 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 91,903.73 SQUARE FEET OR 2.1098 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTION IS SOUTH 89 DEGREES 29 MINUTES 18" SECONDS EAST FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA AS DETERMINED BY GPS DATA COLLECTION PERFORMED IN THE FIELD.

Page 3 of 5

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
CERTIFICATE NO. 33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
CLOSURE

SEGMENT #1 : LINE

COURSE: N0° 30' 21"E LENGTH: 319.69'
NORTH: 834842.2223' EAST: 776965.6902'

SEGMENT #2 : LINE

COURSE: N90° 00' 00"E LENGTH: 384.85'
NORTH: 834842.2223' EAST: 777350.5402'

SEGMENT #3 : LINE

COURSE: S0° 00' 00"E LENGTH: 126.86'
NORTH: 834715.3623' EAST: 777350.5402'

SEGMENT #4 : CURVE

LENGTH: 62.02' RADIUS: 420.00'
DELTA: 8°27'37" TANGENT: 31.07'
CHORD: 61.96' COURSE: S64° 13' 49"W
COURSE IN: S21° 32' 23"E COURSE OUT: N30° 00' 00"W
RP NORTH: 834324.6937' EAST: 777504.7416'
END NORTH: 834688.4244' EAST: 777294.7416'

SEGMENT #5 : LINE

COURSE: S60° 00' 00"W LENGTH: 174.82'
NORTH: 834601.0144' EAST: 777143.3431'

SEGMENT #6 : CURVE

LENGTH: 103.70' RADIUS: 136.49'
DELTA: 43°31'43" TANGENT: 54.49'
CHORD: 101.22' COURSE: S38° 14' 11"W
COURSE IN: S29° 59' 58"E COURSE OUT: N73° 31' 41"W
RP NORTH: 834482.8099' EAST: 777211.5869'
END NORTH: 834521.5111' EAST: 777080.6986'

Page 4 of 5

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
602-263-1177
www.rpaeng.com

Troy A. Ray
REGISTERED LAND SURVEYOR
CERTIFICATE NO. 33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
CLOSURE (CONTINUED)

SEGMENT #7 : LINE

COURSE: N89° 29' 39"W LENGTH: 117.84'
NORTH: 834522.5514' EAST: 776962.8632'

PERIMETER: 1289.77'
AREA: 91,903.73 SQ. FT. (2.1098 ACRES)
ERROR CLOSURE: 0.0081 COURSE: N34° 54' 24"W
ERROR NORTH: 0.00667 EAST: -0.00466

PRECISION 1: 159230.86

Page 5 of 5

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
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Troy A. Ray
REGISTERED LAND SURVEYOR
CERTIFICATE NO. 33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT B

AIRPORT RATES & CHARGES SCHEDULE

https://www.gatewayairport.com/Documents/DocumentLibrary/ExecDirSect/Airport%20Fees,%20Services%20and%20Rental%20Rates2019.pdf?Uniqueifier=BN0bRb1WgM

AIRPORT FEES, SERVICES & RENTAL RATES

https://www.gatewayairport.com/Documents/DocumentLibrary/ExecDirSect/Airport%20Fees,%20Services%20and%20Rental%20Rates2019.pdf?Uniqueifier=krpqAZPV2H

EXHIBIT C

AIRCRAFT OPERATIONS GUIDELINES

C1. Use of Airport. Lessee, Lessee's assigns, sublessees, or transferees who operate aircraft at the Airport and who are engaged in a private, government, or commercial aeronautical business or service and desire to use the Airport landing facilities for certain types of operations including, but not limited to: 1) taxiing and maneuvering on Airport runways, taxiways, ramps and aprons; 2) landings and approaches ("touch and go", "stop and go"); and 3) low approaches shall be subject to the provisions of this **Exhibit C.**

C2. Fees. As appropriate, Lessee shall pay Lessor fees as outlined below:

C2.1 *Landing Fee*: Lessee shall pay a landing fee at a rate equal to the amount reflected on the most current *Airport Rates and Charges Schedule* at the time of the aircraft operation, for each flight subject to a landing fee operated by or in conjunction with Lessee. The weight of any particular aircraft shall be its maximum certificated gross landing weight ("**MGLW**"). The amount owed to Lessor for each chargeable aircraft landing for each preceding calendar month shall be due and payable no later than the TWENTIETH (20th) day of the month succeeding the calendar month in which said aircraft landings took place. Lessee's written listing of all aircraft landings subject to such fee shall accompany said payment. Each entry in such listing shall include the date of the landing, the aircraft registration number, the type and model aircraft, the aircraft MGLW and the amount of the fee due.

C2.2 *Aircraft Ramp Space*. Lessee shall pay Lessor monthly, an aircraft-parking fee in an amount equal to that specified in the most current Airport Rates and Charges Schedule at the time of use, for each overnight aircraft parking position used by Lessee that is situated on Airport ramp outside the Premises. Such fees, if any, shall be payable to Lessor no later than the TWENTIETH (20th) day of the month following that in which Lessee occupied or used such space, and such payment shall be accompanied by a written listing of the aircraft (including registration number, make and model), dates and times of usage.

C2.3 *Other Space*. When available and specifically assigned to Lessee, Lessee shall pay Lessor monthly, in advance, a fee established in the *Airport Rates and Charges Schedule* for Lessee's non-exclusive use of other space not situated on or part of the Premises.

C2.4 *Additional Space/Services*. In the event that Lessee requires space or special services such as, but not limited to, aircraft line services, out-of-station ARFF standby, operations safety officers, ground service equipment, or fuel spills response teams, Lessee shall pay Lessor's standard fees for such services at the time the service is rendered, unless a secured account or agreement is established prior to requesting additional services.

C3. Books and Records. Lessee shall maintain for not less than THIRTY-SIX (36) months books, records and ledgers accurately reflecting the total number of monthly Aircraft landings for each aircraft subject to a landing fee and any other aforementioned fee indicating the make, type (including model designation), registration, maximum certificated gross landing weight, and arrival and departure time of each aircraft involved. These records or copies thereof shall be made available to Lessor upon Lessor's written request. In addition to monthly payment as set forth in Section C2 herein and together therewith, Lessee shall provide Lessor with a written report, indicating all aircraft operations and related information for the preceding calendar month.

C4. Disabled or Abandoned Aircraft. Should any aircraft owned or operated by Lessee through accident or for any other reason, become disabled or be abandoned in any area which could interfere with the continuous, normal operations of any of the runways, taxiways and airfield facilities at the Airport, Lessee shall:

C4.1 Immediately remove said aircraft to such location as may be designated by Lessor, unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agency or agencies of the federal government; and

C4.2 In the event of any accident where federal investigation in place is required, promptly upon receiving clearance to do so from the appropriate federal agency, remove said aircraft and any wreckage or debris resulting therefrom to the area(s) designated by said federal agency authorizing such removal; otherwise, such aircraft wreckage and debris shall be immediately removed from the Airport or stored at a location approved by Lessor.

C4.3 Should Lessee fail to proceed immediately to remove disabled aircraft, or should aircraft owned or operated by Lessee be abandoned on the Airport, Lessor shall have the right to remove such aircraft by any means Lessor deems necessary under the circumstances, and Lessee shall indemnify, defend, keep and hold Lessor, its members, board of directors, officers, agents, officials, servants, employees and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense (including costs of suit and attorneys' fees and expenses) incurred by Lessor by reason of removal of said aircraft, injury to persons or property or damages to such aircraft caused by such removal, as well as storage costs therefor. Lessee shall reimburse Lessor for any costs incurred by Lessor in removing and storing any aircraft, any property damage to the Airport caused by such aircraft or removal within TEN (10) business days of demand therefor.

C5. Aviation Fuel. Lessee, at Lessee's sole cost and expense, shall procure aviation fuel delivered to its aircraft on the Airport. If fueling or defueling aircraft owned or operated by Lessee, or under Lessee's direct control, Lessee shall comply fully with Lessor's *Aviation Fuel Storage, Dispensing and Handling Guidelines*.

C6. Fly Friendly Procedures. Lessee acknowledges receipt of Lessor's Fly Friendly noise abatement procedures, and shall provide such information to flight crews, post the information in the Lessee's flight planning area, and use the procedures to the extent possible, when consistent with safety and Air Traffic Control directives.

EXHIBIT D

AIRPORT MINIMUM STANDARDS
&
AIRPORT RULES AND REGULATIONS

(Links Provided Below)

Minimum Standards

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Airport%20Minimum%20Standards.pdf?Uniqueifier=NMDDAKF1A5

Rules and Regulations

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Rules%20and%20Regulations_19-20.pdf?Uniqueifier=NMDDAKF1A5

EXHIBIT E

PROHIBITED USES

1. Outdoor activities or entertainment accessory to a day care center or a wedding or reception center
2. Any residential development including but not limited to a dwelling unit in conjunction with a primary use intended for occupancy by the proprietor, caretaker or night-watchman of the primary use; a Multiple residence development including apartments, condominiums, and townhouses; and single-family residential development.
3. Crematories
4. Construction yards
5. Wedding and reception centers
6. Fraternal organizations, service and social clubs, lodges, fraternities and sororities.
7. Nursing and convalescent homes, philanthropic and charitable institutions, residential and out-patient care and rehabilitation centers, hospices
8. Hospitals
9. Mortuaries
10. Self Storage
11. Outdoor display areas for the sale and rental of items characteristically not enclosed in a building, limited to the following:
    a. Plant nurseries
    b. Building materials such as lumber and masonry supplies
12. Amusement enterprises, such as miniature golf courses, water slides, driving ranges. Batting cages, and similar outdoor uses, but indoor facilities for such uses shall be permitted
13. Commercial automobile, recreational vehicle, and similar vehicular parking and storage lots and garages, as a primary use
14. Plasma centers, charity dining services, homeless shelters, day labor hiring centers, substance abuse detoxification and treatment centers, rescue missions, and similar social service uses
15. Pawn shops and tattoo parlors
16. Assisted living facilities
17. Car washes
18. Automobile service stations with or without accessory auto repair facilities
19. Swap meets, farmer's markets, and similar outdoor sales operations
20. Auto towing and impound yards
21. Animal hospitals, clinics, and boarding kennels
22. Churches

EXHIBIT F

WHEN RECORDED,
RETURN TO:

James Valletta,
Attorney at Law
Warner, Angle, Hallam,
Jackson & Formaned
PLC
2555 E. Camelback Road, Suite 800
Phoenix, AZ 85016

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE ("Memorandum"), is made and executed as of the 1st day of June, 2023 (the "Effective Date"), by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Landlord**"), whose mailing address is Phoenix-Mesa Gateway Airport Authority, Attn: Business Development Department, 5835 South Sossaman Road, Mesa, Arizona 85212, and **SKYB LOT 118 LLC** , an Arizona limited liability company ("**Tenant**"), whose mailing address is 2415 E. Camelback Road, Suite 700, Phoenix, AZ 85016 .

RECITALS:

A. Landlord and Tenant entered into that certain Development Lease dated June 1, 2023 (the "Lease"), covering that certain real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Leased Premises").

B. Landlord and Tenant have agreed to enter into this Memorandum for the purposes of providing record notice of the Lease, and to protect the rights and interests of Landlord and Tenant as to third parties. All capitalized terms not specifically defined herein shall have the meaning ascribed to such terms in the Lease.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Lease and Premises. Subject to the covenants and conditions contained in the Lease, Landlord has leased to Tenant, and Tenant has leased from Landlord, the Leased Premises. Notice to the world is hereby given of the Lease and of the terms of the Lease.

2. Term. The term of the Lease commenced on June 1, 2023 and expires on May 31, 2083, unless earlier terminated or extended pursuant to the terms of the Lease.

3. Conflict. This Memorandum is prepared for the purpose of constructive notice and in no way modifies the provisions of the Lease. In the event of any conflict or any inconsistency between the terms and provisions of the Lease and the terms and provisions of this Memorandum, the terms and provisions of the Lease shall control.

4. Successors and Assigns. This Memorandum shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

5. Counterparts. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document, provided that all parties are furnished a copy thereof reflecting the signature of all parties.

(*Signatures appear on the following page*.)

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum as of the Effective Date set forth above.

LANDLORD:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

ACKNOWLEDGED before me this____day of_____, 2023, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

TENANT:

SKYB LOT 118 LLC , an Arizona limited liability company

By: _____
Felipe Monroy Torres, Manager

STATE OF _____)

County of _____) ss.
)

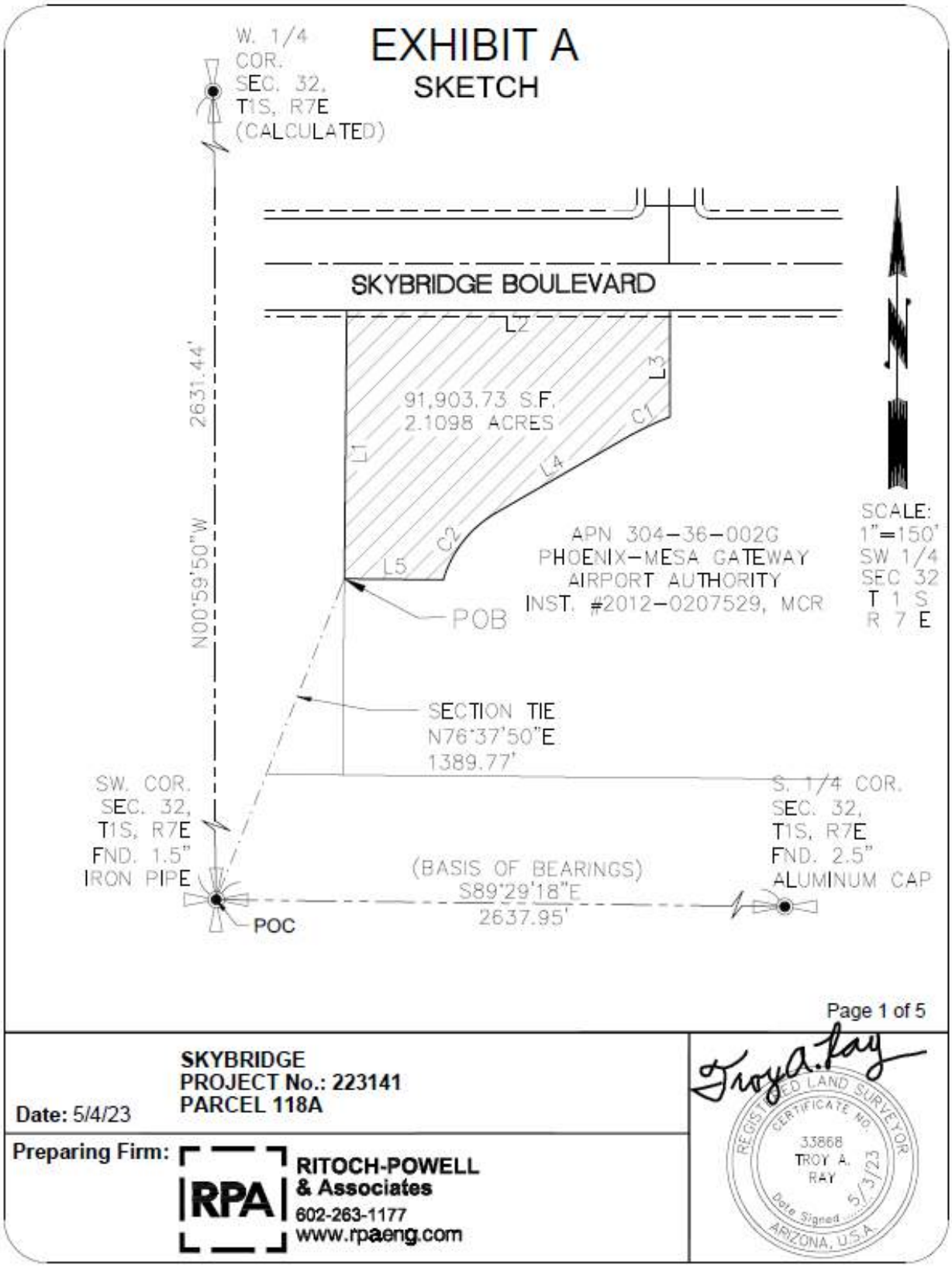
ACKNOWLEDGED before me this_____day of_____, 2023, by Felipe Monroy Torres in his capacity as Manager of SKYB LOT 118 LLC, an Arizona limited liability company , for and on behalf of said company.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A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2631.44'
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L1
L2
L3
L4
L5
C1
C2
APN 304-36-002G
PHOENIX-MESA GATEWAY
AIRPORT AUTHORITY
INST. #2012-0207529, MCR
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www.rpaeng.com
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

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PARCEL 118A

Date: 5/4/23

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Troy A. Ray
REGISTERED LAND SURVEYOR
CERTIFICATE NO. 33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY PREPARED BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 AND LOCATED WITHIN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS SOUTH 89 DEGREES 29 MINUTES 18 SECONDS EAST A DISTANCE OF 2637.95 FEET;

THENCE NORTH 76 DEGREES 37 MINUTES 50 SECONDS EAST, A DISTANCE OF 1389.77 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 30 MINUTES 21 SECONDS EAST A DISTANCE OF 319.69 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SKYBRIDGE BOULEVARD;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID RIGHT-OF-WAY LINE , A DISTANCE OF 384.85 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 126.86 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, FROM WHICH THE RADIUS POINT BEARS SOUTH 21 DEGREES 32 MINUTES 23 SECONDS EAST;

THENCE SOUTHWESTERLY 62.02 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT , HAVING A RADIUS OF 420.00 FEET, THROUGH A CENTRAL ANGLE OF 8 DEGREES 27 MINUTES 37 SECONDS AND A CHORD BEARING SOUTH 61 DEGREES 13 MINUTES 49 SECONDS WEST;

THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 174.82 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH THE RADIUS POINT BEARS SOUTH 29 DEGREES 59 MINUTES 58 SECONDS EAST;

THENCE SOUTHWESTERLY 103.70 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 136.49 FEET, THROUGH A CENTRAL ANGLE OF 43 DEGREES 31 MINUTES 43 SECONDS AND A CHORD BEARING SOUTH 38 DEGREES 14 MINUTES 11 SECONDS WEST;

THENCE NORTH 89 DEGREES 29 MINUTES 39 SECONDS WEST, A DISTANCE OF 117.84 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 91,903.73 SQUARE FEET OR 2.1098 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTION IS SOUTH 89 DEGREES 29 MINUTES 18" SECONDS EAST FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA AS DETERMINED BY GPS DATA COLLECTION PERFORMED IN THE FIELD.

Page 3 of 5

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
602-263-1177
www.rpaeng.com

Troy A. Ray
REGISTERED LAND SURVEYOR
CERTIFICATE NO. 33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
CLOSURE

SEGMENT #1 : LINE

COURSE: N0° 30' 21"E LENGTH: 319.69'
NORTH: 834842.2223' EAST: 776965.6902'

SEGMENT #2 : LINE

COURSE: N90° 00' 00"E LENGTH: 384.85'
NORTH: 834842.2223' EAST: 777350.5402'

SEGMENT #3 : LINE

COURSE: S0° 00' 00"E LENGTH: 126.86'
NORTH: 834715.3623' EAST: 777350.5402'

SEGMENT #4 : CURVE

LENGTH: 62.02' RADIUS: 420.00'
DELTA: 8°27'37" TANGENT: 31.07'
CHORD: 61.96' COURSE: S64° 13' 49"W
COURSE IN: S21° 32' 23"E COURSE OUT: N30° 00' 00"W
RP NORTH: 834324.6937' EAST: 777504.7416'
END NORTH: 834688.4244' EAST: 777294.7416'

SEGMENT #5 : LINE

COURSE: S60° 00' 00"W LENGTH: 174.82'
NORTH: 834601.0144' EAST: 777143.3431'

SEGMENT #6 : CURVE

LENGTH: 103.70' RADIUS: 136.49'
DELTA: 43°31'43" TANGENT: 54.49'
CHORD: 101.22' COURSE: S38° 14' 11"W
COURSE IN: S29° 59' 58"E COURSE OUT: N73° 31' 41"W
RP NORTH: 834482.8099' EAST: 777211.5869'
END NORTH: 834521.5111' EAST: 777080.6986'

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SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
602-263-1177
www.rpaeng.com

Troy A. Ray
REGISTERED LAND SURVEYOR
CERTIFICATE NO. 33868
TROY A. RAY
Date Signed 5/3/23
ARIZONA, U.S.A.

EXHIBIT A
CLOSURE (CONTINUED)

SEGMENT #7 : LINE

COURSE: N89° 29' 39"W LENGTH: 117.84'
NORTH: 834522.5514' EAST: 776962.8632'

PERIMETER: 1289.77'
AREA: 91,903.73 SQ. FT. (2.1098 ACRES)
ERROR CLOSURE: 0.0081 COURSE: N34° 54' 24"W
ERROR NORTH: 0.00667 EAST: -0.00466

PRECISION 1: 159230.86

Page 5 of 5

SKYBRIDGE
PROJECT No.: 223141
PARCEL 118A

Date: 5/4/23

Preparing Firm: RPA **RITOCH-POWELL & Associates**
602-263-1177
www.rpaeng.com

Troy A. Ray
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
33868
TROY A.
RAY
5/3/23
Date Signed
ARIZONA, U.S.A.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: March 2023 Financials
Date: May 16, 2023

Attached is the monthly Financials Report for March 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
March, 2023

	Month of March 2023				Y-T-D as of March 2023			
	March FY22 Actual	March FY23 Actual	YOY Variance	B/(W)	YTD FY22 Actual	YTD FY23 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	19,581	21,349	1,768	9%	174,471	222,275	47,804	27%
Fuel Flowage Fees	67,157	55,051	(12,106)	-18%	492,701	500,431	7,730	2%
Landing Fees	123,261	162,569	39,308	32%	1,121,228	1,078,119	(43,109)	-4%
Lease Income Aero	267,511	242,848	(24,663)	-9%	2,513,609	2,356,738	(156,871)	-6%
Fuel Sales	683,712	602,955	(80,757)	-12%	4,076,131	5,924,280	1,848,149	45%
Services Sold - Aero	540,516	676,428	135,912	25%	3,885,279	4,306,650	421,371	11%
Sub-total Aero Operating Revenues	1,701,738	1,761,200	59,462	3%	12,263,419	14,388,493	2,125,074	17%
Non-Aeronautical Operating Revenues								
Concessions	114,635	182,744	68,109	59%	822,763	1,098,886	276,123	34%
Lease Income Non-Aero	118,631	131,524	12,893	11%	1,077,945	1,011,518	(66,427)	-6%
Parking	323,639	326,909	3,270	1%	3,121,270	3,508,354	387,084	12%
Rental Car Fees	297,134	658,394	361,260	122%	1,647,710	2,240,859	593,149	36%
Svcs Sold - Non Aero	2,325	4,002	1,677	72%	32,226	40,440	8,214	25%
Sub-total Non-Aero Operating Revenues	856,364	1,303,573	447,209	52%	6,701,914	7,900,057	1,198,143	18%
Total Operating Revenues	**2,558,102**	**3,064,773**	**506,671**	**20%**	**18,965,333**	**22,288,550**	**3,323,217**	**18%**
Operating Expenses								
Cost of Goods Sold	499,259	395,571	103,688	21%	2,753,976	4,125,437	(1,371,461)	-50%
Personnel	764,225	948,956	(184,731)	-24%	6,992,116	7,561,995	(569,879)	-8%
Comm & Utilities	52,577	73,215	(20,638)	-39%	641,102	700,298	(59,196)	-9%
Contractual Services	417,924	575,235	(157,311)	-38%	3,964,951	4,642,113	(677,162)	-17%
Insurance	46,539	51,503	(4,964)	-11%	430,125	501,890	(71,765)	-17%
Other	21,021	21,957	(936)	-4%	347,168	222,067	125,101	36%
Repair & Maintenance	103,286	133,767	(30,481)	-30%	539,511	682,959	(143,448)	-27%
Supplies & Materials	79,180	82,470	(3,290)	-4%	756,515	693,083	63,432	8%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,622,382]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**1,984,011**	**2,282,674**	**(298,663)**	-15%	**16,425,464**	**19,129,842**	**(2,704,376)**	-16%
Operating Income (Loss) Before Depreciation	**574,091**	**782,099**	**208,008**	36%	**2,539,869**	**3,158,708**	**618,839**	24%
	22.4%	25.5%			13.4%	14.2%		
Depreciation		1,417,678				12,842,836		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
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www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **May 16, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Request for Proposals	2023-018-RFP	Insurance Broker Services – Health & Welfare Benefits	May 2023
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	July 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Proposals	2023-006-RFP	Car Rental Concessions	May 2023	September 2023
Request for Proposals	2023-020-RFP	ATM Services	May 2023	September 2023
Request for Proposals	2023-021-RFP	Vending Services	May 2023	September 2023

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $36,669.

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

Phoenix-Mesa Gateway Airport Authority
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Management Information Report

To: **Board of Directors**
From: **Bob Draper, LEED AP, Engineering and Facilities Director**
Through: **Chuck Odom, Chief Financial Officer**
J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: Impractical Procurement – City of Mesa Water Permits for Car Care Center Expansion Project
Date: **May 16, 2023**

The Car Care Center Expansion Project is currently underway. The City of Mesa (COM) provided Airport staff with permit fees for the new 4" water meter. The preliminary fees were estimated to be $65,420.80 by COM and included DSD and ENG Engineering Reviews, the 4" water meter, a technology fee, and the water connection. This fee was not identified in the original scope of work for the project.

In accordance with PMGAA's Procurement Policy 22-01, this report is to notify the Board of this expenditure over $50,000 without competitive quotes. Staff approved the purchase as provided under Impractical Procurements, as defined under PMGAA's Procurement Policy.

COM has notified PMGAA that there may be additional fees related to the water meter, such as inspection fees, at a later date. If additional fees are incurred, Airport staff will provide the Board with those costs.

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Management Information Report

To: **Board of Directors**
From: **Bob Draper, Engineering and Facilities Director**
Through: **Chuck Odom, Chief Financial Officer**
J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: **Project 1216, Fuel Farm Expansion Design Services Change Orders**
Date: **May 16, 2023**

On March 15, 2022, the Board approved an Authorization of Services (AOS) for Engineering Design Services for the Fuel Farm Expansion project with Kimley-Horn & Associates, resolution #22-09, in the amount of $373,867.00. The total budget for the project is $455,317.91. Since the project has been underway, Airport staff has issued two change orders against the AOS for required modifications.

Change order #1: Increased the scope of the project from an expansion quantity of 150,000 additional gallons of Jet-A fuel to 300,000 additional gallons. This increase in storage capacity necessitated additional design components such as additional storage tanks, an expanded secondary containment system, and associated piping, electrical, and civil design work.	addition	$26,317.91
Change order #2: Provided interim design that included the addition of three 50,000 gallon Jet-A fuel storage tanks. This change required additional design of associated plumbing, piping, and controls connected to the existing system.	addition	$49,772.18
Total Revised Project Amount		$449,957.09

The current remaining budget unencumbered for the project after all charges and the above change orders is $5,360.82. If additional change orders that increase the AOS amount are incurred, Airport staff will provide an MIR to the Board.

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, June 20, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Brigette Peterson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Brigette Peterson, Chair)

3. **Pledge of Allegiance**

4. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

5. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

6. **Presentation** – Boyer Gateway East, L.C.

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **May 16, 2023**.

   b) **Resolution No. 23-28 –** Authorizing an agreement for financial participation between the **City of Mesa** and Phoenix-Mesa Gateway Airport Authority to share state and federal lobbyist and consulting services effective July 1, 2023, in the amount of $108,060.

   c) **Resolution No. 23-29 –** Authorizing the purchase of janitorial supplies from **Network Services Company in partnership with Waxie Sanitary Supply** for FY24, in an amount not to exceed $126,000.

   d) **Resolution No. 23-30 –** Authorizing the purchase of Jet A fuel and 100LL Avgas from **Ascent Aviation** for Airport Authority resale in the amount of $3,995,750.

   e) **Resolution No. 23-31 –** Authorizing the purchase of Unleaded and Diesel fuel from the **lowest priced State contract vendor** at market prices for Airport Authority use and resale in an amount not to exceed of $634,850. This amount will provide fuel for the 2024 fiscal year.

f) **Resolution No. 23-32 –** Authorizing the purchase of international waste management services from **Stericycle, Inc. (Stericycle)** in an amount not to exceed $55,000.00 for fiscal year 2024.

g) **Resolution No. 23-33 –** Authorizing Amendment 3 to the Land Lease Agreement with **Gateway Executive Airpark, LLC** for lots 11-14 in order to add an additional 19,386.18 square feet to the Premises.

h) **Resolution No. 23-34 –** Approving an unscheduled 5% **market adjustment** for the PMGAA Executive Director/CEO.

i) **Resolution No. 23-35 –** Authorizing an amendment extending the existing Intergovernmental Agreement (IGA) with the City of Mesa for **Aircraft Rescue and Firefighting** (ARFF) Maintenance, effective July 1, 2023, through June 30, 2024, with costs estimated to be approximately $40,000.

j) **Resolution No. 23-36 –** Authorizing a Facility Lease Agreement with **Straube's Aircraft Services Inc.** for the property located at 6262 S. Taxiway Circle, Mesa, AZ 85212 with an Effective Date of July 1st, 2023. The Term for the Agreement is thirty-six (36) months, terminating on June 30th, 2026, with one (1), two (2) year renewal option.

k) **Resolution No. 23-37 –** Authorizing an amendment of the FY23 Carryover Capital Budget to add $1,710,015.99 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR contract, with **Willmeng Construction, Inc**. and design contract with **TranSystems**, due to rental car companies' requests and Phoenix-Mesa Gateway Airport Authority approved changes that are necessary to meet the desired needs of the car rental companies.

Consideration and Possible Approval of:

8. **Resolution No. 23-38 –** Authorizing a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with **Willmeng Construction, Inc**., due to rental car companies' requests and Phoenix-Mesa Gateway Airport Authority approved changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $1,959,950.76 under CIP 1242 and provides an additional 90 contract days.

9. **Election of Chair and Vice Chair**

10. **Election of Secretary and Treasurer**

11. **Board Member Comments/Announcements**

12. **Next Meeting: Tuesday, July 18, 2023 at 9:00 a.m.**

13. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- SkyBridge Arizona Experiencing Lots of Activity and Excitement
- PMGAA Kicks-Off Gateway Tomorrow East Side Terminal Planning Study
- DSV Air & Sea Holds Ribbon-Cutting Event
- Parking Operation Improvements Continue with New Shuttle Busses
- Gulfstream and Virgin Galactic Hangars Taking Shape
- Walls and Beams Going Up for 5-Gate, 30,000 Square Foot Terminal Addition

Executive Director's Report

June 2023

Financial Snapshot

OPERATING INCOME	April		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY22	FY23	
Revenues	$2,889,829	$2,725,588	**($164,241)**	$21,855,162	$25,014,916	**$3,159,754**
Less Expenses	$2,113,773	$1,928,721	**($185,052)**	$18,540,547	$21,058,561	**$2,518,014**
Operating Income *(Before Depreciation)*	**$776,056**	**$796,867**	**$20,811**	**$3,314,615**	**$3,956,355**	**$641,740**

Investment Fund Balances: As of April, the Local Governmental Investment Pool (LGIP) 700 = $6,128,510; Wells Fargo; Collateralized Money Market = $5,554,321 and Brokered CD's = $45,322,229; Total $57,005,060. The market value accounting adjustment was $311,068 for the month. The entry is for accounting purposes only. PMGAA invests in fixed rate instruments.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) reported a record-setting net operating income of $796,867 for April 2023, exceeding April 2022 by $20,811. This April, aeronautical revenues were down 14% compared to last year - fuel flowage fees deceased 21%, landing fees decreased 10% and fuel sales decreased 33%, but non-aeronautical revenues increased 9% over the previous April – parking revenue increased 14% and rental car revenues increased 31%.

Operating expenditures for April 2023 decreased by 9%. The decrease was attributed to a decrease in the cost of goods sold related to fuel sales.

Fiscal year-to-date 2023 (FYTD23), total operating revenues have increased by 14% and operating expenditures have increased by 14%.

PMGAA is in a strong financial position as Gateway Airport approaches the summer months of 2023.

Non-Airline Revenue Up Over 20% and Continues to Set New Monthly Records

Non-Airline Revenues	FYTD23	Revenue/EPAX	FYTD22	Revenue/EPAX	% Change
Vehicle Parking	$3,568,808	$4.37	$3,152,625	$4.14	13.2%
Rental Cars	$2,676,758	$3.27	$2,100,067	$2.76	27.5%
Food & Beverage	$489,221	$0.60	$354,637	$0.47	37.9%
Retail	$444,503	$0.54	$344,461	$0.45	29.0%
Total Revenues	$7,179,289	$8.78	$5,951,790	$7.82	20.6%

Largely due to several new food, beverage & retail concessions opening in the commercial passenger terminal during the past several years, air travelers using Phoenix-Mesa Gateway Airport (Airport, Gateway Airport) are spending more money at the Airport during their trip. For FYTD23, non-airline revenues are up more than 20% compared to the same time period last fiscal year. And non-airline revenue per enplaned passenger (Revenue/EPAX), an industry metric, has increased from $7.81 to $8.78 this year. The $2MM the PMGAA Board of Directors invested in the terminal concessions program has really paid off!

PMGAA Solicitations

This update is to provide notification of active and upcoming solicitations to ensure compliance with PMGAA's procurement transparency clause.

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	July 2023
Request for Proposals	2023-020-RFP	ATM Services	September 2023
Request for Proposals	2023-021-RFP	Vending Services	September 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Qualifications	2023-024-RFQ	CMAR for Baggage Claim Make-up	June 2023
Request for Proposals	2023-006-RFP	Car Rental Concessions	July 2023

Airport Operations

Parking Operation Improvements Continue with New Shuttle Busses

Parking is a very important part of Gateway Airport's operation, and it's also one of the few functions that PMGAA actually has control over. The airlines are responsible for ticketing, flight operations, and baggage delivery; the TSA is responsible for passenger security screening; and our various concessionaires are responsible for providing food, beverage, and retail/news & gift establishments.

New Parking Shuttle Busses

Several years ago, PMGAA began a Parking Improvement Program that included adding 1,300 new parking spaces in the Ray Road Economy Parking Lot, installing a new parking lot control system (good-bye yellow tokens!), and providing more accurate, real-time parking information on the Airport's website. The most recent project in the Program is new, larger parking shuttles to enhance customer service, increase efficiency, and improve overall reliability.

PMGAA is committed to working with its airport partners to provide all our customers with a memorable ***Just Plane Easy!*** travel experience.

PASSENGER COUNTS		April		% Change	FYTD		% Change
		2022	2023		FY22	FY23	
Passengers	TOTAL	171,015	169,747	-1%	1,369,504	1,647,013	20%
	Deplaned	79,580	78,251	-2%	699,042	829,635	19%
	Enplaned	91,435	91,496	0%	670,462	817,378	22%
Allegiant	Scheduled	158,800	154,603	-3%	1,308,726	1,526,120	17%
Swoop	Scheduled	4,488	7,710	72%	19,827	44,778	126%
Sun Country	Scheduled	3,052	2,826	-7%	19,177	32,828	71%
WestJet	Scheduled	1,317	1,298	-1%	6,642	11,372	71%
Flair	Scheduled	3,358	3,310	-1%	8,421	31,521	274%
Swift	Charter	0	0	0%	1,838	394	-79%

OPERATIONS	April		% Change	FYTD		% Change
	2022	2023		FY22	FY23	
Air Carrier	1,243	1,059	-15%	11,920	10,317	-13%
Military	396	314	-21%	4,013	3,070	-23%
General Aviation	21,249	18,036	-15%	188,413	192,076	2%
TOTAL	**22,888**	**19,409**	**-15%**	**204,346**	**205,463**	**1%**

Engineering and Planning

Walls and Beams Going Up for 5-Gate, 30,000 Square Foot Terminal Addition

Block Exterior Walls Being Erected for Terminal Addition

A $28MM commercial passenger terminal addition is beginning to take shape as exterior block walls are erected, beams placed, and utilities installed. This important airport facility project is being partially funded through a $14.4MM federal Bipartisan Infrastructure Law (BIL) Airport Terminal Program (ATP) grant and a $7MM Arizona Department of Transportation grant.

The new 5-gate, 30,000 sq. ft. addition replaces a 4-gate, 10,000 sq. ft. temporary facility that was constructed back in 2008 when commercial air service dramatically increased at the Airport. The new addition will be connected to the existing terminal by a glass walkway highlighting two large outdoor courtyards for passengers to enjoy while waiting for their flights.

PMGAA would like to thank the federal government and the State of Arizona for investing in this much-needed project. The new addition will allow Gateway Airport to handle its current airlines more efficiently and aggressively recruit new air carriers to greater Phoenix. The project also improves the energy efficiency of the terminal and enhances Americans with Disabilities Act (ADA) compliance.

The project is expected to be completed in January 2024 and operational in February.

Business Development

SkyBridge Arizona Experiencing Lots of Activity and Excitement

Industrial Buildings

Two 250,000 sq. ft. flex industrial buildings are under construction adjacent to Velocity Way on the north end of SkyBridge Arizona. These building are designed to handle both single tenant and multi-tenant uses. The two large buildings are scheduled to be completed in the first quarter of 2024.

NAU Hospitality Workforce Development Center

NAU's School of Hotel and Restaurant Management is building a Workforce Development Center in SkyBridge Arizona. The center will offer high-quality and convenient education and training programs to help expand the hospitality workforce in Mesa and surrounding greater Phoenix communities.

Cross Flow Testing Facility

SkyBridge Arizona is constructing a cross flow testing facility and an associated controls building totaling approximately 5,530 sq. ft. The facility will be used by SkyBridge Arizona tenants for component and product testing as a supplement to the manufacturing process.

DSV Air & Sea Holds Ribbon-Cutting Event at New Facility

Gateway Airport has landed its first scheduled international air cargo operation. DSV Air & Sea, a global transport and logistics leader, will begin twice-weekly service between Gateway Airport and Asia and Europe at the end of June using Boeing 747 equipment. DSV has signed a lease for a 22,000 sq. ft. hangar to help facilitate air cargo transport services for the semiconductor industry, electric car manufacturers, mining operations, alternative energy companies, and others.

A Ribbon-Cutting Ceremony was held on May 16th.

DSV VIP's Cut Ceremonial Ribbon for New Facility

Gulfstream and Virgin Galactic Hangars Taking Shape

Virgin Galactic's Manufacturing Facility

Gulfstream's 225,000 Sq. Ft. Hangar Complex

Communities across the country would be ecstatic to land either Gulfstream Aerospace Corp. or Virgin Galactic at their local airport. Both aerospace industry innovators represent exciting new growth opportunities, high-wage jobs, and hundreds of millions of dollars in long-term regional economic benefit.

In Arizona, the Phoenix East Valley is reaping tremendous benefit from having both industry icons developing large facilities at Gateway Airport. Gulfstream is constructing a 225,000 sq. ft. hangar and office complex and Virgin Galactic is constructing a 36,000 sq. ft. hangar to house "the mothership" and a 125,000 sq. ft. manufacturing facility where they will assemble up to six spaceships each year. Both projects are scheduled to be completed in early 2024.

Gateway Airport would like to thank its partners at the Arizona Commerce Authority (ACA), Greater Phoenix Economic Council (GPEC), and the City of Mesa for their efforts in helping attract Gulfstream and Virgin Galactic to the Airport. We make a pretty good team!

Community Noise Report

CALLERS	April		FYTD	
	2022	2023	FY22	FY23
Total	11	7	120	127

AIRCRAFT TYPE	April		FYTD	
	2022	2023	FY22	FY23
	Callers	Callers	Callers	Callers
Commercial	6	5	72	71
GA Total	0	2	12	31
Helicopter	2	0	7	0
Military	3	0	29	25
Total	11	7	120	127

LOCATION	April		FYTD	
	2022	2023	FY22	FY23
Mesa	3	4	43	59
Gilbert	5	2	60	45
Gold Canyon	0	0	1	2
Queen Creek	3	1	11	15
Queen Valley	0	0	3	2
San Tan Valley	0	0	0	0
Apache Junction	0	0	1	4
Fountain Hills	0	0	1	0
TOTAL	11	7	120	127

PMGAA received communications from only 7 individuals regarding aircraft noise issues during the month of April 2023, compared to the 11 PMGAA received last April. This time of year, residents keep windows closed and noise calls tend to decrease.

PMGAA Team Member Spotlight

Employee Name: **Dwayne Hoyt**
Employee Title: **Airfield Operations Supervisor**
PMGAA Department: **Operations, Security, and Maintenance**
Years with PMGAA: **18+**

What are your job responsibilities for PMGAA? Direct and oversee airfield operations staff related to the FAA Part 139 and TSAR 1542 regulations. Participate/Assign the inspections of airfield facilities including, airport grounds, parking facilities, runways, taxiways, aircraft aprons, gate assignments, and service roadways to assure safety, security, and efficiency of operations and efficient flow of aircraft. Other responsibilities include training, reducing operational costs, monitoring the department's compliance with operational policies, and keeping up to date with the progress of administrative duties.

What is your most memorable Gateway Airport moment? I would say the growth of the Airport. I have seen the terminal go from two gates, one store, and one TSA Checkpoint Lane, to its current state. Being a part of all the airfield improvements has been a great experience.

What is something people may not know about you? I put in several hours each month helping with charity and community services. My favorite charity event was a Kids with Cancer Foundation fundraiser. We held a western reenactment at the Pioneer Living Museum and my organization raised over $700 in one afternoon. I will never forget the excited look on all the kids' faces.

Gateway Aviation Services

PMGAA pumped more than 1.52MM gallons of aviation fuel during the month of April 2023, a 13% decrease compared to the 1.75MM gallons dispensed during last April. Commercial Jet A fuel activity showed signs of improvement and was only down 7% during the month.

FYTD23, Gateway Aviation Services has pumped more than 15.24MM gallons of aviation fuel.

FUEL (Gallons)	April			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	48,971	37,729	-23%	385,939	403,093	4%
Retail Jet A	82,784	65,653	-21%	462,687	681,095	47%
Contract	366,075	253,883	-31%	3,212,104	2,953,220	-8%
Commercial	1,250,656	1,167,916	-7%	12,562,992	11,207,857	-11%
TOTAL	**1,748,486**	**1,525,181**	**-13%**	**16,623,722**	**15,245,265**	**-8%**

Community and Government Relations

PMGAA Kicks-Off Gateway Tomorrow East Side Terminal Planning Study

PMGAA has officially kicked-off its east side terminal planning study called **Gateway Tomorrow**. This inclusive, long-range planning exercise will consider, refocus, and build upon past planning efforts using recent data and updated information about the region, the Airport, the aviation industry, and current global economic conditions. The PMGAA Board of Directors and staff, Member Communities, airlines, federal agencies, regional economic development organizations, and other key stakeholders are participating in the year-long study. A final report will be presented in early 2024.

The goal of **Gateway Tomorrow** is to reset and refine our shared vision for a future commercial passenger terminal campus on the east side of the Airport, identify the important elements to be included in Phase I, develop general cost estimates, and explore possible funding sources and creative funding mechanisms.

Airport facility and infrastructure to be considered:

- 250,000 to 350,000 SF commercial passenger terminal
- Multiple aircraft gates and associated hold rooms
- Airline ticket counters
- TSA Security Screening Checkpoint and TSA office/training space
- U.S. Customs and Border Protection Federal Inspection Services facility
- PMGAA administration and operations space (including conference/Boardroom)
- Airport Operations Control Center
- Airline/tenant offices
- Food, beverage, and retail concession locations, storage, and delivery
- Checked baggage make-up, in-line explosive detection system, and baggage claim facilities
- Rental car counters, offices, and ready vehicle lot
- Aircraft parking apron, equipment storage areas, and overnight aircraft parking locations
- Airport roadways and associated infrastructure
- Passenger and employee parking
- Aviation fuel storage facility
- Ground transportation (taxi, shuttle, bus, and ride sharing) locations
- Law enforcement offices and support vehicle parking

MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | May 16, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA) was convened on Tuesday, May 16, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix (*via audioconference*)
Mayor Chip Wilson, Apache Junction (*via audioconference*)
Lt. Governor Monica Antone, Gila River Indian Community*
Mayor Julia Wheatley, Queen Creek
Mayor John Giles, Mesa
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney

1. **Call to Order** at 9:01 a.m. (Mayor Peterson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - Fiscal Year-to-Date (FYTD) Net Operating Income is $3,158,708.
   - Phoenix-Mesa Gateway Airport (Airport, Gateway Airport) welcomed 229,810 commercial passengers during March 2023. This is a slight dip compared to the 239,160 passengers in March 2022.
   - Governor Hobbs recently signed a 2023-2024 State Budget that included an appropriation of $7MM for the Airport's new five-gate, 30,000 square foot terminal addition currently under construction. In FY2022, PMGAA submitted a grant request for $20MM as part of the Bipartisan Infrastructure Law (BIL) Airport Terminal Program and received $14.4 MM. The total project cost is $28 MM.
   - Last month SkyBridge Arizona held a groundbreaking event on Lot 108 for the second of two 250,000 sq. ft. industrial buildings. Since then, construction of the horizontal infrastructure began with the footings poured for the two buildings. These two large buildings are being built to accommodate both single and multiple tenants.

DRAFT

- Gulfstream has established a base of operation at the Airport and is leasing over 100,000 sq. ft. of hangar space while their new 225,000 sq. ft. West Coast Service Center is being constructed. Gulfstream is working towards a completion date in the beginning of 2024.
- Gateway***East*** is a 300-acre, mixed use, non-aeronautical development opportunity located on the east side of the Airport. The master developer for this project is The Boyer Company from Salt Lake City, UT. They are working with the City of Mesa on entitlements for the project. They will present the Master Plan for the development to the PMGAA Board at an upcoming meeting.
- Virgin Galactic is leasing two of the three hangars in the Gateway Executive Airpark located at the north end of the airfield. Progress continues on the customization of these hangars. The steel is being erected on the 125,000 sq. ft. hangar and the reinforced footings are being poured on the second hangar.
- Representatives from PMGAA and the City of Mesa met with industry leaders and some of Arizona's Delegation in Washington, DC earlier this month to discuss the need and benefits of moving Gateway Airport's Contract Air Traffic Control Tower into the FAA Air Traffic Control Tower Program. Maintaining staffing of air traffic controllers in a contract tower is the biggest challenge. The FAA frequently recruits from this pool of controllers into the FAA Tower Program.
- Seasonal Canadian airlines, WestJet, Swoop and Flair will not return to Gateway Airport this coming fall for the winter season. The airline industry is dynamic, with domestic and international airlines entering and exiting markets based on several factors – profitability, market share, number of aircraft, and pilot availability. PMGAA wishes all three Canadian airlines the very best of luck and will happily welcome them back should they chose to return to Gateway Airport at a later date.
- On May 23rd the **Gateway Tomorrow** Planning Stakeholder Advisory Committee (SAC) will meet to evaluate three possible alternatives for the various components of relocating the commercial terminal complex to the east side of the airfield. The SAC consists of representatives for the six member communities, Allegiant Air, the Federal Aviation Administration, PHX East Valley Partnership, PMGAA, and other key stakeholders.
- DSV Air and Sea is a global transport and logistics company. On Tuesday, May 16th it celebrates the expansion of its air charter network to Gateway Airport with a ribbon cutting ceremony. In February DSV signed a lease for a 22,000 sq. ft. hangar at Gateway Airport. Twice weekly scheduled service of air cargo will begin in late May/early June.
- The underground utilities are in place for the Airport's new 30,000 sq. ft. five-gate terminal addition. The concrete floor has been poured and concrete block walls are going up. Gone is the 10,000 sq. ft. portable four-gate facility that was constructed in 2008. During construction a 6,000+ sq. ft. temporary terminal facility has been erected to serve as a hold room for three-gates.
- Construction of an enclosed pedestrian walkway will allow passengers to proceed from the ticketing terminal building directly into the security screening checkpoint area. This customer service enhancement project will increase the queuing area for the security screening checkpoint and will keep passengers in a climate-controlled environment from ticketing through security screening. This project is anticipated to be complete in February 2024.
- Due to increasing passenger activity at PMGAA, a new TSA In-Line Checked Baggage System (BHS) is being installed to improve efficiency and speed up baggage processing. This will be paid for with a TSA grant. The design for this project will be complete in June.

- Improvements to the Rental Car Care Facility are underway. The project includes new vehicle wash and vacuum bays, upgraded maintenance facilities, additional vehicle queuing and storage and new operations offices. PMGAA, in conjunction with all its rental car companies, is investing between $8 - $9MM to make the improvements. The funding for the project comes from the Airport's dedicated Customer Facility Charge (CFC) account.
- Fuel Farm Expansion - The Authority has purchased three new 50,000-gallon Jet-A fuel storage tanks that will be delivered in August. This additional fuel storage capacity will provide the Airport with approximately seven days of on-Airport fuel storage. This project begins in June and is scheduled to be completed by the end of the year.
- Inside Runway Reconstruction bid opening is June 1, 2023.

6. Consent Agenda

a) **Minutes** of the Board Meeting held on **April 18, 2023**.

b) **Resolution No. 23-22 –** Authorizing **Alliant Insurance Services, Inc. (Alliant)** under the terms of its existing Insurance Broker / Risk Management Consulting Agreement with the Phoenix-Mesa Gateway Airport Authority to purchase specific lines of insurance on behalf of the Authority beginning July 1, 2023, not to exceed premium cost of $646,110.

c) **Resolution No. 23-23 –** Authorizing a three-year contract with two additional one-year extension periods at the sole option of Phoenix-Mesa Gateway Airport Authority, with **USI Insurance Services, Inc. (USI)** for Insurance Broker Services in an amount not to exceed $169,000 over the five (5) year period.

d) **Resolution No. 23-24 –** Authorizing a facility lease with **Task Aerospace, Inc.** for a portion of the facility located at 5755 South Sossaman Road, Mesa AZ 85212. The lease term is one (1) year, commencing on July 1, 2023 with one (1) additional renewal period of one (1) year.

e) **Resolution No. 23-25 –** Authorizing granting **Salt River Project** a 2.97-acre perpetual easement.

Mayor Chip Wilson moved to approve the Consent Agenda.
Mayor Julia Wheatley seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 23-26** Authorizing a Development Lease with **SkyB Lot 116-B LLC**, an Arizona limited liability company, for 4.15 acres located within the SkyBridge Arizona project identified as Lot 116-B. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 116-B from the Master Lease Agreement.

Mayor Julia Wheatley moved to approve Resolution No. 23-26.
Mayor Chip Wilson seconded the motion.
The motion was carried unanimously.

9. **Resolution No. 23-27** Authorizing a Development Lease with **SkyB Lot 118 LLC**, an Arizona limited liability company, for 2.11 acres located within the SkyBridge Arizona project identified as Lot 118-A. The lease term is SIXTY (60) years commencing on June 1st, 2023. To authorize an Adjustment Amendment with MESA SKYBRIDGE, LLC to concurrently remove Lot 118-A from the Master Lease Agreement.

   Councilmember Jim Waring moved to approve Resolution No. 23-27.
   Mayor Julia Wheatley seconded the motion.
   The motion was carried unanimously.

10. **Board Member Comments/Announcements.**
    None.

11. **Next Meeting: Tuesday, June 20, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

12. **Adjournment.**
    The meeting adjourned at 9:29 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-28

To: Board of Directors
From: Ryan Smith, Communications & Government Relations
Through: Scott Brownlee, Deputy Director/COO
J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: State & Federal Legislative Representation and Consulting Services
Date: June 20, 2023

Proposed Motion
To authorize an agreement for financial participation between the City of Mesa and Phoenix-Mesa Gateway Airport Authority to share state and federal lobbyist and consulting services effective July 1, 2023, in the amount of $108,060.

Narrative
In the past, Phoenix-Mesa Gateway Airport Authority (PMGAA) and the City of Mesa have shared expenses pertaining to lobbyist services. Mesa and the Airport will utilize the services of Squire Patton Boggs for federal professional services, and Policy 48 for state professional services, and will share in these costs.

The Airport Authority will provide 40 percent of the total cost for the federal lobbying contract, and 33 percent of the total cost for the state lobbying contract. The dollar amounts shown below are PMGAA's portion of the total amount.

Company	Bid Amount
1. Policy 48 (State)	$33,660
2. Squire Patton Boggs (Federal)	$74,400

Total Contract Amount:

Total combined contract amount for FY 2024 will be $108,060.

Fiscal Impact
This contract was included in the FY24 operating budget and is funded under Contractual Services Other.

Attachment(s)
Letter of Agreement with City of Mesa.

RESOLUTION NO. 23-28

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an agreement for financial participation between the City of Mesa and Phoenix-Mesa Gateway Airport Authority to share state and federal lobbyist and consulting services effective July 1, 2023, in the amount of $108,060.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an agreement between the City of Mesa and Phoenix-Mesa Gateway Airport Authority to share state and federal lobbyist and consulting services effective July 1, 2023, in the amount of $108,060. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

DATE: June 20, 2023

TO: J. Brian O'Neill, Executive Director, Phoenix-Mesa Gateway Airport Authority

FROM: Scott J. Butler, Deputy City Manager, City of Mesa

SUBJECT: State & Federal Legislative Representation and Consulting Services

The purpose of this memo is to confirm the proposed cost-sharing arrangement for state and federal consulting services between the City of Mesa and the Phoenix-Mesa Gateway Airport Authority.

State professional services are provided by Policy 48. The agreement for state representation will cover the period from July 1, 2023 until June 30, 2024. Gateway's financial participation for state services will be set at 33% of the total costs. For FY2024, the cost will not exceed $33,660.

Federal professional services are provided by Squire Patton Boggs, LLP. The agreement for federal representation will cover the period from July 1, 2023 until June 30, 2024. Gateway's financial participation for federal services will continue to be set at 40% of the total costs. For FY2024, the cost will not exceed $74,400.

c: Christopher J. Brady

Acknowledgement

_____ _____

J. Brian O'Neill, Executive Director/CEO Date

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-29

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Network Services Company in partnership with Waxie Sanitary Supply**
Date:	**June 20, 2023**

Proposed Motion
To authorize the purchase of janitorial supplies from Network Services Company in partnership with Waxie Sanitary Supply for FY24, in an amount not to exceed $126,000.

Narrative
Phoenix-Mesa Gateway Airport Authority maintains facilities hosting commercial airline passengers and over 100 employees, as well as general aviation operations and various tenant and office space. Passenger activity is at pre-pandemic levels, it is increasing compared to last year with over 1.5 million passengers this fiscal year. As part of a health and safety plan for our employees and passengers, the cleaning and frequency has increased, and the cost of janitorial supplies have increased as well. A primary function of the Operations and Maintenance Department is to ensure Airport facilities provide a clean, sanitary, and aesthetically pleasing environment for passengers, visitors, tenants, and staff. Janitorial and sanitary supplies, such as paper products and consumables, are required for health, safety, and satisfaction of customers, visitors, tenants, and employees.

Authorization to purchase janitorial supplies from Network Services Company in partnership with Waxie Sanitary Supply will allow PMGAA to utilize the unit pricing that was competitively bid for janitorial supplies.

PMGAA is a participating member of the Omnia Partners, allowing it to utilize contract #202329-01 executed by the City of Tucson with Network Services Company in partnership with Waxie Sanitary Supply for Janitorial Supplies. This contract is available upon request.

Fiscal Impact
This expenditure was included in the FY24 operating budget and is funded under OPM Supplies & Maintenance: Operating Supplies.

Attachment(s)
None.

RESOLUTION NO. 23-29

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of janitorial supplies from Network Services Company in partnership with Waxie Sanitary Supply for FY24, in an amount not to exceed $126,000.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of janitorial supplies from Network Services Company in partnership with Waxie Sanitary Supply for FY24, in an amount not to exceed $126,000. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-30

To:	**Board of Directors**
From:	**Matt Nebgen, Gateway Aviation Services Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**FY 24 purchase of Jet-A and 100LL Avgas**
Date:	**June 20, 2023**

Proposed Motion
To authorize the purchase of Jet A fuel and 100LL Avgas from Ascent Aviation for Airport Authority resale in the amount of $3,995,750.

Narrative
The Phoenix-Mesa Gateway Airport Authority owns and operates Gateway Aviation Services, the airport's sole provider of retail aviation fuel.

Jet-A and 100LL Avgas are needed to provide aircraft fuel to tenant, transient, corporate, flight school, airline, and military customers.

Request for Proposals No. 2019-05 was issued, and Ascent Aviation was selected as the airport's fuel provider. Board Resolution No. 19-34 approved a multi-year contract between Phoenix-Mesa Gateway Airport Authority and Ascent Aviation

Fiscal Impact
This purchase was included in the FY24 operating budget and is funded under – CGS Jet-A and 100LL Avgas budgeted line items.

Attachment(s)
N/A

RESOLUTION NO. 23-30

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of Jet A fuel and 100LL Avgas from Ascent Aviation for Airport Authority resale in the amount of $3,995,750.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of Jet A fuel and 100LL Avgas from Ascent Aviation for Airport Authority resale in the amount of $3,995,750. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-31

To:	**Board of Directors**
From:	**Matt Nebgen, Gateway Aviation Services Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**FY24 Purchase of Unleaded and Diesel Fuel – State Contract Vendors**
Date:	**June 20, 2023**

Proposed Motion
To authorize the purchase of Unleaded and Diesel fuel from the lowest priced State contract vendor at market prices for Airport Authority use and resale in an amount not to exceed $634,850. This amount will provide fuel for the 2024 fiscal year.

Narrative
The Phoenix-Mesa Gateway Airport Authority (PMGAA) owns and operates Gateway Aviation Services, the airport's sole provider of fuel for ground support equipment.

Unleaded and Diesel #2 are needed to provide fuel to tenant and airport ground support equipment.

As a qualified participant of the Arizona Department of Administration Sate Procurement Office (ADSPO), PMGAA can procure goods and services under state contracts. These contracts have been competitively bid and are available upon request.

Fiscal Impact
This purchase was included in the FY24 budget and is funded under Cost of Goods Sold and Fuel Usage for internal usage.

Attachment(s)
N/A

RESOLUTION NO. 23-31

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of Unleaded and Diesel fuel from the lowest priced State contract vendor at market prices for Airport Authority use and resale in an amount not to exceed $634,850. This amount will provide fuel for the 2024 fiscal year.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of Unleaded and Diesel fuel from the lowest priced State contract vendor at market prices for Airport Authority use and resale in an amount not to exceed $634,850. This amount will provide fuel for the 2024 fiscal year. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-32

To: Board of Directors
From: Matt Nebgen, Gateway Aviation Services Director
Through: Scott Brownlee, Deputy Director/COO
J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: International Waste Management Services
Date: June 20, 2023

Proposed Motion
To authorize the purchase of international waste management services from Stericycle, Inc. (Stericycle) in an amount not to exceed $55,000.00 for fiscal year 2024.

Narrative
Services provided by Gateway Aviation Services include the disposal of international waste generated from arriving aircraft. This waste is regulated by the U.S. Department of Agriculture and strict laws must be followed in the disposal of such waste.

Animal and Plant Health Inspection Service (APHIS) regulated waste refers to all international waste from ocean liners, ships and planes which is not hazardous. Stericycle will collect, transport, treat and dispose of all APHIS waste and regulated garbage generated on all international flights arriving at the Phoenix-Mesa Gateway Airport. All APHIS waste collected by Stericycle is transported to a permitted facility for proper treatment by autoclaving and subsequent disposal.

PMGAA entered into an agreement with Stericycle on March 16, 2022, for waste disposal services under a sole source procurement as Stericycle was, and continues to be, the only vendor that provides this service in the Phoenix area. The agreement is for 36 months unless terminated earlier by either party and is available upon request.

Fiscal Impact
This purchase was included in the FY24 operating budget and is funded under Cost of Goods Sold-Ramp Services in the respective amount of $55,000.00.

Attachment(s)
N/A

RESOLUTION NO. 23-32

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of international waste management services from Stericycle, Inc. (Stericycle) in an amount not to exceed $55,000.00 for fiscal year 2024.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of international waste management services from Stericycle, Inc. (Stericycle) in an amount not to exceed $55,000.00 for fiscal year 2024. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-33

To: Board of Directors
From: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: Gateway Executive Airpark - Lease Amendment 3
Date: June 20, 2023

Proposed Motion
To authorize Amendment 3 to the Land Lease Agreement with Gateway Executive Airpark, LLC for lots 11-14 in order to add an additional 19,386.18 square feet to the Premises.

Narrative
The Phoenix-Mesa Gateway Airport Authority ("Lessor") and Gateway Executive Airpark, LLC ("Lessee") entered into a Land Lease Agreement (the "Lease") on October 1, 2019 for lots 11-14, consisting of approximately 12.25 acres of land (the "Premises") for the purposes of developing a hangar complex consisting of approximately 180,000 square feet (the "Improvements").

When the original Land Lease agreement was executed between the Parties, there was an omission in the depicted Exhibit A's and Premises identification. This proposed Amendment #3 will add an additional 19,386.18 square feet to the Premises to correct this omission.

Financial Impact
Amendment 3 will increase Gateway Executive Airpark, LLC's lease payment by $814.80 per month, or $9,777.60 annually.

Attachment(s)
Land Lease – Gateway Executive Airpark, LLC – Amendment 3

RESOLUTION NO. 23-33

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize Amendment 3 to the Land Lease Agreement with Gateway Executive Airpark, LLC for lots 11-14 in order to add an additional 19,386.18 square feet to the Premises;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes Amendment 3 to the Land Lease Agreement with Gateway Executive Airpark, LLC for lots 11-14 in order to add an additional 19,386.18 square feet to the Premises. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority

THIRD AMENDMENT TO LEASE

This THIRD AMENDMENT TO LEASE ("Amendment 3") is executed to be effective as of the FIRST (1st) day of JULY 2023 ("Amendment 3 Effective Date") by and between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("Lessor"), and **GATEWAY EXECUTIVE AIRPARK, LLC,** an Arizona limited liability company ("Lessee").

WITNESSETH:

WHEREAS, Lessor and Lessee are parties to that certain Land Lease dated and effective the FIRST (1st) day of OCTOBER 2019, as amended by the First Amendment to Lease dated the TWENTY-FIRST (21st) day of October 2020, and the Second Amendment to Lease dated the FIRST (1st) day of October 2022 (collectively, the "Lease"), with respect to that certain real property at the Airport commonly described as LOT 11, LOT 12, LOT 13, and LOT 14 which real property is more particularly described in the Lease and referred to in the Lease as the "Premises".

WHEREAS, the Parties desire to enter into this AMENDMENT 3 in order to add an additional NINETEEN THOUSAND, THREE HUNDRED AND EIGHTY-SIX 18/100 (19,386.18) square feet of land into the Premises, which was incorrectly depicted in the original Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this AMENDMENT 3 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Each capitalized term used in this Amendment 3 and not defined herein shall be deemed to have the same meaning ascribed to it in the Lease.

2. The third WHEREAS is hereby deleted in its entirety and replaced with the following:

   WHEREAS, Lessor desires to Lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport described as LOT 11, LOT 12, LOT 13, and LOT 14, consisting of a total of approximately 12.694 acres of land (552,936 square feet), as set forth in **Exhibit A** attached hereto (the "Premises"); and

3. The provisions of SECTION 4.1 are hereby deleted in their entirety and replaced with the following:

   4.1 Base Rent. Subject to the increases provided in Section 4.3 and 4.4 below, Lessee agrees to pay Lessor annual rent for the use of the Premises in the amount of TWO HUNDRED SEVENTY-EIGHT THOUSAND, EIGHT HUNDRED SEVENTY-EIGHT AND 80/100 DOLLARS ($278,878.80), payable in monthly installments of TWENTY-THREE THOUSAND, TWO HUNDRED THIRTY-NINE AND 90/100 DOLLARS ($23,239.90) (the "Base Rent"). The Base Rent shall be payable in advance, without any prior demand therefor and without any

abatement, deductions or set-offs whatsoever, except as expressly set forth in this Lease, and tendered in lawful currency of the United States, either by check or electronic transfer.

4. The contents of **Exhibit A** are hereby deleted in their entirety and replaced with the **Exhibit A** attached hereto.

5. Lessee warrants and represents to Lessor that: (i) all necessary actions have been taken to authorize the execution of this AMENDMENT 3 by Lessee; (ii) the persons who have executed this AMENDMENT 3 on behalf of Lessee are duly authorized to do so; and (iii) this AMENDMENT 3 constitutes a legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms and the terms of the Agreement.

6. In all other respects the Lease shall remain unchanged and in full force and effect. The Lease, as amended by this AMENDMENT 3 shall continue to be binding upon Lessor and Lessee and their permitted successors and assigns.

7. All of the Recitals set forth above are incorporated into this AMENDMENT 3 by this reference.

IN WITNESS WHEREOF, the Parties have entered into this AMENDMENT 3 as of the date first set forth above.

FOR LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers Authority.

By:_____

Name: J. Brian O'Neill, A.A.E.
Executive Director/CEO

FOR LESSEE:

GATEWAY EXECUTIVE AIRPARK, LLC, an Arizona limited liability company.

By: _____

Name: Daryl J. Donkersloot,
Managing Member

EXHIBIT A

DEPICTION OF THE PREMISES

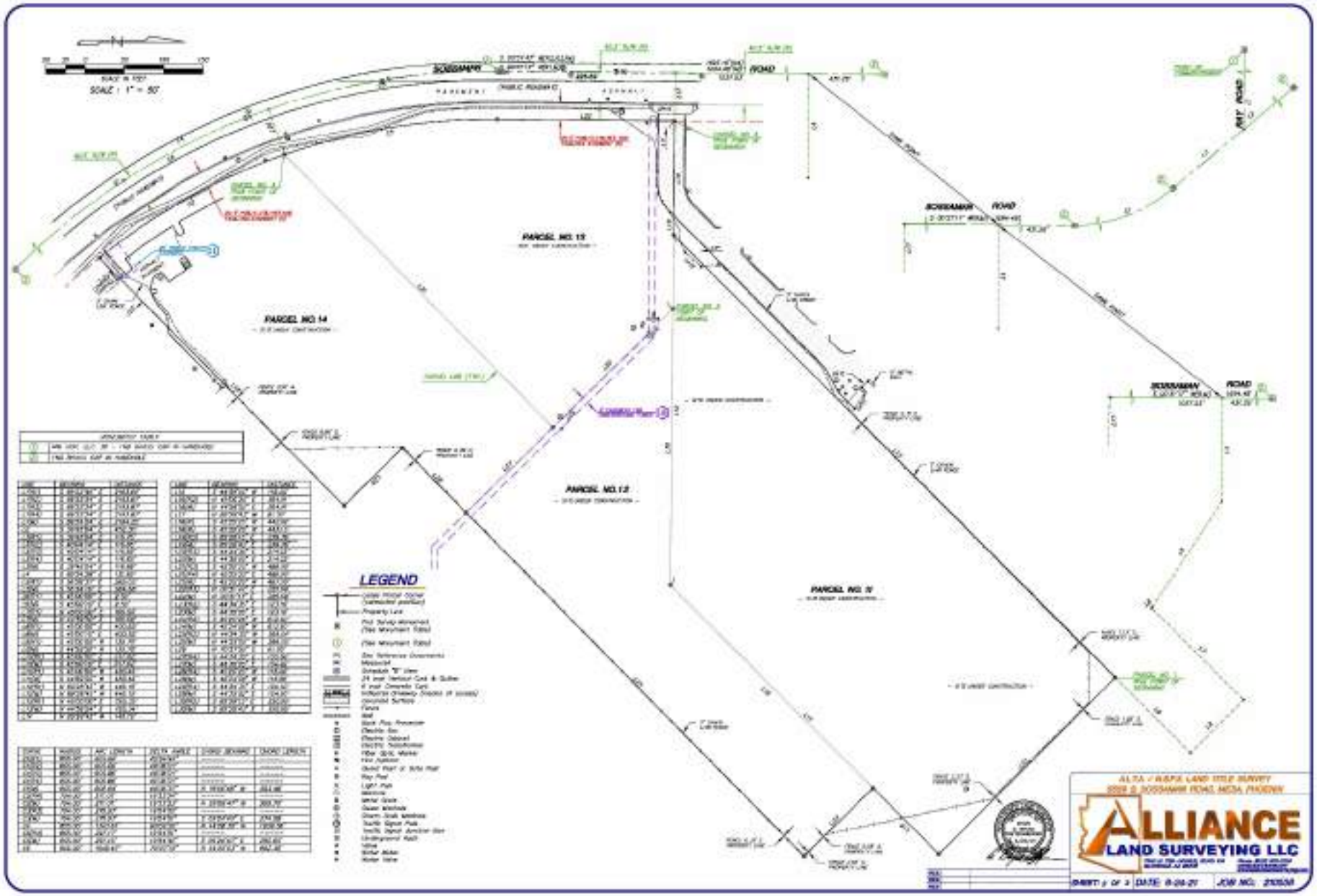

EXHIBIT A

DEPICTION OF THE PREMISES (continued)

PARCEL NO. 11:

That portion of the North half of Section 30, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Northwest corner of said Section 30;

Thence South 89 degrees 33 minutes 45 seconds East, along the North line of said Section 30 a distance of 2193.69 feet, to a point on the Centerline of SOSSAMAN ROAD, the following course will follow said centerline until otherwise mentioned;

Thence South 40 degrees 04 minutes 44 seconds East, 116.75 feet to the beginning of a curve concave Southwesterly and having a radius of 855.00 feet;

Thence Southeasterly along the arc of said curve through a central angle of 40 degrees 36 minutes 01 seconds, a distance of 605.86 feet to a POINT OF TANGENCY;

Thence South 00 degrees 31 minutes 17 seconds West, 431.26 feet;

Thence South 89 degrees 28 minutes 43 seconds East departing said centerline, 40.50 feet to a point on the Easterly right-of-way line of said SOSSAMAN ROAD;

Thence continuing South 89 degrees 28 minutes 43 seconds East, 20.50 feet to a point on the East line of a 20.50 foot P.U.F.E.;

Thence continuing South 89 degrees 28 minutes 43 seconds East, 71.00 feet;

Thence South 56 degrees 28 minutes 31 seconds East, 385.03 feet;

Thence South 45 degrees 00 minutes 00 seconds East, 2.50 feet;

Thence North 45 degrees 00 minutes 00 seconds East, 165.50 feet;

Thence South 45 degrees 00 minutes 00 seconds East, 400.83 feet;

Thence South 45 degrees 00 minutes 00 seconds West, 135.70 feet to the TRUE POINT OF BEGINNING;

Thence South 45 degrees 00 minutes 00 seconds East, 317.62 feet;

Thence South 45 degrees 00 minutes 00 seconds West, 483.46 feet;

Thence North 89 degrees 28 minutes 43 seconds West, 445.15 feet;

Thence North 45 degrees 00 minutes 00 seconds East, 795.35 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 12:

A parcel of land situated in a portion of the East half of Section 30, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the Northwest corner of said Section 30, monumented by a Brass Cap in Handhole bearing North 89 degrees 33 minutes 24 seconds West, a distance of 2498.96 feet from the North quarter corner of said Section 30, monumented by a GLO Brass Cap;

Thence South 89 degrees 33 minutes 24 seconds East, along the North line of said Section 30, a distance of 2193.87 feet to a point on the centerline of SOSSAMAN ROAD;

The following courses will follow said centerline, until otherwise noted;

Thence South 40 degrees 04 minutes 14 seconds East, a distance of 116.85 feet to the beginning of a tangent curve, concave Southwesterly with a radial bearing of South 49 degrees 55 minutes 46 seconds West having a radius of 855.00 feet;

Thence Southerly 605.86 feet along said curve through a central angle of 40 degrees 36 minutes 01 seconds to a POINT OF TANGENCY;

Thence South 00 degrees 31 minutes 47 seconds West, a distance of 1469.51 feet;

Thence departing said centerline South 89 degrees 28 minutes 13 seconds East, a distance of 300.36 feet to the POINT OF BEGINNING;

Thence continue South 89 degrees 28 minutes 13 seconds East, a distance of 350.95 feet;

Thence North 45 degrees 00 minutes 20 seconds East, a distance of 364.91 feet;

Thence South 44 degrees 34 minutes 35 seconds East, a distance of 123.10 feet;

Thence South 45 degrees 25 minutes 28 seconds West, a distance of 612.60 feet;

Thence North 44 degrees 34 minutes 35 seconds West, a distance of 369.04 feet to the POINT OF BEGINNING.

EXHIBIT A

DEPICTION OF THE PREMISES (continued)

PARCEL NO. 13:

That portion of the East half of Section 30, Township 1 South, Range 7 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Northwest corner of said Section 30;

Thence South 89 degrees 33 minutes 24 seconds East, along the North line of said Section 30, a distance of 2193.87 feet to a point on the Centerline of SOSSAMAN ROAD, the following course will follow said centerline until noted otherwise;

Thence South 40 degrees 04 minutes 14 seconds East, a distance of 116.85 feet to the beginning of a curve concave Southwesterly and having a radius of 855.00 feet;

Thence Southeasterly along the arc of said curve through a central angle of 40 degrees 36 minutes 01 seconds, a distance of 605.86 feet to a POINT OF TANGENCY;

Thence South 00 degrees 31 minutes 47 seconds West, a distance of 1469.51 feet;

Thence departing said centerline South 89 degrees 28 minutes 13 seconds East, a distance of 40.50 feet to a point on the Easterly right-of-way line of said SOSSAMAN ROAD;

Thence continuing South 89 degrees 28 minutes 28 minutes 13 seconds East, a distance of 20.50 feet to a point on the East line of a 20.50 foot P.U.F.E and the TRUE POINT OF BEGINNING;

Thence continuing South 89 degree 28 minutes 13 seconds East, a distance of 239.36 feet;

Thence South 44 degrees 34 minutes 35 seconds East, a distance of 214.23 feet;

Thence South 45 degrees 25 minutes 25 seconds West, a distance of 486.90 feet to a point on the East line of a 20.50 foot P.U.F.E., said point also being on a curve the radius of which bears North 70 degrees 36 minutes 56 seconds East, a distance of 794.00 feet;

Thence Northwesterly along said East line and the arc of said curve through a central angle of 19 degrees 54 minutes 50 seconds, a distance of 275.97 feet to a POINT OF TANGENCY;

Thence North 00 degrees 31 minutes 47 seconds East along said East line, a distance of 225.69 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 14:

That portion of the East half of Section 30, Township 1 South, Range 7 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Northwest corner of said Section 30;

Thence South 89 degrees 33 minutes 24 seconds East, along the North line of said Section 30, a distance of 2193.87 feet to a point on the Centerline of SOSSAMAN ROAD, the following course will follow said centerline until noted otherwise;

Thence South 40 degrees 04 minutes 14 seconds East, a distance of 116.85 feet to the beginning of a curve concave Southwesterly and having a radius of 855.00 feet;

Thence Southeasterly along the arc of said curve through a central angle of 40 degrees 36 minutes 01 seconds, a distance of 605.86 feet to a POINT OF TANGENCY;

Thence South 00 degrees 31 minutes 47 seconds West, a distance of 1695.19 feet to the beginning of a curve concave Easterly and having a radius of 855.00 feet;

Thence Southeasterly along the arc of said curve through a central angle of 19 degrees 54 minutes 51 seconds, a distance of 297.17 feet;

Thence departing said centerline on a radial bearing of North 70 degrees 36 minutes 56 seconds East, a distance of 40.50 feet to a point on the Easterly right-of-way line of said SOSSAMAN ROAD;

Thence continuing North 70 degrees 36 minutes 56 seconds East, a distance of 20.50 feet to a point on the East line of a 20.50 foot P.U.F.E. and the TRUE POINT OF BEGINNING;

Thence North 45 degrees 25 minutes 25 seconds East, a distance of 486.90 feet;

Thence South 44 degrees 34 minutes 35 seconds East, a distance of 155.50 feet;

Thence South 45 degrees 25 minutes 25 seconds West, a distance of 115.66 feet;

Thence South 44 degrees 34 minutes 35 seconds East, a distance of 104.50 feet;

Thence South 45 degrees 25 minutes 25 seconds West, a distance of 442.92 feet to a point on the North 51 degrees 03 minutes 32 seconds East, a distance of 794.00 feet;

Thence Northwesterly along said East line and the arc of said curve through a central angle of 19 degrees 33 minutes 24 seconds, a distance of 271.01 feet to the TRUE POINT OF BEGINNING.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-34

To:	**Board of Directors**
From:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Through:	**PMGAA Executive Team**
Subject:	**PMGAA Market Adjustment**
Date:	**June 20, 2023**

Proposed Motion
To approve an unscheduled 5% market adjustment for the PMGAA Executive Director/CEO.

Narrative
As part of PMGAA's ongoing employee retention and recruitment program, all PMGAA employees will receive an unscheduled 5% market adjustment on July 1, 2023. This action was initiated to address compensation competitiveness within the industry and the region, as well as acknowledge the continued inflationary pressures being experienced by all PMGAA employees.

The PMGAA Board is being asked to consider approving a similar unscheduled 5% market adjustment for the Executive Director/CEO. This adjustment will become effective on July 1, 2023 and will also help address organizational compensation compression concerns.

Fiscal Impact
If approved, this request represents an approximately $11,800 impact to PMGAA's FY24 budget.

Attachment(s)
N/A

RESOLUTION NO. 23-34

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to approve an unscheduled 5% market adjustment for the PMGAA Executive Director/CEO**;**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby approves an unscheduled 5% market adjustment for the PMGAA Executive Director/CEO. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-35

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**ARFF Maintenance IGA**
Date:	**June 20, 2023**

Proposed Motion

To authorize an amendment extending the existing Intergovernmental Agreement (IGA) with the City of Mesa for Aircraft Rescue and Firefighting (ARFF) Maintenance, effective July 1, 2023, through June 30, 2024, with costs estimated to be approximately $40,000.

Narrative

The Phoenix-Mesa Gateway Airport Authority (PMGAA or Airport) contracts with the City of Mesa (Mesa or Mesa Fire) to provide maintenance aircraft rescue and fire-fighting services (ARFF). In addition, PMGAA utilizes Mesa Fire's fleet services group to maintain its ARFF Apparatus and equipment. The existing agreement for maintenance services expires on June 30, 2023.

Both entities have determined that it is mutually beneficial for the Mesa Fire Department to provide ARFF Apparatus and equipment maintenance services for the PMGAA.

Arizona Revised Statues (A.R.S), §§ 11-951 et seq., authorizes Mesa and PMGAA to enter intergovernmental agreements for the provision of services, or for joint or cooperative actions. The IGA may be modified by a written amendment approved by the City Council and PMGAA Board of Directors pursuant to A.R.S. § 11-952.

Fiscal Impact

This agreement was included in the FY24 operating budget and is funded under RM: Vehicles.

Attachment(s)

IGA Amendment

RESOLUTION NO. 23-35

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an amendment extending the existing Intergovernmental Agreement (IGA) with the City of Mesa for Aircraft Rescue and Firefighting (ARFF) Maintenance, effective July 1, 2023, through June 30, 2024, with costs estimated to be approximately $40,000**;**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an amendment extending the existing Intergovernmental Agreement (IGA) with the City of Mesa for Aircraft Rescue and Firefighting (ARFF) Maintenance, effective July 1, 2023, through June 30, 2024, with costs estimated to be approximately $40,000. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Agreement Amendment Number 1
Agreement Number: 20200056

This FIRST AMENDMENT to the Intergovernmental Agreement for Fire Vehicles and Equipment Maintenance Services is executed to be effective as of June 5, 2023 by and between the PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona, its successors and assigns ("PMGAA") and the City of Mesa, an Arizona municipal corporation ("the City"). PMGAA and City may be referred to jointly as "Parties," and each separately as a "Party". This AMENDMENT 1 hereby amends that certain Intergovernmental Agreement for Fire Vehicles and Equipment Maintenance Services between PMGAA and City dated and effective July 21, 2020 (the "Agreement"), with respect to the Term of the Agreement and the compensation paid to City by PMGAA for the services.

WITNESSETH:

WHEREAS, PMGAA and City desire to enter into this AMENDMENT 1 in order to modify the Agreement;

WHEREAS, PMGAA and City desire to modify the Term of the Agreement and compensation paid.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this AMENDMENT 1 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The original Agreement expires on June 30, 2023. By signing below, City and PMGAA agree to extend the Agreement for one (1) year. The new Agreement expiration date is June 30, 2024.

2. **Section 2.2, PMGAA responsibilities and obligations, Subsection (a) paragraph (i).** Effective July 1, 2023: The hourly labor rate paid by PMGAA to the City is hereby amended to $112.49 per hour for Weekday Services during the new Term of the Agreement.

3. **Section 2.2, PMGAA responsibilities and obligations, Subsection (a) paragraph (ii).** Effective July 1, 2023: The hourly labor rate paid by PMGAA to the City is hereby amended to $125.79 per hour for Non-Weekday Services during the new Term of the Agreement.

All other terms and conditions of the Agreement, not changed by this AMENDMENT 1, remain in full force and effect.

PMGAA
Phoenix-Mesa Gateway Airport
Authority, a joint powers airport authority
Authorized by the State of Arizona:

By: _____

Title: _____

Date: _____

City
City of Mesa,
an Arizona municipal corporation

By: _____

Title: _____

Date: _____

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-36

To: Board of Directors
From: Matthew McClung, Economic Development & Real Estate Specialist
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: Straube's Aircraft Services Inc. – Facility Lease Agreement
Date: June 20, 2023

Proposed Motion
To authorize a Facility Lease Agreement with Straube's Aircraft Services Inc. for the property located at 6262 S. Taxiway Circle, Mesa, AZ 85212 with an Effective Date of July 1st, 2023. The Term for the Agreement is thirty-six (36) months, terminating on June 30th, 2026, with one (1), two (2) year renewal option.

Narrative
Straube's Aircraft Services Inc. ("Straube's") will lease the facility located at 6262 S. Taxiway Circle, Mesa, AZ 85212 and be permitted to conduct an aeronautical painting and refurbishment business.

Agreement Term and Rate
The Term of this Facility Lease Agreement is three (3) years commencing on July 1st, 2023. The Agreement provides one (1) additional renewal period of two (2) years.

The Base Rent for the facility is $70,776.00 annually paid in monthly installments of $5,898.00 plus applicable taxes. The Base Rent will increase by three percent (3%) on every twelve (12) month anniversary of the Effective Date of the Agreement.

Straube's will have the opportunity to receive a monthly Rent Credit in the amount of $868.00 for a duration of twenty-four (24) months during the Term. The Rent Credit is contingent on Straube's investing a minimum amount of $21,552.00 in facility improvements to be verified by Airport staff. The opportunity to initiate the Rent Credit expires on June 30th, 2024.

Attachment(s)
Facility Lease Agreement

RESOLUTION NO. 23-36

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Facility Lease Agreement with Straube's Aircraft Services Inc. for the property located at 6262 S. Taxiway Circle, Mesa, AZ 85212 with an Effective Date of July 1st, 2023. The Term for the Agreement is thirty-six (36) months, terminating on June 30th, 2026, with one (1), two (2) year renewal option;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Facility Lease Agreement with Straube's Aircraft Services Inc. for the property located at 6262 S. Taxiway Circle, Mesa, AZ 85212 with an Effective Date of July 1st, 2023. The Term for the Agreement is thirty-six (36) months, terminating on June 30th, 2026, with one (1), two (2) year renewal option. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

Phoenix-Mesa Gateway Airport Authority

FACILITY LEASE

with

STRAUBE'S AIRCRAFT SERVICES, INC.

Effective Date: **JULY 1ST, 2023**

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Phoenix-Mesa Gateway Airport Authority
FACILITY LEASE

This Facility Lease (the "**Lease**") is executed to be effective the FIRST (1st) day of JULY 2023 ("**Effective Date**") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **STRAUBE'S AIRCRAFT SERVICES, INC.**, an Arizona corporation ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

WITNESSETH:

WHEREAS, Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona ("**Airport**"); and

WHEREAS, Lessor has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Lease in respect thereof; and

WHEREAS, Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport located at 6262 S. Taxiway Circle, Mesa, AZ 85212, and described as Building 1086, consisting approximately FIVE THOUSAND EIGHT HUNDRED NINETY-EIGHT (5,898) square feet, as set forth in **EXHIBIT A** attached hereto ("**Premises**"); and

WHEREAS, Lessor desires to lease the Premises to Lessee on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise, and agree, each for itself and its successors and assigns, as follows:

1. LEASE

Lessor hereby leases the Premises to Lessee, subject to all easements and rights of way that may encumber the Premises, and further subject to all operational and use restrictions and other terms and conditions set forth in this Lease.

1.1 Right to Use Premises. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor and those claiming through Lessor. Lessee specifically acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed, except for representations and warranties contained in this Lease. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense. Lessor agrees to cooperate with Lessee, at no or nominal cost to Lessor, in connection with such activities and undertakings.

1.2 Substitution of Premises. In addition to Lessor's other rights set forth in this Lease, Lessor reserves the right, upon no less than Ninety (90) calendar days prior written notice to Lessee, to substitute Comparable Areas for all or any portion of the Premises, including any additions, alterations or improvements thereon, should Lessor, in its reasonable discretion, determine that taking of the Premises, any portion thereof

or any improvement thereon, is required for other Airport purposes, and there exists no appropriate alternative. In the event Lessor makes the determination to exercise its rights to substitute, all title, right and interest to the portion of the Premises taken shall immediately vest in Lessor on the date that is Ninety (90) calendar days following receipt of Lessor's notice, or such later date as specified therein. Furthermore, Lessor may require Lessee to vacate any portion, or all of the Premises taken. For the purposes of this Section 1.2, the term "Comparable Areas" is defined to mean other facilities at the Airport, or any additions or extensions thereof, similar in size to the Premises, brought to the same level of improvement as the Premises and having the same or similar usefulness to Lessee as the portion taken. Lessor shall bear all expenses of bringing the substituted area to the same level of improvement as the Premises, and of moving Lessee's improvements, equipment, furniture, and fixtures to the substituted area. If any of Lessee's improvements, equipment, furniture or fixtures cannot be relocated, Lessor shall replace, at Lessor's expense, such non-relocatable improvements and other property with comparable property in the Premises, and Lessor shall be deemed the owner of the non-relocated improvements and other property, free and clear of all claims of any interest or title therein by Lessee, or any other third party whomsoever. It is the specific intent of this Section 1.2 that Lessee be placed, to the extent possible, in the same position it would have been, had Lessor not substituted new premises for the Premises; provided, however, that Lessor shall not be obligated to reimburse Lessee for any damages, including lost profits or revenues, due to such substitution. Notwithstanding the foregoing, Lessor shall use reasonable efforts to avoid disruption to Lessee's business.

1.3 Access. Lessee is granted the right of reasonable access to and from the Premises via such portions of the Airport as are or may be necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport. Lessor reserves the right to designate the location of such access and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 Permitted Uses. Subject to the provisions of SECTION 1.5, Lessee may use the Premises for painting/refinishing of aircraft and general storage, office space, and related uses and for no other use. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules, and regulations of any governmental authority, including Lessor, and to Lessee's compliance with applicable provisions of the *Airport Rules and Regulations* and *Airport Minimum Standards*.

1.5 Prohibited Activities. Lessee shall not use or permit its agents, employees, contractors, invitees, licensees or customers to use the Premises or the Airport for any use that is in violation of the *Airport Rules and Regulations*, the *Airport Minimum Standards*, any matters of record, or applicable laws, rules, regulations and operating policies of any governmental authority, including Lessor, or for any other activity or operation not specified in SECTION 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director.

1.6 On-Site Manager. Upon commencement of business operations at and on the Premises and the Airport, Lessee shall designate an on-site manager for the term of this Lease who shall be available to Lessor and Lessee's customers, if any, during normal business hours, and otherwise as required by the *Airport Minimum Standards*, as applicable.

1.7 Lessee Acknowledgement. Lessee acknowledges and agrees that its obligations to pay Base Rent and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Lessor or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

2. TERM

2.1 Initial Term. The initial term of this Lease shall be for a period of THREE (3) years, commencing on the Effective Date and terminating on JUNE 30, 2026, thereafter ("**Term**").

2.2 Renewal Term(s). Provided Lessee is not then in default of this Lease and subject to written approval of Lessor, the Parties shall have the option of extending the Term for ONE (1) additional period of TWO (2) years ("**Extension**"). Lessee may initiate the Extension by giving written notice to Lessor of its desire to do so no later than NINETY (90) calendar days prior to the expiration of the Term, as set forth in SECTION 2.1 herein. If Lessee has properly notified Lessor of its desire to exercise the Extension and Lessor approves such in writing, then Lessee's Extension of the Term of this Lease shall become effective and all references herein to "Term" shall mean the initial term as extended.

3. NONEXCLUSIVE RIGHTS

Lessee shall have the exclusive right to occupy and use the Premises while in compliance with the terms and conditions of this Lease, subject to Section 27 below. All other rights granted to Lessee under this Lease are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport that Lessor deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with Lessee's use of the Premises.

4. RENT

4.1 Base Rent. Subject to the increases provided Section 4.3 below, Lessee agrees to pay Lessor annual rental for the use of the Premises in the amount of SEVENTY THOUSAND SEVEN HUNDRED SEVENTY-SIX AND 00/100 DOLLARS ($70,776.00), payable in equal monthly installments of FIVE THOUSAND EIGHT HUNDRED NINETY-EIGHT AND 00/100 DOLLARS ($5,898.00) (the "**Base Rent**").

The Base Rent shall be payable in advance, without any prior demand therefor and without any abatement, deductions or set offs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer.

4.2 Reserved.

4.3 Rent Increases. The annual Base Rent paid by Lessee shall be increased (but never decreased) on every TWELVE (12) month anniversary of the Effective Date of this Lease by THREE (3%) percent.

4.4 Reserved.

4.5 Credit to Base Rent. Lessor shall provide Lessee a monthly credit to Lessee's Base Rent payments equal to EIGHT HUNDRED NINETY-EIGHT AND 00/100 DOLLARS ($898.00) (the "**Rent Credit**") for a duration of TWENTY-FOUR (24) months, subject to the conditions outlined in Section 4.5.1 below. The Rent Credit reflects the agreed amount between the Parties for costs incurred by Lessee for improvements made to the Premises during Lessee's occupancy thereof. The Parties acknowledge and agree that the Rent Credit comprises and constitutes full payment to Lessee for those improvements.

4.5.1 Rent Credit Commencement. Lessee shall be granted the Rent Credit, subject to the following terms and conditions:

a. Prior to receiving the Rent Credit, Lessee must invest a minimum amount of TWENTY-ONE THOUSAND FIVE HUNDRED FIFTY-TWO AND 00/100 DOLLARS ($21,552.00) in facility improvements. Lessor shall verify the amount invested by reviewing receipts, paid invoices, and other documentation provided by Lessee.

b. Lessee shall pay all other monthly rent and charges due under the lease agreement on time and in full.

c. Lessee shall comply with all other terms and conditions of the lease agreement.

d. The Rent Credit shall be extinguished after a period of TWENTY-FOUR (24) months and Base Rent shall be paid as defined herein for the remainder of the Term.

e. The eligibility period to initiate the Rent Credit expires TWENTY-FOUR (24) months prior to the expiration of the Term on June 30, 2024.

In the event that Lessee breaches any of the conditions above, Lessor reserves the right to terminate the Rent Credit and to demand payment of the full monthly Base Rent without deduction or offset. These conditions shall be included in the lease agreement between Lessor and Lessee.

4.6 Airport Rates and Charges Schedule. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* and *Airport Fees, Services and Rental Rates Schedule* are included as **EXHIBIT B** and are subject to change without prior notice to or approval of Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at any time at Lessor's sole discretion. No fee shall apply to the use of the Premises or access to the Premises.

4.7 Payment.

4.7.1 Unless otherwise specified herein, the first payment of Base Rent shall be paid to Lessor upon the delivery of this Lease, for the period from the Effective Date until the end of the calendar month in which the Effective Date occurs, prorated on the basis of the number of such days to the total number of days in said month. Thereafter, all Base Rent payments shall be paid in monthly installments, in advance, on the first day of each calendar month ("**Base Rent Due Date**"). On each such date, Lessee shall pay the full Base Rent payment.

4.7.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.7.3 All payments (and reports, if any) required by this SECTION 4.7 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by Lessor to Lessee.

4.8 Finance Charges and Late Fees. If Lessee fails to pay any installment of Base Rent or any other charge due and owing to Lessor in full on or before the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (but not to exceed the maximum interest rate permissible by law), from the due date until payment in full is made. In addition, in the event any installment of Base Rent or other charge owing to Lessor is paid more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent Base Rent installment or other charge shall be due and payable in addition thereto.

4.9 Taxes. Lessee shall pay, prior to delinquency, any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax or assessment imposed during the Term against the Premises or as the result of Lessee's occupancy of Premises or conduct of any activity at the Airport

under authority of this Lease, including any such tax assessable on Lessor. Lessee shall pay such taxes and assessments directly to the taxing authority charged with collecting such taxes and assessments, provided that in the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor and to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business, Lessee shall pay such amounts to Lessor in the manner set forth in Section 4.7. Such taxes to be paid directly to Lessor include, without limitation, payment of all rent taxes, i.e., taxes imposed specifically on the gross receipts in the form of rent received by Lessor.

4.10 Survival. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

5. PERFORMANCE GUARANTEE

5.1 Security Deposit.

5.1.1 On or before the Effective Date, Lessee shall pay to Lessor an amount equivalent to ELEVEN THOUSAND SEVEN HUNDRED NINETY-SIX AND 00/100 DOLLARS ($11,796.00), as a security deposit ("Security Deposit") to insure the faithful performance of all of Lessee's obligations hereunder.

5.1.2 The Security Deposit, at the election of Lessor, may be applied in reduction of any loss and/or damage sustained by Lessor by reason of the occurrence of any breach, nonperformance, or default by Lessee under this Lease without the waiver of any other right or remedy available to Lessor at law, in equity or under the terms of this Lease. If any portion of the Security Deposit is so used or applied, Lessee shall, within FIVE (5) business days after written notice from Lessor, deposit with Lessor immediately available funds in an amount sufficient to restore the Security Deposit to its original amount. In the event of a sale or other transfer of the Premises by Lessor, Lessor shall transfer the remaining balance (if any) of the Security Deposit to Lessor's successor in interest, whereupon the transferor Lessor shall be released from liability to Lessee for the return of such Security Deposit. Unless this Lease is terminated as a result of Lessee's default whereupon Lessee shall immediately forfeit its Security Deposit to Lessor, upon termination, Lessor shall return to Lessee all portions of the Security Deposit which were not otherwise applied by Lessor as permitted above. Lessor shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

5.2 Construction Payment and Performance Guarantees.

5.2.1 Payment Guarantee. Notwithstanding and in addition to the Security Deposit, Lessee shall protect claimants supplying labor and materials in connection with any construction on the Premises, by providing, at Lessee's sole cost and expense and prior to commencement of construction of any improvements on the Premises, one of the following instruments, chosen at Lessee's discretion:

(a) Payment Bond. Lessee shall require the contractor to provide a labor and materials payment bond in the full contract amount to protect claimants supplying labor and materials in connection with the construction. The bond shall comply in all respects with the requirements of A.R.S. § 33-1003 as it may be amended or renumbered from time to time. The parties agree that Lessee is not a public body, and the improvements to be constructed under this Lease by Lessee at Lessee's sole cost are not public buildings, public works, or public improvements. The bond shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety. The bond and a copy of the contract shall be recorded in the office of the Maricopa County Recorder as required under A.R.S. § 33-1003, and a copy of the bond shall be provided to Lessor; or

(b) Letter of Credit. Such instrument ("**Letter of Credit**") shall be irrevocable, in an amount equal to the total amount of the construction contract(s) for the construction of the Improvements (as defined in Section 7 below) plus TEN PERCENT (10%) of such amount ("**Improvement Costs**") and be issued to Lessee by a financial institution ("**Bank**") reasonably acceptable to Lessor. The Letter

of Credit shall have a term extending from the date of commencement of construction until the date which is TWENTY-FOUR (24) months thereafter, after which date it shall be renewed on a year-to-year basis until construction of the Improvements are completed, and final and unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Should Lessee utilize the Letter of Credit option hereunder, and should Lessee fail to pay any sum owing to contractors supplying labor and materials in connection with the construction then, in addition to any other remedies set forth in this Lease, Lessor shall be entitled to apply to the Bank, following a period of THIRTY (30) calendar days prior written notice to Lessee (which notice shall include a reasonably-detailed description of Lessee's failure to pay any sum owing), for release to Lessor (in accordance with the terms of the Letter of Credit) from the Letter of Credit of a dollar amount sufficient to pay amounts owing to contractors supplying labor and materials in connection with the construction and obtain final, unconditional lien waivers in connection therewith. Lessor's application shall contain evidence of the failure of payment and the estimated dollar amount needed to satisfy payment obligations. The terms of the Letter of Credit shall require prompt payment to Lessor for the amount set forth in Lessor's application upon satisfaction of the conditions set forth in the Letter of Credit. Upon and following any partial payment to Lessor, the Letter of Credit shall remain in full force for the remaining undisbursed amount of the Letter of Credit to accommodate further applications, if any, and shall not be subject to cancellation or revocation until fully drawn or otherwise released or satisfied upon completion of construction of the Improvements and final, unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Lessor must approve the form and content of any Letter of Credit in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.

5.2.2 Performance Guarantee. In addition to the Security Deposit, Lessee's obligation to timely complete the Improvements shall be secured, at Lessee's sole cost and expense and prior to commencement of construction of said Improvements, by any one of the following instruments, chosen at Lessee's discretion:

(a) Performance Bond. Lessee shall require the contractor to provide a performance bond in the full contract amount conditioned upon the faithful performance of the contract in accordance with plans, specifications, and conditions thereof. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.; or

(b) Completion Bond. Lessee shall deliver to Lessor a completion bond in form and substance reasonably acceptable to Lessor pursuant to which Lessor shall have the unconditional, direct and unilateral right to draw upon or use such bond for completion of construction of the Improvements under Section 7.1 of this Lease if an Event of Default occurs and is continuing under Section 7.2. of this Lease. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.

6. AIRPORT OPERATING AGREEMENT

If and to the extent that Lessee, including its subtenants, contractors, and agents, operates aircraft at or on the Airport, Lessee shall enter, or shall cause its subtenants, contractors or agents to enter, into an Operating Agreement with Lessor covering such operations prior to the commencement of any such operations. If any of Lessee's subtenants, subcontractors or agents have not entered into its own *Airport Operating Agreement* and is operating under Lessee's *Airport Operating Agreement*, Lessee shall be responsible for such subtenant's contractors or agents' compliance with Lessee's *Airport Operating Agreement*. Lessee shall be responsible for compliance by its subtenants, contractors and agents with the *Airport Rules and Regulations* and *Airport Minimum Standards*.

7. IMPROVEMENTS

7.1 Reserved.

7.2 Reserved.

7.3 No Alterations. Lessee shall make no material improvements or alterations to the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld or delayed and, if and to the extent applicable, without the approval by Lessor's Design Review Committee. Lessee shall provide Lessor with electronic as-built drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 Title to Alterations and Improvements. Title to all improvements and alterations on the Premises (but not personal property or trade fixtures) shall automatically vest in Lessor upon the expiration or termination of this Lease, and Lessee agrees to execute and deliver to Lessor, within TEN (10) business days after Lessor's request therefor, a quitclaim deed or other instrument satisfactory to Lessor confirming that title to such improvements and alterations is vested in Lessor. This Section 7.4 shall survive the termination of this Lease.

7.5 Mechanics' Liens. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within THIRTY (30) calendar days of notice thereof.

7.6 Permit Required. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing, or mechanical construction or reconstruction shall conform to City of Mesa ("**City**") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected, and approved by the City prior to concealment or use. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and the associated plans and specifications.

7.7 Damage or Destruction. Lessee shall maintain insurance on all of Lessee's Improvements to the Premises, including any subsequent alterations and improvements thereto. In the event that all or any portion of Lessee's Improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall replace, repair, restore, modify, or improve said Improvements, subject to the provisions of SECTION 7.6, using available insurance proceeds together with any additional funds from other available sources, or, alternatively, Lessee shall pay the replacement cost of the Improvements to Lessor.

8. MAINTENANCE

8.1 *Lessee.* Lessee shall, at its sole cost and expense, keep the Premises and all improvements therein in a neat and clean condition and in good order, condition, and repair throughout the Term. In doing so, Lessee shall prepare, maintain, and follow a preventative maintenance schedule for all mechanical, electrical, plumbing, drain, piping and air conditioning systems on the Premises, and, upon request, provide a copy of such schedule to Lessor and, if required by Lessor, a list of the dates on which such maintenance was actually done. Lessee's maintenance of the Premises shall include, without limitation, the inspection, servicing and repair of all systems and improvements, including the boilers, interior roof and structures, hangar doors, electrical, plumbing, heating, and cooling, pavements, pest control, landscaping, and grounds maintenance.

8.2 *Lessor.* Lessor shall, at its sole cost and expense, sustain and maintain the structural integrity of the Premises, including the exterior roof, fire suppression system and all utility connections where they enter the Premises throughout the Term.

8.3 Damage to Lessor Property. Any real or personal property of Lessor damaged or destroyed by Lessee as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the satisfaction of Lessor. In lieu of such repair or replacement, where required by Lessor, Lessee shall pay to Lessor an amount sufficient to compensate for the loss sustained by Lessor.

8.4 Trash Removal. Lessee shall at all times keep the Premises in a neat, clean, safe, sanitary, and orderly condition and shall keep such area free of all trash and debris. Lessee shall, at Lessee's expense, be

responsible for all trash removal from the Premises. Such trash removal shall be performed on a not less than weekly basis, and all trash shall be disposed of off the Airport. Prior to its removal from the Airport, Lessee shall deposit all trash and debris only at collection stations located on the Premises, in accordance with City code.

8.5 Emergency Contacts. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as they occur.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS

9.1 Any Transfer of Lease Interest Requires Lessor Advance Written Approval. In the event Lessee desires to transfer, assign, encumber, pledge or hypothecate any portion of its interest in this Lease or any right or interest hereunder (including, but not limited to as part of a mortgagor deed of trust or an assignment by means of a foreclosure or trustee's sale thereunder)(individually and collectively, ("**Transfer**"), Lessee must obtain the prior written consent of Lessor, with such consent to be the in sole and absolute discretion of Lessor without exception. In connection with Lessee's request for Lessor's approval of a Transfer, Lessee and or the proposed transferee shall provide to Lessor written financial assurances, including, but not limited to financial statements, business plans and other information related to the financial condition and plans of any proposed transferee. Notwithstanding a Transfer, unless released in writing by Lessor in its sole and absolute discretion Lessee shall remain liable at law and at equity, as well as financially liable, under the Lease, regardless of whether the assignee expressly assumes in writing all of Lessee's obligations under this Lease or in the case of a sublease. Lessee understands and agrees to these terms and conditions regarding any proposed Transfer, and that any violation of this Section 9, may irreparably harm Lessor as the requirements set forth herein are directly related to Lessor's (and any Lessee's) legal and financial obligations to the Federal Aviation Administration. This Section 9 shall remain valid and enforceable even in the event of amendment to or repeal of FAA regulations, so long as this Section 9 does not directly conflict therewith.

9.2 Lessee's Required Advance Notice to Lessor of Proposed Transfer. In order for Lessor to consider approval of a Transfer, Lessee must: (i) notify Lessor in writing at least Forty-five (45) days prior to such proposed transfer; (ii) deliver to Lessor, at the time of Lessee's notice, current financial statements of Lessee and the proposed transferee (along with transferee's business plans) that are reasonably acceptable to Lessor; and (iii) the transferee assumes and agrees in writing to perform Lessee's obligations under this Lease. However, nothing herein shall be construed as Lessor providing its consent to any Transfer or relieving Lessee of any legal, financial, or other obligation under the Lease, regardless of Lessor's acceptance or refusal to accept such proposed transfer of Lease.

9.3 Deemed Transfers. For the purposes of this Lease, a Transfer shall be deemed to include the following: (i) if Lessee is a corporation, partnership, limited liability company or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Lessee. For purposes of this Lease, "control" shall mean possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of a majority of the voting securities of the entity.

9.4 Subletting. Lessee shall not sublease the Premises or any portion thereof at any time during the Term of this Lease.

10. IDENTIFICATION SIGNS

Lessee may install on the building in which the Premises is located, a sign or signs identifying its business on the exterior of the Premises; provided, however, that the general type, size, and location of such

sign(s) shall conform to Lessor's Comprehensive Sign Plan, be approved in writing by Lessor in advance of installation and be subject to any signage rules, codes and/or regulations of any governmental authority.

11. DEFAULT; TERMINATION BY LESSOR

11.1 Events of Default. Each of the following shall constitute a material default of this Lease by Lessee ("**Event of Default**"):

11.1.1 Failure to pay any installment of Base Rent or other amount due from Lessee hereunder, or required by any other agreement between the Parties, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 Failure to perform any of its other obligations under this Lease, provided that Lessee does not cure such failure within THIRTY (30) calendar days after delivery by Lessor of a written notice of such default; and further provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued, not to exceed ONE HUNDRED TWENTY (120) days.

11.1.3 The filing of any mechanic's, materialmen's or other lien of any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Lessee.

11.1.4 The Transfer or attempted transfer of any interest in the Lease to any transferee without Lessor's advance written authorization, which Lessor may withhold in its sole and absolute discretion.

11.2 Lessor's Remedies. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, but subject to the provisions of SECTIONS 9.2 and 23 herein, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Base Rent, re-entry for condition broken, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

11.3 No Implied Termination. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and shall hold Lessor harmless from all losses, costs or damages occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 Lessor's Current Damages. Upon the occurrence and during the continuance of an Event of Default, Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the reasonable costs and expenses incurred in respect of such repairs, redecorating, refurbishments, and improvements shall be paid by Lessee to Lessor within TEN (10) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the amount of the Base Rent and all other payments which would be payable under this Lease by Lessee for the remainder of the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's reasonable expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs,

redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence ("**Deficiency**"), in monthly installments on the days on which the Base Rent would have been payable under this Lease as if this Lease were still in effect.

11.5 Lessor's Final Damages. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover (without duplication) from Lessee, and Lessee shall pay to Lessor, promptly on demand, as Lessor's final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount of SIX PERCENT (6%) per annum) of (i) the aggregate of the Base Rent and all other amounts to be paid by Lessee hereunder for the unexpired portion of the Term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of Rent and any losses that could have been reasonably avoided, plus (b) reasonable repossession costs, reasonable Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), reasonable attorneys' fees, reasonable legal expenses, and all other damages incurred by Lessor as a result of such Event of Default. In determining the amount of loss that could reasonably be provided, rents to be paid by subtenants pursuant to Section 9.4, if applicable, and other reasonably projected rental income from leasing the Premises shall be taken into account.

11.6 No Waiver by Lessor. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 Content of Default Notice. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it is reasonably calculated to put Lessee on inquiry as to the nature and extent of such default and is made in accordance with SECTION 19 herein.

11.8 Limitation on Exercise of Termination Remedy by Lessor. Notwithstanding anything to the contrary in SECTION 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay Base Rent or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Other remedies that are available to Lessor include self-help and recovery of damages, and nothing in this SECTION 11 shall limit the exercise of any such other remedy.

11.9 Subordination of Landlord's Lien. Lessor hereby agrees from time to time to subordinate to one or more Leasehold Mortgagees all statutory or common law landlord's lien rights with respect to property or assets of Lessee located on the Premises, including, without limitation, Lessor's rights under Arizona Revised Statutes Sections 33-361 and 362 and other similar laws. Upon written request from Lessee, Lessor agrees to promptly execute and deliver such commercially reasonable landlord subordination agreement and access agreement that any Leasehold Mortgagee may request of Lessor. Lessee shall reimburse Lessor for reasonable third-party costs, including reasonable attorneys' fees, incurred by Lessor in connection with the review and negotiation of any such agreement within THIRTY (30) days after receipt of an invoice from Lessor.

12. RESERVED

13. INDEMNIFICATION

To the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this Section 13 for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of

any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term; (ii) any negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessee" for purposes of this Section 13.1) on the Premises or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor; and/or (iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors, or agents.

14. ENVIRONMENTAL PROTECTION

14.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this SECTION 14.1 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 *Environmental Laws.* The term "Environmental Laws" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 USC Section 9601 et seq.; the *Solid Waste Disposal Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; A.R.S. Title 49; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient (including indoor and outdoor) air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

14.1.2 *Hazardous Material.* The term "Hazardous Material" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Laws, per- and polyfluoroalkyl substances, and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils). For purposes of this definition, per- and polyfluoroalkyl substances shall include aqueous film-forming foams

14.2 Environmental Compliance.

14.2.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting Lessee's activities on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents, or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.2.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Laws. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee

(which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Laws.

14.3 Indemnification. To the fullest extent permitted by law, Lessee shall indemnify, defend (with counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment, the presence of Hazardous Material on the Premises, Airport or neighboring properties, or violation of any Environmental Laws or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this SECTION 14.3 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity. This SECTION 14.3 explicitly excludes Lessee's duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is caused by or exacerbated by Lessee or unknown contamination is caused by or exacerbated by Lessee's negligence.

14.4 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Laws, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this SECTION 14.4, Lessor is not responsible for directing or managing any remediation action. The term "Release" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. This SECTION 14.4 also applies to Lessee's remediation of any contamination of any kind existing on the Premises or Airport prior to the Effective Date, including any such contamination that may be first discovered after the Effective Date but not caused by Lessee.

14.5 Governmental Submittals. Lessee shall, at Lessee's own expense, make all submissions to provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any Release of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.6 Information Sharing. Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a violation of Environmental Laws, and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils

and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Premises, to the extent that such investigations or claims are related to Lessee's activities thereon.

14.7 Reserved.

14.8 Actions of Lessee. The activities or actions of Lessee under this SECTION 14 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors, invitees, and successors.

14.9 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.10 Reserved.

14.11 Protective Devices and Plans. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.12 Right to Enter Premises. In addition to the rights afforded to Lessor in SECTION 18, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency ("**EPA**"), ADEQ, Lessor, and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.13 U.S. Air Force Use and Remedial Action.

14.13.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and

have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this SECTION 14.13, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release.

14.13.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Lessor or Lessee is a potentially responsible party with respect to any portion of the Premises or the Airport.

14.14 Cleanup Requirements. Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have no claim against Lessor or the United States or any officer, agent, employee, or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above-described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by Governmental Authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.15 Spill Protection Plan. In the event Lessee undertakes any type of manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Lessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements and shall be approved by all agencies that are obligated by law to approve such plan. Such plan shall be independent of Lessor's spill prevention and response plans, if any. Lessee shall not rely on use of Lessor or Lessor personnel or Lessor equipment in execution of its plan. Lessee shall file a copy of the plan and amendments thereto with Lessor's Environmental and Safety Coordinator within THIRTY (30) calendar days of receipt of a CofO from the City. Notwithstanding the foregoing, should Lessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Lessee, or because Lessee was not, in the opinion of Lessor, conducting firefighting, containment or timely cleanup actions, Lessee agrees to reimburse Lessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Lessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Lessor or its employees, agents or contractors.

14.16 Wells. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor.

14.17 Surface Disturbances. After construction of Lessee's Improvements on the Premises as provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface other than what is usual and customary for the anticipated uses without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned, or delayed.

15. PROTECTION OF WETLANDS

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises. Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the United States Army Corps of Engineers and obtain a permit or waivers under Section 404 of the Clean Water Act (or if such regulatory authority has been delegated to ADEQ, shall obtain the equivalent permit or waivers from ADEQ). For purposes of this SECTION 15, the term, "new construction," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. INSURANCE

16.1 Coverage Required. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

16.1.1 *Hangar Keeper's Liability* insurance in the amount of $3,000,000 per occurrence, covering Aircraft and related damage to owned and non-owned aircraft stored by or otherwise in the care, custody, or exclusive control of the operator at the Airport. Coverage may be "ground" (if no test flying or other related airborne/aircraft-powered operations are conducted) or "air" and is required anytime aircraft are moved by the operator, irrespective of whether or not a physical hangar is involved.

16.1.2 *Environmental Impairment Liability* (or Pollution Legal Liability) insurance in the amount of $2,000,000 per occurrence, covering third party bodily injury and property damage associated with hazardous material storage facilities, tanks, piping, ancillary equipment and containment systems or structures that are used, controlled, constructed or maintained on the Airport, and including expenses for defense, release mitigation and off and on-site remediation.

16.1.3 *Property* insurance in an amount equal to the full insurable value of the Lessee's essential personal property and all improvements made to buildings or facilities on the Lessee's premises, including all replacements and/or additions thereto, on an All Risks, replacement-cost basis. Such shall require an ISO Special Causes of Loss Form or equivalent.

16.1.4 *Comprehensive/Commercial Automobile Liability* insurance in the amount of $1,000,000 per occurrence, covering all owned, non-owned and hire vehicles operated on the Airport that are assigned to or used in the performance of "commercial" activities, or are operated within the AOA; an MSC 90 Endorsement also is required due to the Lessee's aircraft fuel service activities

16.1.5 *Worker's Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000 covering work-related injuries to employees and others permitted to operate or otherwise conduct business on the Premises.

16.1.6 *Comprehensive General Liability* ($2,000,000.00 per occurrence) insurance covering third party bodily injury and property damage, including coverage for "premises/operations," "products and completed operations," "professional," "host liquor" and "blanket contractual liabilities."

Form. Each insurance policy obtained pursuant to this SECTION, except for *Worker's Compensation* and *Employer's Liability* policies, shall: (i) name Lessor as a certificate holder and additional named insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

16.2 Certificates of Insurance. Lessee shall deliver a certificate of insurance for each policy required along with an endorsement naming Phoenix-Mesa Gateway Airport Authority as additional insured, herein to

Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the term of this Lease.

16.3 Additional Insurance. At any time during the term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this SECTION 16 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

16.4 Blanket Insurance. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

16.5 Insurance by Lessor. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this SECTION. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within TEN (10) business days after Lessor advises Lessee of the cost thereof.

17. SURRENDER OF POSSESSION

17.1 Condition of Property.

17.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear. All trade fixtures, equipment, and other personal property installed or placed by Lessee on the Premises which are not permanently affixed thereto shall remain the property of Lessee, and Lessee shall have the right at any time during the term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall be deemed abandoned, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

17.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required by Lessor, be permanently removed from the Premises by Lessee, at Lessee's expense, within FIVE (5) business days of Lease termination. Should Lessee fail to remove such trade fixtures, equipment, or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

17.2 Holding Over. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Base Rent, and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages, and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee.

18. INSPECTION BY LESSOR

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, in which event Lessor may

enter immediately and shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee on the Premises.

19. NOTICES

19.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses or at such address as either Party may advise the other from time to time:

TO LESSOR: Phoenix-Mesa Gateway Airport Authority
Attn: Business Development Department
5835 South Sossaman Road
Mesa, Arizona 85212

TO LESSEE: Straube's Aircraft Services, Inc.
Attn.: Surrey Thomas, CEO
6262 S. Taxiway Circle
Mesa, AZ 85242
Phone: (928) 279-0843
Email: surrey@airstraube.com

19.2 Any notice shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service.

20. SEVERABILITY

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

21. APPROVALS, CONSENTS AND NOTICES

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

22. LIENS AND MORTGAGES

22.1 Fee Mortgagees. Lessor may mortgage its fee interest in the Premises.

22.2 Reserved.

23. GOVERNING LAW; ATTORNEY'S FEES

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

24. COMPLIANCE WITH LAWS, RULES, AND REGULATIONS

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act*), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall at all times comply with the *Airport Minimum Standards* and *Airport Rules and Regulations*, as the same may be amended from time to time.

Copies of the current *Airport Minimum Standards* and *Airport Rules and Regulations* are attached hereto as **EXHIBIT D**. Lessee acknowledges and agrees that Lessor may amend the *Airport Minimum Standards* and *Airport Rules and Regulations* at any time in Lessor's sole discretion. Lessee shall be responsible for controlling and preventing disruptive pedestrian and vehicle traffic associated with its activities on the Premises and at the Airport. Lessee also shall display to Lessor any permits, licenses, or other evidence of compliance with laws upon request.

25. CORPORATE AUTHORIZATION

In executing this Agreement, Lessee represents and warrants to Lessor that if Lessee is a corporation, Lessee has obtained and been granted the full right, power, and authority to enter into this Lease.

26. UTILITY LINES AND SERVICE CHARGES

26.1 Connections and Services.

26.1.1 Lessee Responsibility. Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested in advance to do so by Lessee, Lessor will grant reasonable rights-of-way on or across the Airport to suppliers of public utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to designate the lands along which such rights-of-way shall be granted so as to cause the least inconvenience in the operation of the Airport and other Airport tenants.

26.1.2 Payment. Lessee shall pay for all utilities, including trash collection, used in its operations at the Airport and the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

26.1.3 Continued Use and Repair. Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises and the right to repair the same when necessary, in Lessor's sole discretion, including but not limited to, any utility easements on the Premises. Lessor shall conduct such repairs in such a manner and at such times as to not unreasonably interfere with Lessee's activities thereon.

27. RESERVATIONS TO LESSOR

The Premises are accepted "as is, where is" by Lessee, subject to any and all existing easements or other encumbrances. Lessor reserves the right to grant reasonable easements, rights-of-way, and permits, over, on, or across any portions of the Premises for commercially reasonable purposes; provided, that Lessor and the grantee, as applicable, shall not exercise such rights so as to unreasonably interfere with or disrupt Lessee's activities on the Premises, including the development of the Premises, to be determined in the reasonable judgment of Lessor and Lessee, and all such interference shall be minimized. Lessor shall provide Lessee reasonable notice of any plan to undertake the activities contemplated under this Section and shall coordinate with Lessee regarding the execution of such plans to minimize any interference with Lessee's or any subtenant's activities on the Premises. All work shall be in compliance with all applicable laws, including Environmental Laws, and the surface of the Premises shall be restored to its original condition, including any necessary remediation in accordance with Environmental Laws of any contamination associated with any Hazardous Material disturbed during any construction, at no cost to Lessee, upon the completion of any construction. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions obligating such parties to, at a minimum, the same conditions applicable to Lessor under this Section 27, including but not limited to that the surface of the Premises and any Improvements shall be promptly restored to their original condition, at no cost to Lessee, promptly upon the completion of any construction.

28. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

28.1 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, *Nondiscrimination in Federally Assisted Programs of the Department of Transportation,* as it may be amended.

28.2 Lessee agrees that: (a) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, creed, disability, age, sex or national origin in the use of the Premises; (b) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (c) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as it may be amended.

28.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age, or handicap, be excluded from participating in any activity.

28.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom.

28.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

28.6 This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation, or maintenance of the Airport.

28.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

28.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

28.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

28.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

28.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning 49 U.S.C. §40103(e) and 47107 (a)(4).

28.12 This Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

28.13 To the extent that Lessee conducts or engages in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users and charge reasonable and not unjustly discriminatory prices for each unit or service; except, however, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

28.14 Lessee shall conform to Lessor and FAA safety and security rules and regulations regarding use of the Airport air operations area including runways, taxiways, taxilanes, and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; complete and pass an airfield safe driving instruction program when offered or required by Lessor; and be subject to penalties as prescribed by Lessor for violations of Airport safety and security requirements.

29. TITLE VI

29.1 Lessee agrees to comply with pertinent statues, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color or national origin, sex, age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee understands and acknowledges that the FAA requires inclusion of and adherence to the terms and conditions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) ("**Title VI**") in all airport/aviation lease agreements where Lessor receives federal funding, including the Lease in this instance.

29.2 During the Term, Lessee, for itself, its assignees, and successors in interest agrees as follows:

29.2.1 Compliance with Regulations. Lessee will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

29.2.2 Nondiscrimination. Lessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

29.2.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Lessee of Lessee's obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

29.2.4 Information and Reports. Lessee will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal

Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to the sponsor or the Federal Aviation Administration as appropriate and will set forth what efforts it has made to obtain the information.

29.2.5 Sanctions for Noncompliance. In the event of Lessee's noncompliance with the Nondiscrimination provisions of this Lease, Lessor will impose such default remedies as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Lessee under the Lease until Lessee complies; and/or
(b) cancelling, terminating, or suspending the Lease, in whole or in part.

29.2.6. Incorporation of Provisions. Lessee will include the provisions subsections 29.2.1 through 29.2.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

29.3 The Lessee for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (a) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (b) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (c) that Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Nondiscrimination Acts and Authorities.

29.4 During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following Nondiscrimination statutes and authorities; including but not limited to the following (which Lessor is required to disclose and include in such Lease and other agreements, pursuant to FAA regulation):

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 Stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (Nondiscrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

29.5 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

30. FEDERAL FAIR LABOR STANDARDS ACT

This Lease incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. Lessee has full responsibility to monitor compliance to the referenced statue or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

31. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This Lease incorporates by reference the provisions of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards

that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

32. INCORPORATION OF QUITCLAIM DEED

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government (the "**Deed**"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements, or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

32.1 That this Lease is subject to all terms and conditions of the Deed; and

32.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

33. REQUIRED PROVISIONS OF QUITCLAIM DEED

33.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

33.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

33.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

33.2 If the Premises are within any of the archaeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

33.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

34. AIRPORT SECURITY

34.1 Airport Security Plan.

34.1.1 Lessor's Operations Department maintains an approved Airport Security Plan ("**Security Plan**") pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Lessee shall at all times comply with Lessor's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

34.1.2 Lessee is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Lessor's Operations Department.

34.1.3 Lessee shall promptly upon written request from Lessor correct physical or procedural deficiencies caused by Lessee that are located on the Premises which are contrary to Lessor's Operations Department, security directives, security bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Lessor notifying Lessee of any deficiency, Lessor shall provide

Lessee with a reasonably detailed explanation of the deficiencies. Lessee shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

34.1.4 Lessee shall, to the fullest extent permitted by law, indemnify, defend, and hold Lessor harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-lessees or independent contractors of Lessee.

34.1.5 Lessee shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("**TSA**") or Lessor's Operations Department and make such audits available for inspection.

34.1.6 Lessee shall designate a primary security coordinator to receive security related briefings, bulletins, and sensitive security information.

34.1.7 Lessor reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Lessor's Operations Department shall notify the Lessee security coordinator regarding modifications that effect Lessee.

34.2 Airport Security Badge.

34.2.1 Lessee's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Lessor's Operations Department, TSA or other entity having security jurisdiction at the Airport. Lessee, Lessee's employees, and contractors will surrender security badges upon request by Lessor's Operations Department; physical security media (badges and keys) remain the property of Lessor. Within SEVENTY-TWO (72) hours of Lessor's confiscation of any security badges, Lessor shall provide Lessee with a reasonably detailed explanation of the violations that caused Lessor to confiscate the security badges.

34.2.2 Lessee and Lessee's employees and contractors shall comply with all security related audits, inspections, and screenings conducted by Lessor's Operations Department.

34.2.3 Lessee will promptly return badges to Lessor's badging office when badge holders' employment is terminated, the badge is no longer needed, or the employee/contractor is on extended leave.

40.7.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining of badge holders, and/or suspension or revocation of one or all misused badges.

35. DEFAULT BY LESSOR

In the event of any alleged breach by Lessor of its covenants contained in this Lease, Lessee shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Lease; provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Base Rent, or any other payments to be made by Lessee hereunder.

36. BROKERS

Lessor and Lessee each represents and warrants to the other Party that it has not had any dealings with any real estate brokers, finders, or agents in connection with this Lease. Lessor and Lessee each agrees to

indemnify, defend (with counsel selected by the other) and hold the other Party and other Party's nominees, successors and assigns harmless from any and all claims, costs, commissions, fees, or damages arising from a breach of such Party's representation and warranty in this Section.

37. SALE BY LESSOR

Lessee agrees to look solely to Lessor's interest in the Premises for the recovery of any judgment from Lessor, it being agreed that neither Lessor nor the holders of the equity interests of Lessor, nor the members, partners, officers, directors, or shareholders of Lessor shall be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

38. ESTOPPEL CERTIFICATE

Lessee shall, without charge, at any time and from time to time hereafter, within TEN (10) business days after written request of Lessor to do so, certify, by written instrument duly executed and acknowledged by Lessee and certified to Lessor and to any prospective lender or purchaser: (a) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (b) as to the existence of any default hereunder to the best of Lessee's knowledge; (c) as to the date on which Lessee was obligated to commence paying Base Rent and all other charges hereunder and the expiration date of the Term; (d) as to whether the Lessee has assigned or transferred its interests or any portion thereof in this Lease; and ® as to any other matters as may be reasonably requested. Lessor and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

39. UNAVOIDABLE DELAY

In the event either Party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Lease to be performed by such Party ("**Required Act**"), and such delay or hindrance is due to Unavoidable Delay (as defined below), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of Unavoidable Delay. For purposes of this Lease, "Unavoidable Delay" shall mean, with respect to either Party, an unavoidable delay in the performance by such Party of any non-monetary conditions or obligations under this Lease due including but not limited to: (a) construction delay to the extent caused by the other Party, (b) legal proceeding brought by a non-Party with respect to the Improvements or any provision or requirement of this Lease which by its nature prohibits the Improvements from being commenced, continued and/or completed, (c) a Party not receiving a governmental permit, license, approval or inspection in time to meet a contractual time period imposed hereunder provided that Party, in good faith, was diligent in the application or request for and prosecution of the process to obtain that permit, license, approval or inspection, (d) floo®(e) epidemic, (f) quarantine restriction, (g) unusually severe weather not reasonably anticipated, (h) strike, (i) walkout, (j) lock-out, (k) war, (l) national emergency, (m) fire, (n) act of God, (o) act of terrorism, (p) natural disaster, (q) explo®n, (r) default by the other Party hereunder in the performance of its obligations hereunder, (s) delay caused by the discovery, presences or actions necessary to investigate or remediate Hazardous Material under SECTION 14 (but excluding Hazardous Material attributable to the Party claiming Unavoidable Delay), or (t) other causes beyond such Party's control; provided that no Unavoidable Delay shall exist unless the Party claiming such Unavoidable Delay shall give written notice to the other Party of the occurrence of the Unavoidable Delay not later than FORTY-FIVE (45) days after the commencement of such Unavoidable Delay.

40. MISCELLANEOUS

40.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

40.2 No Waiver. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

40.3 Non-Waiver of Rights. No waiver or default by Lessor of any of the terms, conditions, covenants, or agreements hereof to be performed, kept or observed by Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Lessee, and Lessor shall not be restricted from later enforcing any of the terms and conditions of this Lease.

40.4 Amendment. This Lease contains all agreements of the Parties as of the date hereof with respect to any matter mentioned herein. No prior agreement, correspondence, or understanding pertaining to any such matter shall be effective to interpret or modify the terms hereof. Oral commitments or promises are not enforceable and shall not be binding or made part of this Lease. Any revisions or modifications to this Lease must be in writing and mutually accepted by persons with full and complete authority to bind the party.

40.5 Litigation Expenses. In the event of litigation between Lessor and Lessee in connection with this Lease, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

40.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

40.7 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

41. INCORPORATION OF RECITALS

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

EXECUTED to be effective on the date specified above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

STATE OF ARIZONA

) ss.

COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____ by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____

NOTARY PUBLIC

My Commission _____

LESSEE:

Straube's Aircraft Services, Inc., an Arizona corporation

By: _____
Surrey Thomas, CEO
Date: 6/1/2023

STATE OF Pennsylvania)
) ss.
COUNTY OF Philadelphia)

This instrument was acknowledged before me on June 1 2023 by Surrey Thomas, as CEO of Straube's Aircraft Services, Inc a(n) Authorized Representative on behalf of the company.

_____
NOTARY PUBLIC

My Commission Expires:
08/23/2025

Commonwealth of Pennsylvania - Notary Seal
Donielle T Hearon, Notary Public
Philadelphia County
My Commission Expires 08/23/2025
Commission Number 1355919

EXHIBIT A

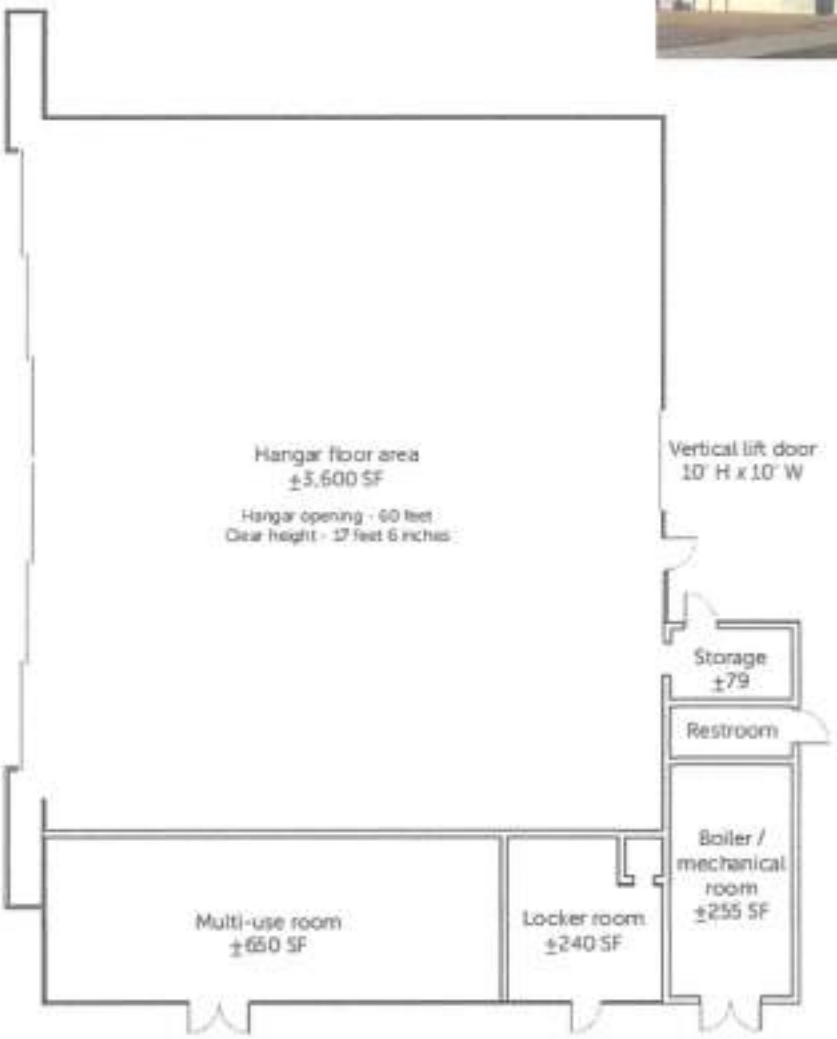
DEPICTION OF THE PREMISES

6262 South Taxiway Circle
Mesa, Arizona 85212

Phoenix-Mesa Gateway Airport

FOR MORE INFORMATION:

Overall size: 5,898 SF



NORTH

Floor plan not to scale.

All measurements and data are approximate and subject to change.

EXHIBIT A

DEPICTION OF THE PREMISES (CONTINUED)

EXHIBIT B

AIRPORT RATES & CHARGES SCHEDULE

(Link)

Airport Rates and Charges

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rates_charges.pdf

&

AIRPORT FEES, SERVICES AND RENTAL RATES SCHEDULE

(Link)

Airport Fees, Services and Rental Rates

https://www.gatewayairport.com/documents/documentlibrary/execdirsect/executive_approved_airport_fees_services_rental_rates.pdf

EXHIBIT C

INTENTIONALLY DELETED

EXHIBIT D

AIRPORT MINIMUM STANDARDS

(Link)

Airport **Minimum Standards**

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_minimum_standards.pdf

&

AIRPORT RULES AND REGULATIONS

(Link)

Airport **Rules & Regulations**

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rules_regulations.pdf

EXHIBIT E

INTENTIONALLY DELETED

EXHIBIT F

INTENTIONALLY DELETED

EXHIBIT G

INTENTIONALLY DELETED

EXHIBIT H

INTENTIONALLY DELETED

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-37

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**FY23 Capital Budget Adjustment- Rental Car Care Facility Improvements - CIP 1242**
Date:	**June 20, 2023**

Proposed Motion

To authorize an Amendment of the FY23 Carryover Capital Budget to add $1,710,015.99 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR Contract, with Willmeng Construction, Inc. and design contract with TranSystems, due to rental car companies' requests and Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) approved changes that are necessary to meet the desired needs of the car rental companies.

Narrative

The growth of commercial service at the Airport benefits the car rental companies and generates revenue for the Airport through Customer Facility Charges (CFC). CFC's are daily transaction fees imposed upon a customer renting a vehicle from an on-airport car rental company. CFC revenues are used to pay for costs associated with the design and construction of facilities or improvements used for the car rental companies located at the Airport.

Our current Car Care Facility is outdated, inadequate, and lacks the capacity and efficiency needed to service our customers effectively. This facility needs to be upgraded and expanded in order to accommodate the increased number of rental cars currently in service. Willmeng Construction, Inc. is providing CMAR Construction Services that include removal of existing facilities, building a new car care building, vacuum, car wash and light maintenance facilities, office and restroom space, increased car queuing, signage, asphalt, pavement, striping and lighting. Additional improvements are being requested by the Car Rental Companies; these PMGAA driven changes include the paving and striping of Lot 58 for additional parking, modifications to the shade canopies, revisions to the wash facilities, increased site security improvements and City of Mesa required modifications.

Fiscal Impact

Requesting to have these additional funds, for the Rental Car Care Facility Improvements Construction Services Project and included in the FY23 Carryover Capital Budget utilizing CFC funds under CIP 1242.

Rental Care Care Budget Adjustment Summary

	A	B	C	
Original Budget	$200,000.00	$5,400,000.00	$300,000.00	
Transfer IN	$0.00	$1,971,080.00	$ -	
Transfer OUT	-$100,000.00	$0.00	-$46,080.00	
Revised	$100,000.00	$7,371,080.00	$253,920.00	
Actual	-$30,783.65	-$438,908.01	-$76,648.82	
Encumb	$ -	-$6,667,236.22	-$184,739.18	
SOY Encum	$ -	$ -	$ -	
Requisitions	$ -	$ -	$ -	
Inception SOY	$ -	$ -	$ -	
Available	$69,216.35	$264,935.77	-$7,468.00	
CO for added scope	CO2	$1,959,950.76	-$7,533.00	CO3
Budget Adjustments		$1,695,014.99	$15,001.00	
	TOTAL BA	**$1,710,015.99**		

RESOLUTION NO. 23-37

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an amendment of the FY23 Carryover Capital Budget to add $1,710,015.99 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR contract, with Willmeng Construction, Inc. and design contract with TranSystems, due to rental car companies' requests and Authority approved changes that are necessary to meet the desired needs of the car rental companies**;**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an amendment of the FY23 Carryover Capital Budget to add $1,710,015.99 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR contract, with Willmeng Construction, Inc. and design contract with TranSystems, due to rental car companies' requests and Authority approved changes that are necessary to meet the desired needs of the car rental companies. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 20th day of June, 2023.

Brigette Peterson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-38

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Rental Car Care Facility Improvements Contract Modification – Willmeng Construction, Inc. - CIP 1242**
Date:	**June 20, 2023**

Proposed Motion

To Authorize a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with Willmeng Construction, Inc., due to rental car companies' requests and Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) approved changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $1,959,950.76 under CIP 1242 and provides an additional 90 contract days.

Narrative

The growth of commercial service at the Airport benefits the car rental companies and generates revenue for the Airport through Customer Facility Charges (CFC). CFC's are daily transaction fees imposed upon a customer renting a vehicle from an on-airport car rental company. CFC revenues are used to pay for costs associated with the design and construction of facilities or improvements used for the car rental companies located at the Airport.

Our current Car Care Facility is outdated, inadequate, and lacks the capacity and efficiency needed to service our customers effectively. This facility needs to be upgraded and expanded in order to accommodate the increased number of rental cars currently in service. Willmeng Construction, Inc. is providing CMAR Construction Services that include removal of existing facilities, building a new car care building, vacuum, car wash and light maintenance facilities, office and restroom space, increased car queuing, signage, asphalt, pavement, striping and lighting. Additional improvements are being requested by the Car Rental Companies; these PMGAA driven changes include the paving and striping of Lot 58 for additional parking, modifications to the shade canopies, revisions to the wash facilities, increased site security improvements and City of Mesa required modifications.

Fiscal Impact

Requesting to have this contract modification, for the Rental Car Care Facility Improvements Construction Services Project authorized in the FY23 Carryover Capital Budget utilizing PMGAA Customer Facility Charge (CFC) funds under CIP 1242.

Attachment(s): CMAR Construction Services Contract Modification

RESOLUTION NO. 23-38

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with Willmeng Construction, Inc., due to rental car companies' requests and Authority approved changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $1,959,950.76 under CIP 1242 and provides an additional 90 contract days;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with Willmeng Construction, Inc., due to rental car companies' requests and Authority approved changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $1,959,950.76 under CIP 1242 and provides an additional 90 contract days. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 20th day of June, 2023.

_____
Brigette Peterson, Chair

ATTEST:

_____
Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

_____
Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

Engineering & Facilities
5835 South Sossaman Road
Mesa, Arizona 85212
Telephone 480-988-7628
FAX 480-988-2315

CHANGE ORDER

Change Order No.:	2	Project Number/Name:	1242-Car Care Facility
Change Order Date:	31-May-23	Notice to Proceed Date:	October 3, 2022
Is This Change Order Grant Eligible?		FAA Grant No.:	0
Are Additional Grant Funds Requested?		ADOT Grant No.:	0
Contract/Completion Implications - # of days:	90	Contract Date:	September 20, 2022
Contractor:	Willmeng	Exhibit A Date:	January 0, 1900
Contract No.:	20230068	Purchase Order No.:	0

This Contract is changed as follows:

Willmeng was requested to perform additional work beyond the original scope at the request of the rental car care companies currently utilizing the facilities and PMGAA. This increases the contract amount as shown below and increases the contract time by 90 days.

This Change Order shall constitute a final settlement of all matters relating to the change in the Work which is the subject of the Change Order, including but not limited to all direct or indirect costs associated with such change, all delay and disruption costs, any impact such change may have on unchanged work, and any and all adjustments to the Contract Sum or the Contract Time. This Change Order supersedes all prior reservations stated or implied.

	Cost excl. taxes	Taxes	Cost incl. Taxes
The original *Contract Sum* was:	$ 6,946,325.35	$ 374,754.25	$ 7,321,079.60
Net change by previously authorized Change Orders:	$ -	$ (284,452.02)	$ (284,452.02)
The *Contract Sum* prior to this Change Order was:	$ 6,946,325.35	$ 90,302.23	$ 7,036,627.58
The Sum of this Change Order	$ 1,959,950.76	$ -	$ 1,959,950.76
The new *Contract Sum*, including this Change Order is:	$ 8,906,276.11	$ 90,302.23	$ 8,996,578.34

Approvals

Contractor:

Sign:
Print: Eli Newton
Title: Project Manager
Date: 6/1/2023

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
An Arizona Joint Powers Airport Authority

Sign: Rich Adams Digitally signed by Rich Adams Date: 2023.06.01 15:30:05-07'00' Date:
Print: Rich Adams
Title: Project Manager

Sign: Bob Draper, PE Digitally signed by Bob Draper, PE DN: C=US, E=bdraper@gatewayairport.com, O=PMGAA, CN=Bob Draper, PE Date: 2023.06.01 15:44:40-07'00' Date:
Print: Bob Draper
Title: Engineering & Facilities Director

Sign: Date:
Print: J Brian O'Neill
Title: Executive Director/CEO

PMGAA Rental Car Care Facility
Change Order No. 002
PMGAA Rental Car Care Facility

From:	PMGAA 6358 S Sossaman Rd Mesa AZ, 85212	**Distribution:**	Rich Adams Eli Newton
To:	Willmeng Construction 1702 E Highland Ave Phoenix, AZ 85016	**CO Request Date:** **Effective Contract Date:**	5/31/23 9/21/2022

Purpose for which the Contractor proposes to provide requested services for the project noted above through a Change Order :

CO #002 - 90% to 100% Drawing Changes & Adendum #1

Item 1	90% to 100% Drawing Changes	$	327,403.95
Item 2	Addendum #1	$	1,255,365.97
Item 3	Willmeng Markups	$	377,180.84
	Total Adjustment Requested:	$	1,959,950.76

Duration for which the Contractor proposes to adjust its Schedule for the project noted above related to Change Order Request:

Number of Calendar Days the Contract Time will be increased **90** Calendar Days

Change Order Authorization Summary:

This Authorization	$	1,959,950.76
Change Order Amount	$	1,959,950.76

The work is to be fully completed and delivered to Owner according to terms and conditions of the original Agreement referred to above for the price authorized, which includes all sales tax, bonds, fees, insurances, and all other taxes. Owner's Contingency Use is not valid until signed by the PMGAA. Contractor's Signature indicates acceptance.

Contractor Acceptance

By: _____ Date: 6/1/2023

Eli Newton - Willmeng Construction

PMGAA Acceptance

By: _____ Date: _____

Rich Adams - PMGAA

willmeng

CHANGE ORDER AUTHORIZATION SUMMARY WORKSHEET

Project: PMGAA - Rental Car Care Facility
Project No.: 22-03-3631

CO - No. 02
Date: 5/31/2023

1. Change order Identification

Site Utilities, Concrete, Special Construction, Equipment, Demolition, Jersey Barriers, Permenant Fencing, Electrical.

2. Subcontractors Costs

Company	Base Cost	+	Sales Tax	=	Total
a) 90% to 100% changes-					
Atwater Construction	$ 128,575.00		$ -		$ 128,575.00
Bottas Concrete	$ 38,449.42		$ -		$ 38,449.42
Shade-N-net	$ 61,320.00		$ -		$ 61,320.00
Hawkeye Electric SES	$ 77,704.53		$ -		$ 77,704.53
Boyd Carwash equipment	$ 21,355.00		$ -		$ 21,355.00
b) Addendum #1					
Benchmark Surveying	$ 5,500.00		$ -		$ 5,500.00
Ramm Testing	$ 3,500.00		$ -		$ 3,500.00
Dickens Quality Demolition	$ 8,820.00		$ -		$ 8,820.00
Bottas Concrete	$ 17,458.63		$ -		$ 17,458.63
Hawkeye Electric	$ 73,070.31		$ -		$ 73,070.31
D&O Contractors	$ 585,330.17		$ -		$ 585,330.17
Diamond Iron	$ 19,216.78		$ -		$ 19,216.78
Atwater Construction	$ 38,078.84		$ -		$ 38,078.84
Moyers Contracting	$ 2,400.00		$ -		$ 2,400.00
A-1 Sprinklers	$ 946.00		$ -		$ 946.00
Howe Precast Concrete Barrier	$ 200,000.00		$ -		$ 200,000.00
Carter Landscaping	$ 36,850.00		$ -		$ 36,850.00
Additional Dust control	$ 25,000.00		$ -		$ 25,000.00
Dust Suppresent Allowance	$ 67,500.00		$ -		$ 67,500.00
Additional mobilization	$ 26,145.24		$ -		$ 26,145.24
Wayfinding	$ 3,000.00		$ -		$ 3,000.00
Traffice control	$ 7,000.00		$ -		$ 7,000.00
Light Towers	$ 26,600.00		$ -		$ 26,600.00
Light tower fuel	$ 33,950.00		$ -		$ 33,950.00
GC Phase Allowance	$ 75,000.00		$ -		$ 75,000.00
	$ 1,582,769.92		$ -		$ 1,582,769.92 (2A)

(a) General Conditons (90 days time extention)	=	$ 193,665.24	(3A)
(b) General Liability Insurance (0.96 %)	=	$ 17,053.78	(3B)
(c) Builders Risk Insurance (0.25 %)	=	$ 4,483.72	(3C)
(d) Payment & Performance Bond (2.00 %)	=	$ 35,959.45	(3D)
(e) Sales Tax (1.3%)	=	$ 23,841.12	(3E)
(f) Contractors Overhead & Profit (5.50 %)	=	$ 102,177.53	(3F)
TOTAL CHANGE ORDER REQUEST (2A +3A + 3B + 3C + 3D + 3E + 3F)	=	$ 1,959,950.76	

INDEX

PMGAA Rental Car Care Facility-CO-#02 Sub Back up

Trade	Name	CO-02 cost:	Page No./ Notes
Cover Sheet			Page 1
Breakdown			Page 2
90% to 100% DRAWING CHANGES			
Utility	Atwater construction	$128,575.00	Page 4-11
Concrete	Bottas Concrete	$38,449.42	Page 12-17
Fabric Canopy	Shade-N-Net	$61,320.00	Page 18-19
Electrical	Hawkeye Electrical	$77,704.53	Page 20-21
Carwash equipment	Boyd Carwash Equipment	$21,355.00	Page 22-24
ADDENDUM#1			
Surveying	Benchmark Surveying	$5,500.00	Page 26
Testing	Ramm	$3,500.00	
Site Demolition	DQ Demo	$8,820.00	Page 27
Site Concrete	Bottas Concrete	$17,458.63	Page 28
Electrical	Hawkeye	$73,070.31	Page 29
Paving	D&D	$585,330.17	Page 30
Fences & Gates	Diamond Iron	$19,216.78	Page 31-32
Site Utilities	Atwater	$38,078.84	Page 33
Striping & Parking Signage	Moyers	$2,400.00	Page 34
Fire Sprinklers	A-1 Fire Sprinklers	$946.00	Page 35
Jersey Barrier	Trench- Ade	$200,000.00	$171,004.10 for Jersey barrier manufacturing and install. $28,995.9 for grading against the retention. (Page 36)
Rip Rap	Carter's Landscaping	$36,850.00	Page 37
Additional Dust Control	Willmeng	$25,000.00	Additional Labor, surveillance camera, water truck rent and fuel.
Dust suppressant allowance	Willmeng	$67,500.00	Cover 6 applications at $13,500 per application. One application already included in D&O's CO
Additional mobilization	Willmeng	$26,145.24	Multiple mobilization during different phases. Covers 3 application at $8715.08 per application (Page 38-40)
Wayfinding	Willmeng	$3,000.00	Stop signs , wayfinding etc.
Traffic Control	Willmeng	$7,000.00	Speed Bumps,Temp. Jersey Barriers etc.
Light towers Temp	Willmeng	$26,600.00	Rent for 5 light tower for 7 months excluding gas
Light towers Temp Fuel	Willmeng	$33,950.00	15 gallon tank, 5 light towers, gas price $6/gallon, refueling twice a week - $25,200. Delivery fee-$8750
GC phase Allowance	Willmeng	$75,000.00	Willmeng phasing allowance

90% to 100% Drawing Changes

ATWATER CONSTRUCTION II, LLC DBA
ATWATER CONSTRUCTION CO.

Lic. # ROC 31639

3447 South 36th Street Phoenix, Arizona 85040 (623)582-3909 Office (623)582-3902 Fax

SCOPE OF WORK

8/4/2022

PMGAA Rental Car Facility 100%

5835 South Sossaman Road

Mesa, Arizona 85212

	Description of Work	Qty Bid	Unit	
	DOMESTIC WATER Sheets C-202, C-505 Thru C-502			
	Remove Existing Water Line	96	LF	
	Remove and Salvage Existing Water Meter	1	EA	
	Remove Existing Backflow	1	EA	
	Relocate Existing Water Meter and Backflow	2	EA	
New Item	**Concrete Encase Water Line per MAG 404-1&2**	**1**	**EA**	Sheet C-502
	2" Meter Service per COM M-29 (103' Total)	2	EA	
Deleted Item	**2" Reduced Pressure Backflow Preventor per COM M-31.03**	**0**	**EA**	
Deleted Item	**2" K Copper (BP To Within 5' of Bldg)**	**0**	**LF**	
Deleted Item	**Backflow Cage & 4" Concrete Pad**	**0**	**EA**	
Decreased Qty	**Certify Backflow Preventors**	**1**	**EA**	
New Item	**8"x4" Tapping Sleeve & Hot Tap**	**1**	**EA**	Sheet C-502
New Item	**4" Valve, Box & Cover per MAG 391-1, Type 'C'**	**1**	**EA**	Sheet C-502
New Item	**4" DIP, CL 350 (Meter Svc) w/ Polywrap**	**11**	**LF**	Sheet C-502
New Item	**4" Above Ground Meter Assembly per COM M-28.01.1-2 -Less Meter Install**	**1**	**EA**	Sheet C-502
NOTE	***Per Dibble Engineering Delete 6" RPBP That is on Plan.***	***1***	***EA***	
New Item	**6" DIP, CL 350 w/ Polywrap**	**683**	**LF**	Sheet C-501 & 50
New Item	**1.5"K Copper (To Within 5' of 4 Bldgs)**	**221**	**LF**	Sheet C-501 & 50
	Excludes: Meter Installs, Building Connections, Traffic Control, Concrete / Asphalt R&R, Asphalt Sealcoating or Striping, After Hours Night or Weekend Work, Police Officers			

	FIRELINE Sheets C-202, C-500 Thru C-502			
	Remove Existing Fire Line	156	LF	
	Remove Existing Fire Line Valve	2	EA	
	Remove and Salvage Fire Hydrant	1	EA	
	Remove Remote FDC	1	EA	
	Remove Existing PIV	1	EA	
New Item	**Concrete Encase Water Line per MAG 404-1&2**	**1**	**EA**	Sheet C-502
	8"x6" Tapping Sleeve & Hot Tap	1	EA	
	6" Valve, Box & Cover per MAG 391-1, Type 'C'	5	EA	
	4" Valve, Box & Cover per MAG 391-1, Type 'C'	2	EA	
	Fire Hydrant per MAG 360	2	EA	
Deleted Item	**4" Double Check Backflow Preventor per COM M-31.02**	**0**	**EA**	
New Item	**6" Double Check Backflow Preventor per COM M-31.02**	**2**	**EA**	Sheet C-502
Increased Qty	**6" DIP, CL 350 w/ Polywrap**	**1540**	**LF**	Sheet C-501 & 50
Increased Qty	**4" DIP, CL 350 w/ Polywrap**	**323**	**LF**	Sheet C-501 & 50
	4" Flange Fire Riser (1' AFF In Bldg)	4	EA	
	Certify Backflow Preventors	2	EA	
	Excludes: FDC Installs, Traffic Control, Concrete / Asphalt R&R, Asphalt Sealcoating or Striping, After Hours Night or Weekend Work, Police Officers			

ATWATER CONSTRUCTION II, LLC DBA
ATWATER CONSTRUCTION CO.
Lic. # ROC 31639
3447 South 36th Street Phoenix, Arizona 85040 (623)582-3909 Office (623)582-3902 Fax

SCOPE OF WORK

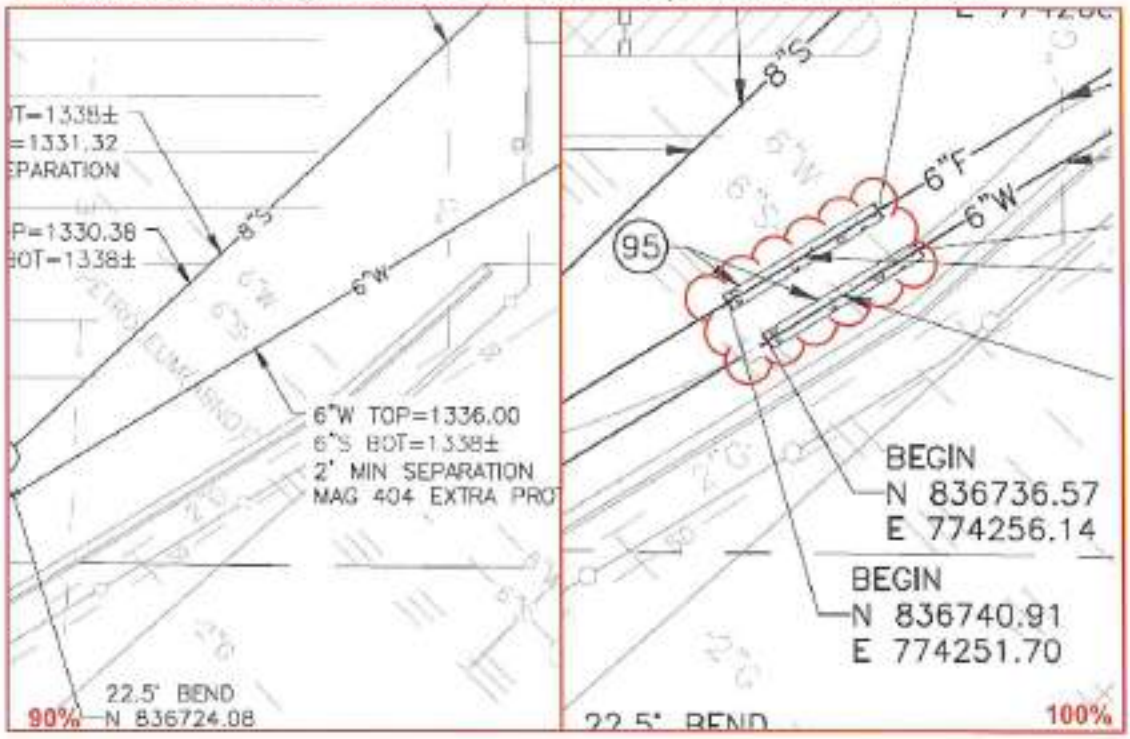
8/4/2022

PMGAA Rental Car Facility 100%

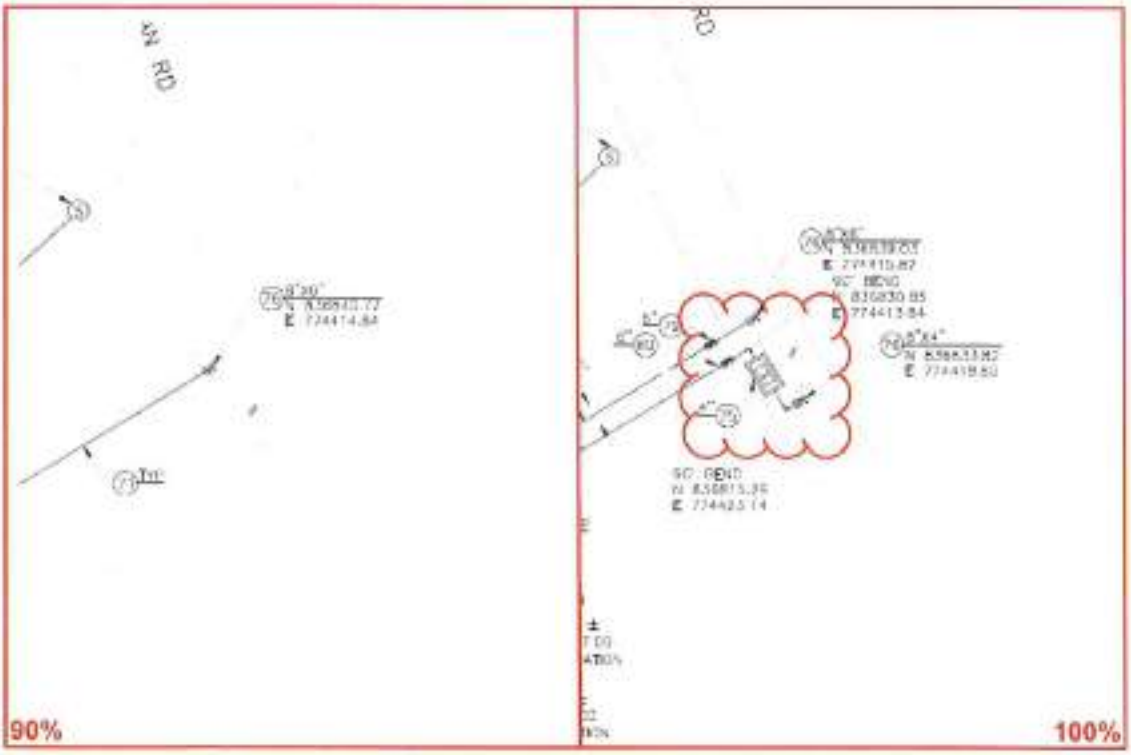
5835 South Sossaman Road
Mesa, Arizona 85212

	Description of Work	Qty Bid	Unit	
	SEWER Sheets C-500 Thru C-502			
	48" SS Manhole per MAG 420-1,3	4	EA	
Decreased Qty	**8" SDR 35 PVC w/ Tracer Wire**	**619**	**LF**	
New Item	**6" SDR 35 PVC w/ Tracer Wire**	**166**	**LF**	Sheet C-501 & 502
	4" SDR 35 PVC w/ Tracer Wire	36	LF	
	6" Cleanout Assembly	3	EA	
	Camera Sewer After Backfill	1	LS	
**Street Work	Provide Road Plates (As Needed) for Trenching in Asphalt. ***UP TO 3 WEEKS MAX***. Others to Provide Traffic Control **ANTICIPATING REGULAR DAYTIME WORK**	1	LS	
	Saw Cut AC	300	LF	
	Remove and Haul off ONLY Asphalt. No Replacement 120'x4', 15'x15'	705	SQFT	
	1/2 Sack Slurry Backfill Trench in AC	180	CUYD	
	Excludes: Building Connections, Concrete / Asphalt Replacement, After Hours Night or Weekend Work, Asphalt Sealcoating or Striping, Police Officers, Sewer Bypassing Pumping			

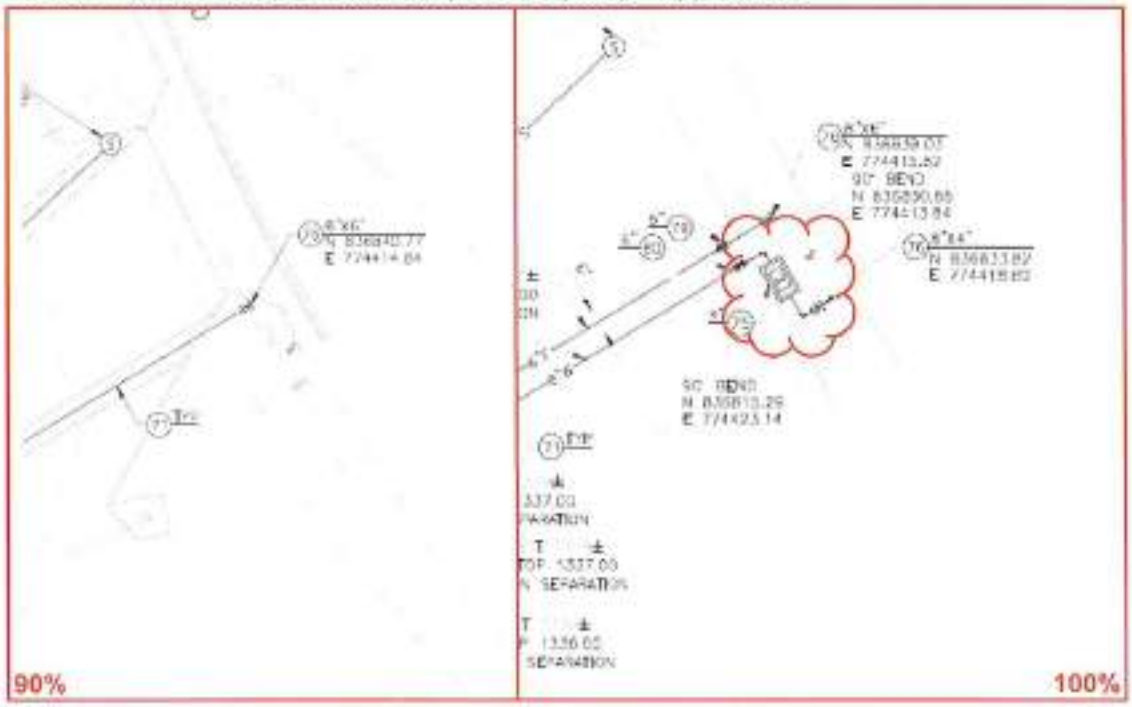
1. C-502 (Note 95) Encasing Fire & Water line in Concrete per MAG STD DET 404-1&2



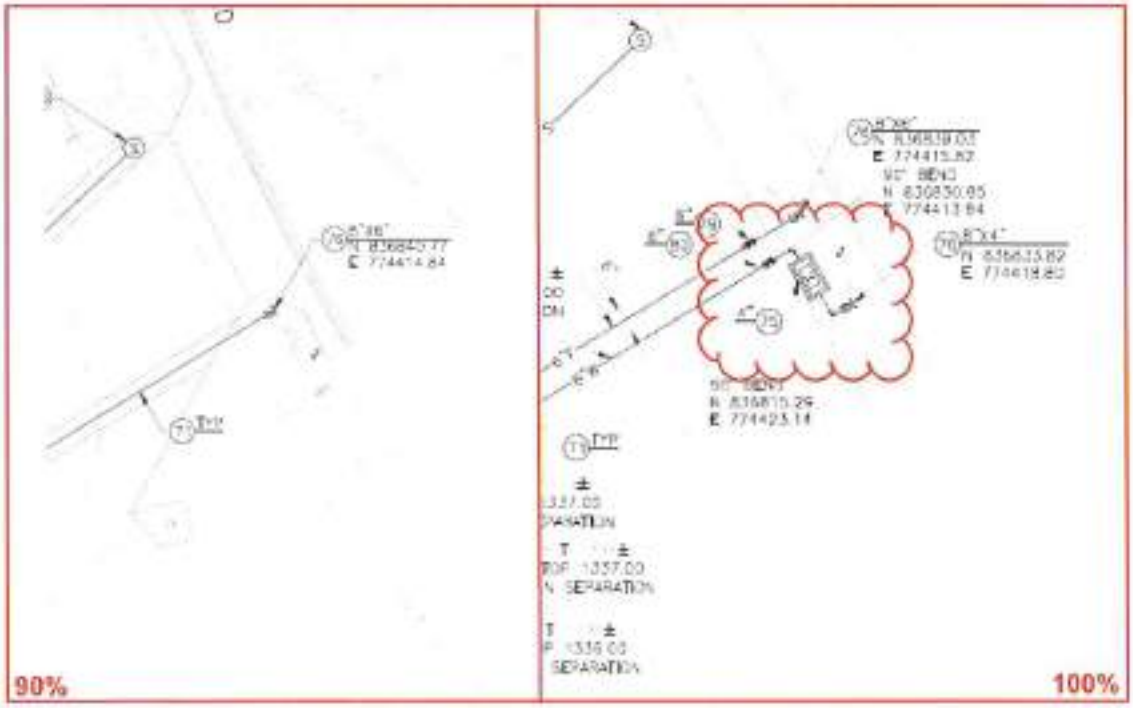
2. C-502 8"x4" Tapping Sleeve



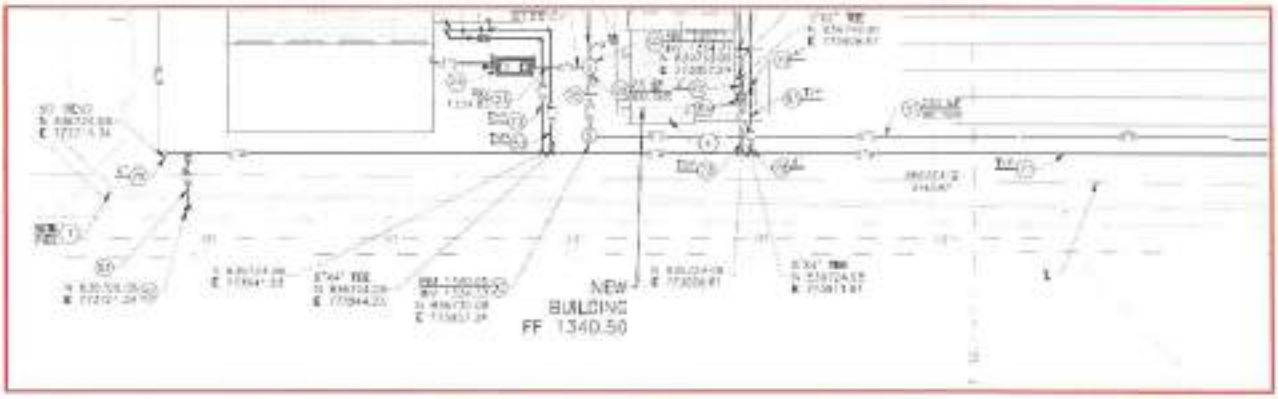
3. C-502 Additional 4" Valve, Box and Cover per MAG 391-1, Type "C"
4. C-502 4" DIP, CL 350 (For Meter SVC) with Polywrap – Approx. 15LF



5. C502 4" Above ground meter assembly

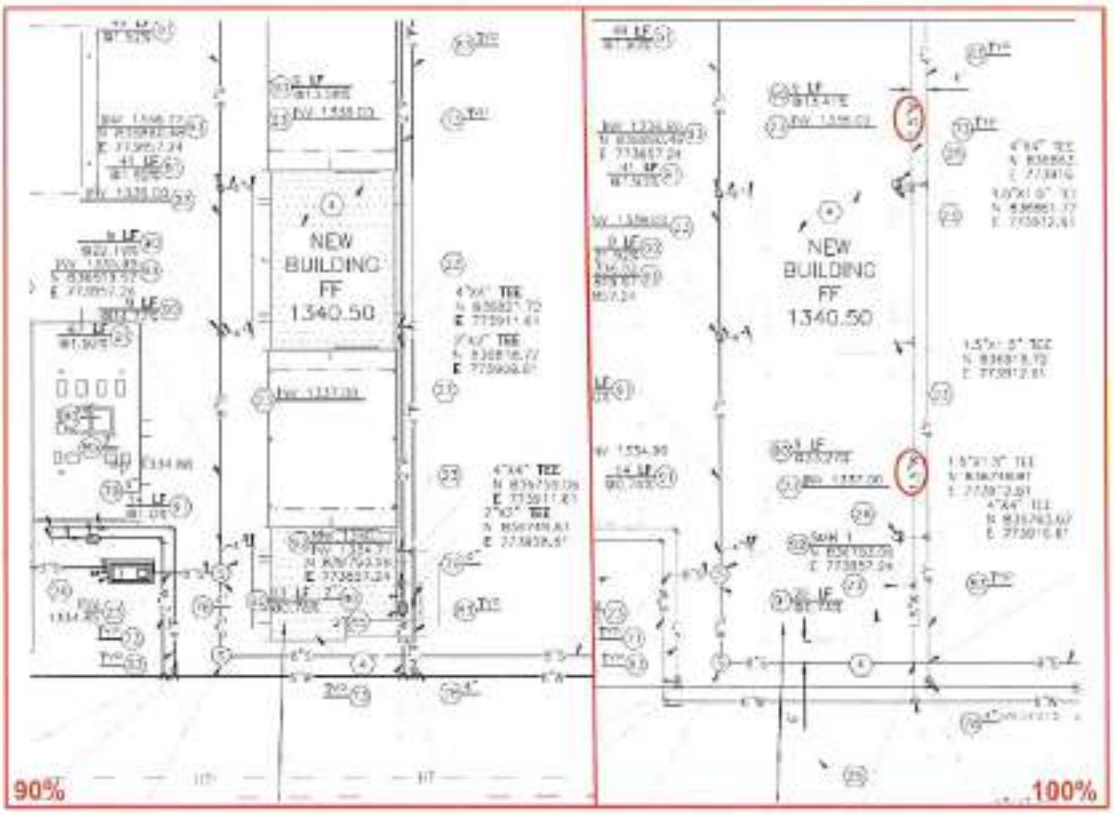


6. 6" DIP, CL 350 with Polywrap (Approx. 700LF) for Water line and 6" DIP, CL 350 with Polywrap for Fire line has increased by (Approx. 1550LF)



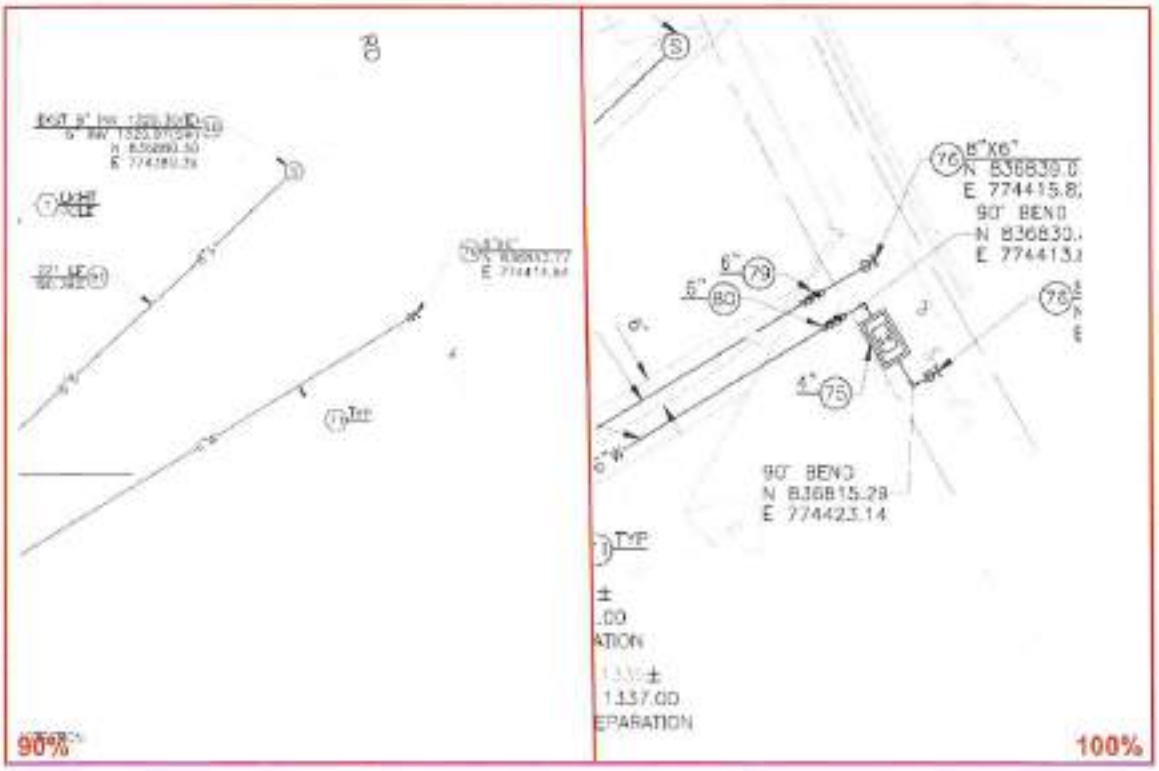
7. 1.5" K Copper line to within 5' of Bldgs. (Approx. 220LF)

(Changed from 2" Copper line)



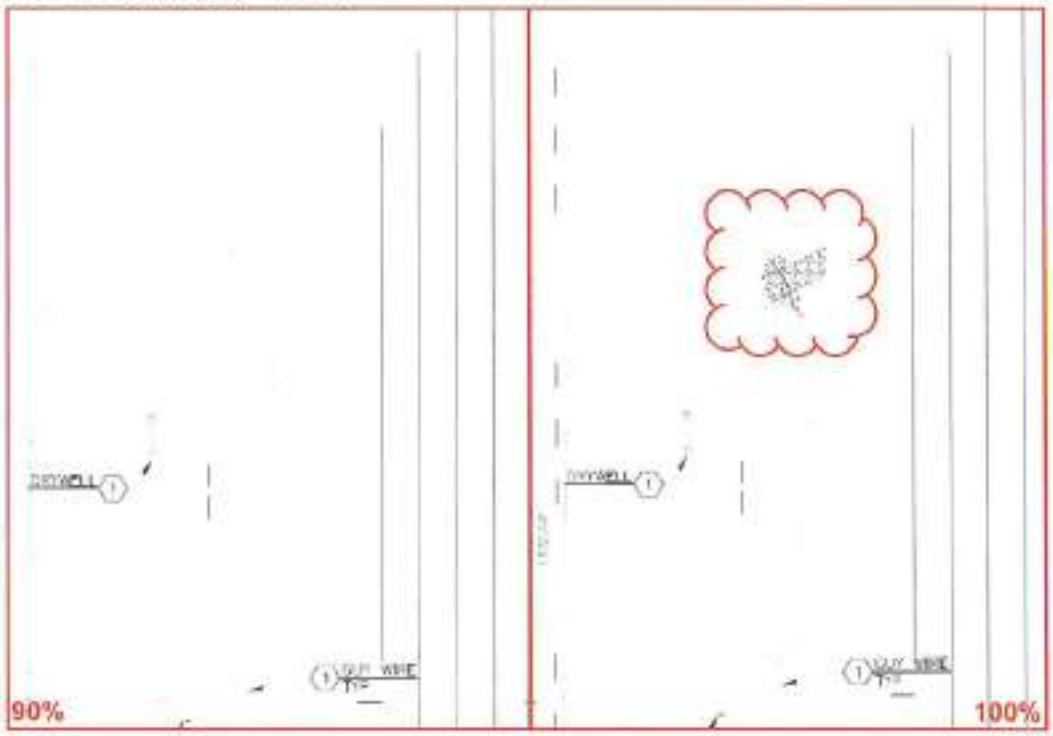
8. 6" Double check backflow preventer (Qty.2)

(4" BFP has been deleted)

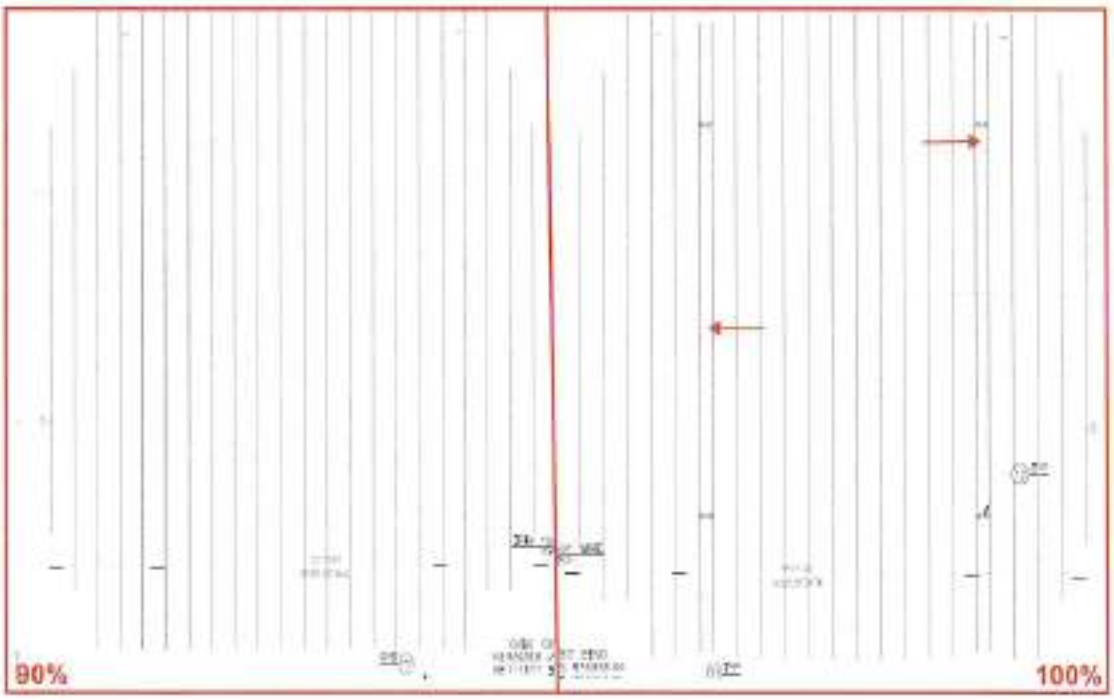


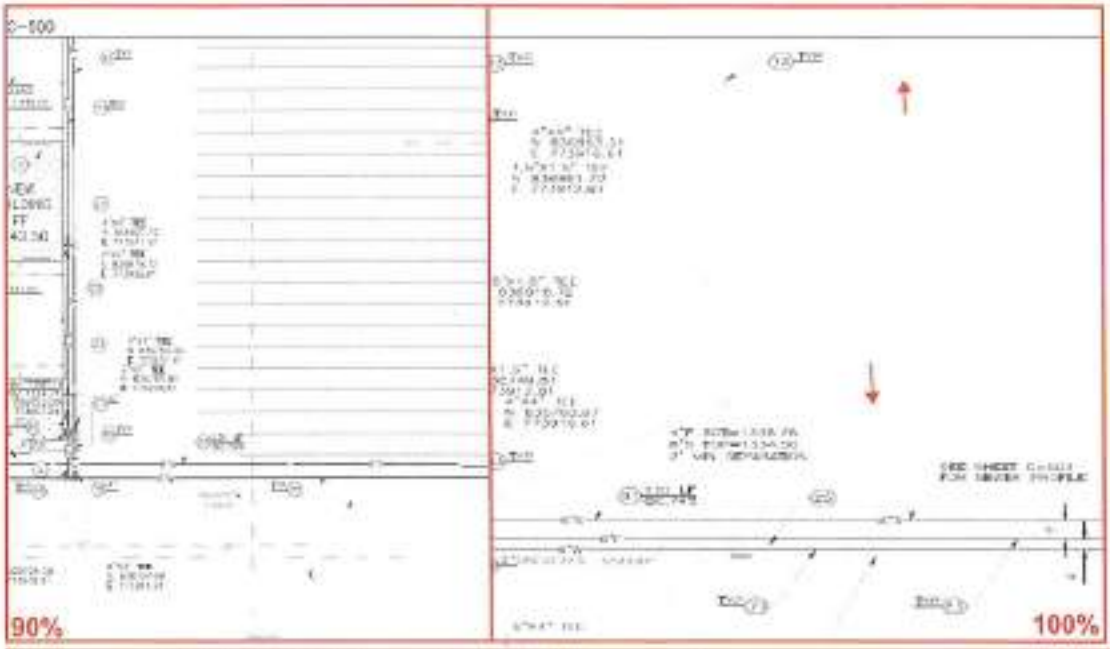
9. 4" DIP, CL 350 with Polywrap for Fire line has increased by Approx. 320LF
10. 6" SDR 35PVC with Tracer wire for Sewer line has increased by Approx. 175LF
    (Decreased Qty-8" SDR 35PVC with Tracer wire)

11. 12" Grouted Riprap – Added



12. Pavement Parking - Added

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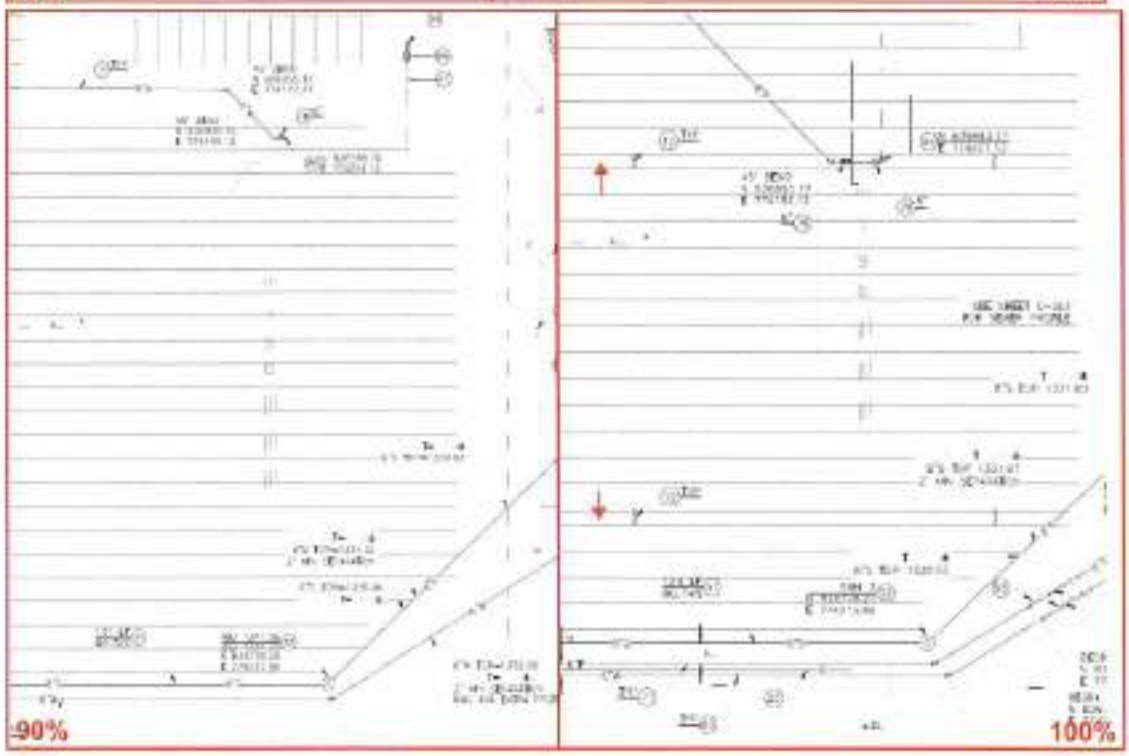
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BOTTA'S
CONCRETE CONSTRUCTION, CORP.
4549 E. Jensen St.
Mesa, AZ., 85205

Proposal

11/11/2022

Roland Radtke
602-769-2816
roland@bottasconcrete.com
Company License: ROC 135493 & 135494

Willmeng Construction
Tim Donoghue
tdonoghue@willmeng.com

PMGAA Rental Car Facility - 100% drawings
Mesa

Description	Quantity	Unit
01 Building Concrete		
Building Mobilization and Demobilization	1.00	EA
CIP Tank floor Added as per S-301 Detail 5/6/7	1.00	EA
Floor sink floor Added as per S-301 Detail 5/6/7	3.00	EA
Footing steps Added as per S-301 Detail 5/6/7 & S-601 Detail 1	8.00	EA
Vacuum canopy equipment slab Added as per Sheet A-111 Vacuum Canopy	3.00	EA
Wall Footer 24"x12"	812.02	LF
Wall Footer 28"x12"	78.16	LF
5" Slab on Grade	3,097.50	SF
8" Slab on Grade	8,558.48	SF
2" topping over precast roof	4,354.19	SF
12" Slab on grade Added as per S-301 Detail 5/6/7	1,730.98	SF
CIP Tank wall Added as per S-301 Detail 5/6/7	87.52	LF
Floor sink wall Added as per S-301 Detail 5/6/7	71.20	LF
Trench drain install. Drain supply by others	172.74	LF

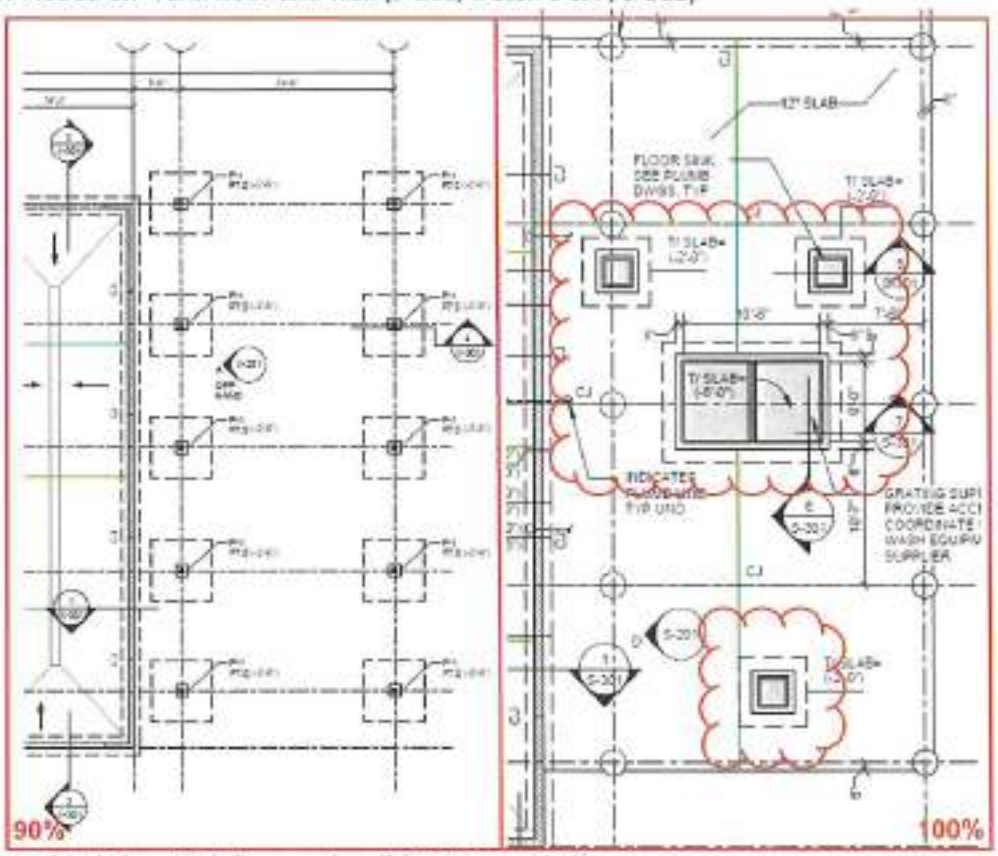
02 Site Concrete		
Site Mobilization and Demobilization	1.00	EA
Curb and Gutter - MAG 220-1A	112.98	LF
7" PCCP	4,030.64	SF

BOTTA'S
CONCRETE CONSTRUCTION, CORP.
4549 E. Jensen St.
Mesa, AZ., 85205

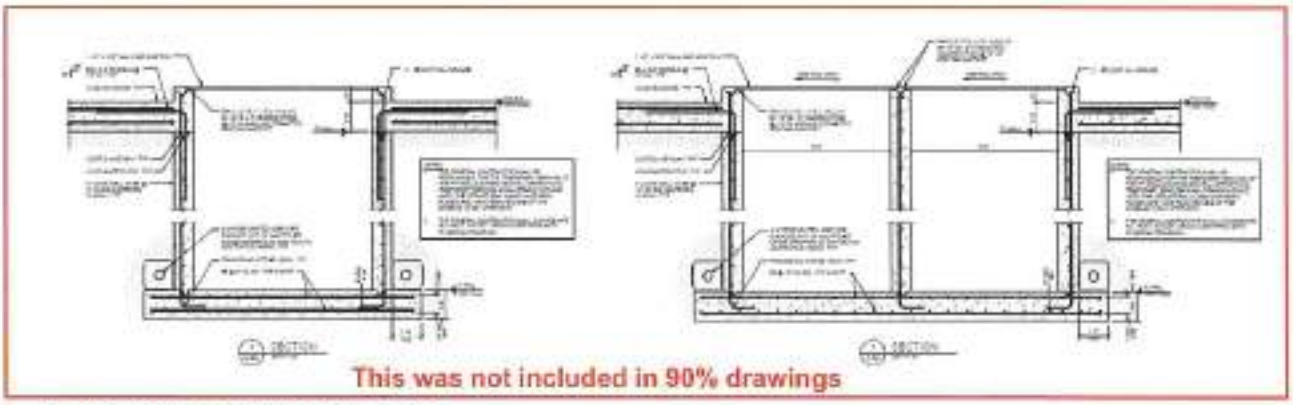
Description		Quantity	Unit	
Valley Gutter 6' Wide Added as per Sheet C-501 & 502		101.37	LF	
Bollard install, steel by others		61.00	EA	
Light pole base Added as per Sheet C-501 & 502		10.00	EA	

THIS BID EXCLUDES THE FOLLOWING: Bollards(materials only), Bubbler boxes, Catch basins, Color concrete, Compaction, Compaction Certification, Concrete wheel stops, Curing other than by chemicals, Demolition, Dewatering, Dry wells, Excess Fill, Furnish Embeds, Hardeners, Hard dig/soft dig, Housekeeping pads, Joint sealant, Lay out building corners, Masonry Rebar, Monument sign, Mow curb/extruded curb, Over excavate and recompaction under footings, Performance/Payment Bonds, Permits, Precast Concrete, Remove excess spoils from site, Repair/replace damaged utilities, Rip rap, Retaining walls, Sales Tax, Sealers, Shoring , site preparation to within 1/10th , Special finishes, Storm drain concrete, Termite Pretreat, Testing, Transformer pads, Traffic control/barricade, Truncated domes, Waterproofing. Unless noted in bid above.

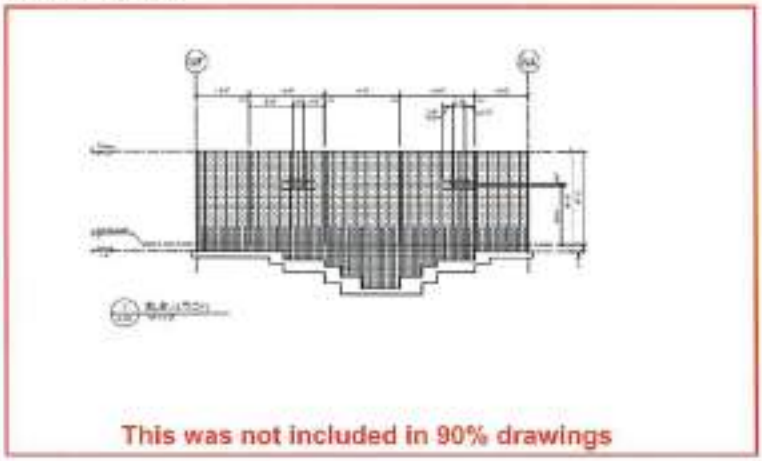
13. Added CIP Tank floor and wall (S-102, Detail 6 & 7, S-301)



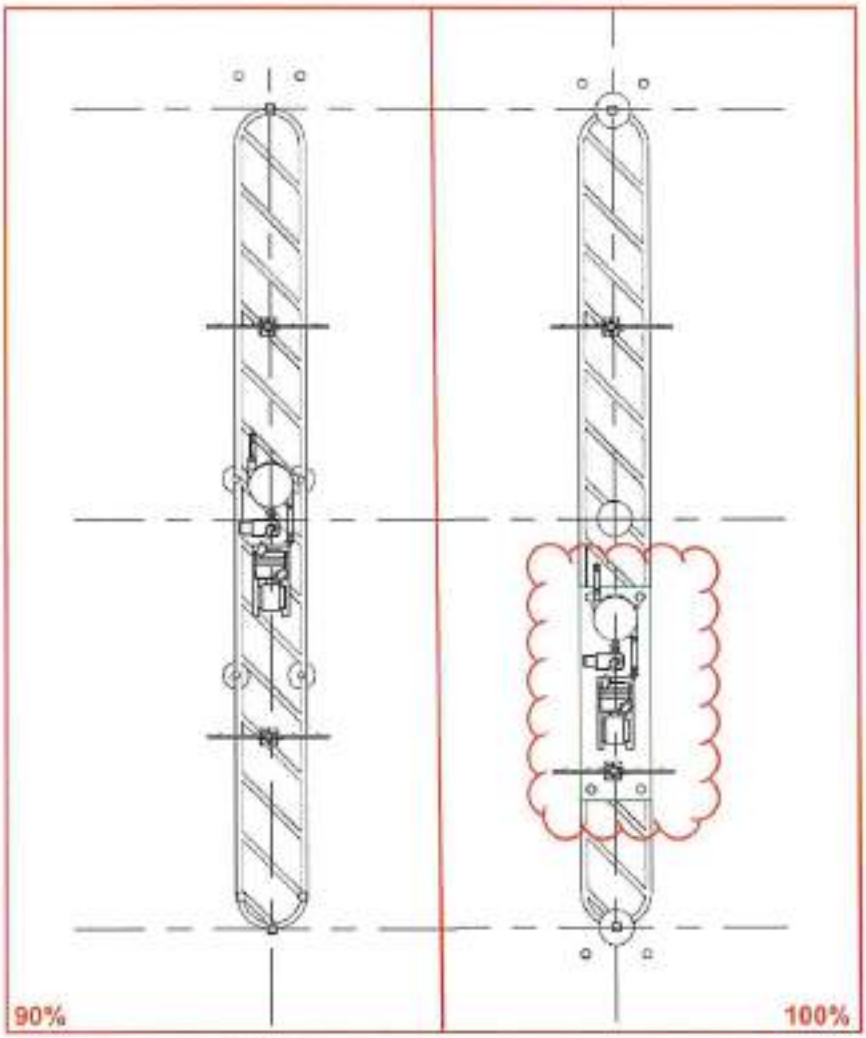
14. Added Floor Sink floor and wall (S-102 Detail 5)



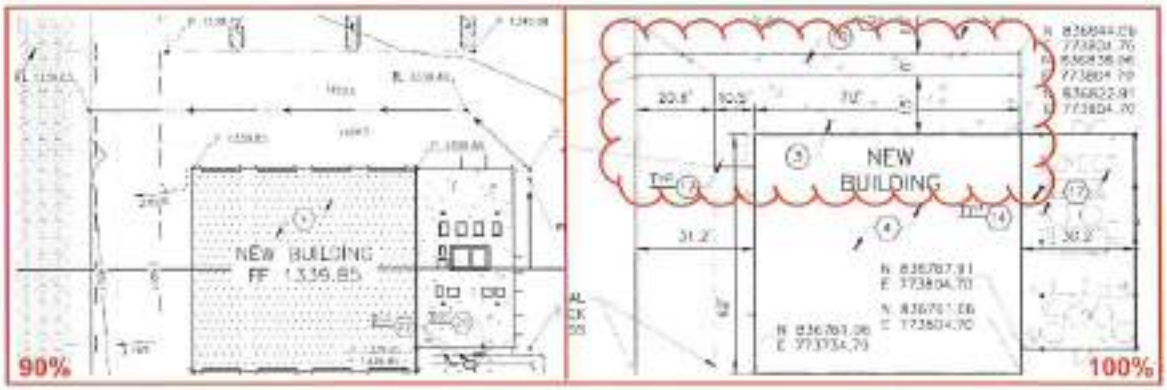
15. Added Concrete footing steps



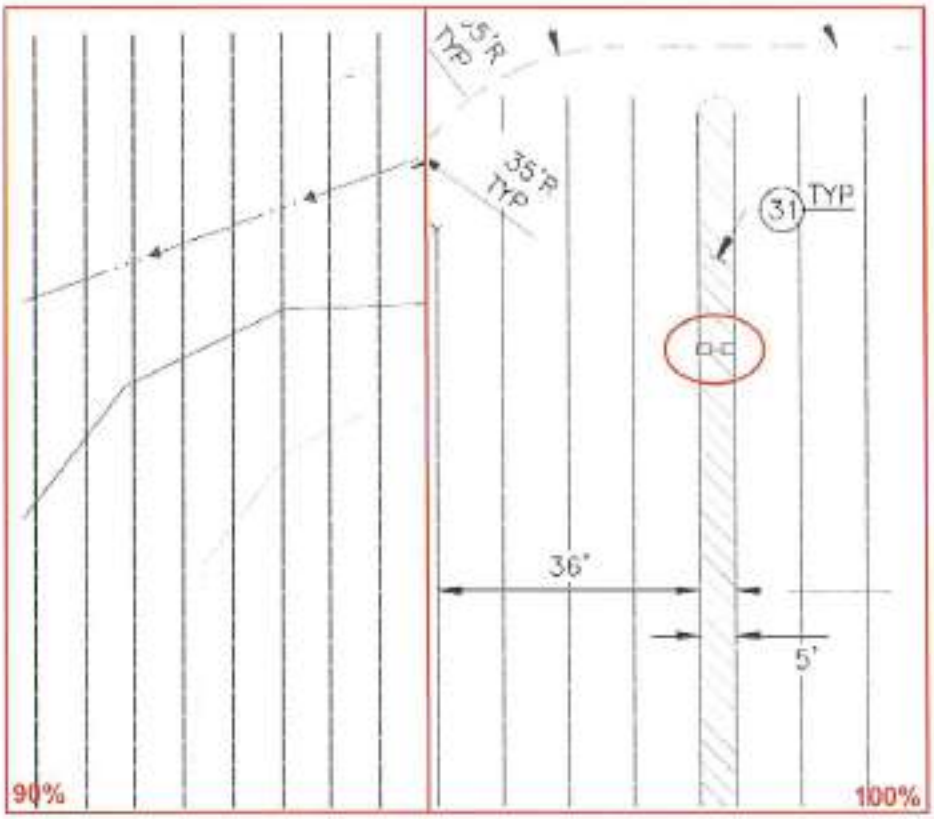
16. Added Concrete Vacuum canopy equipment pad



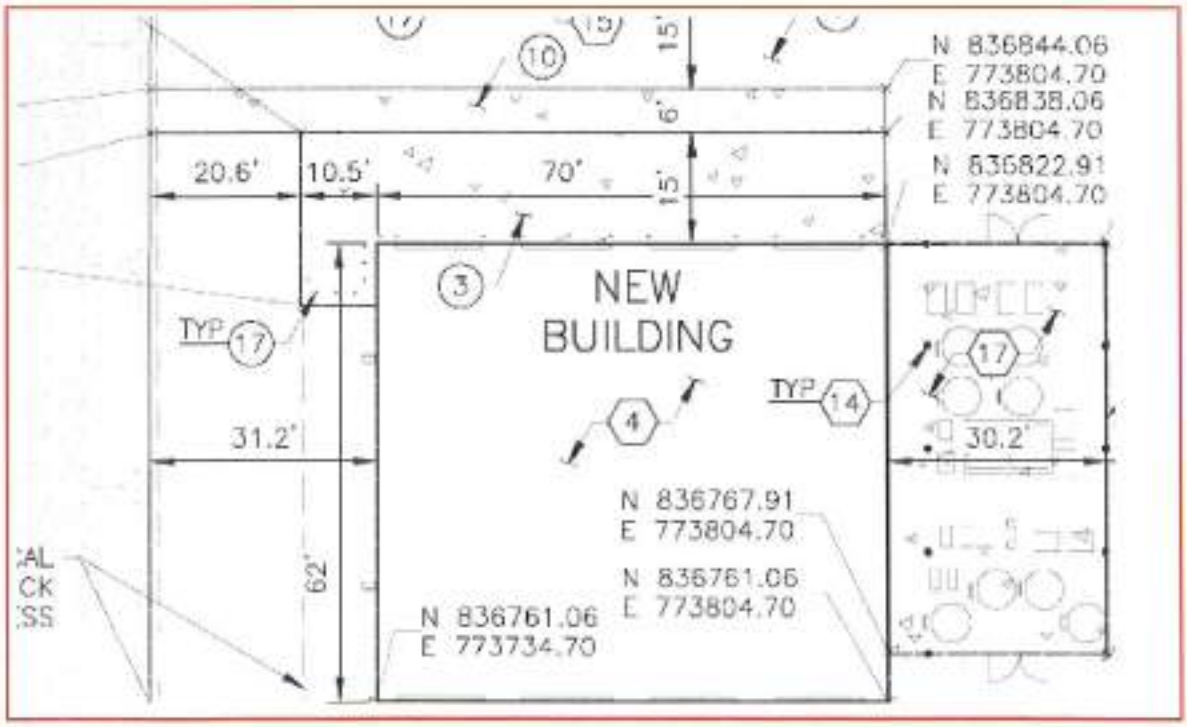
17. 12" Slab on grade (Increased Qty.)
18. Added Curb & Gutter per MAG standards



19. Added Light pole bases 10EA



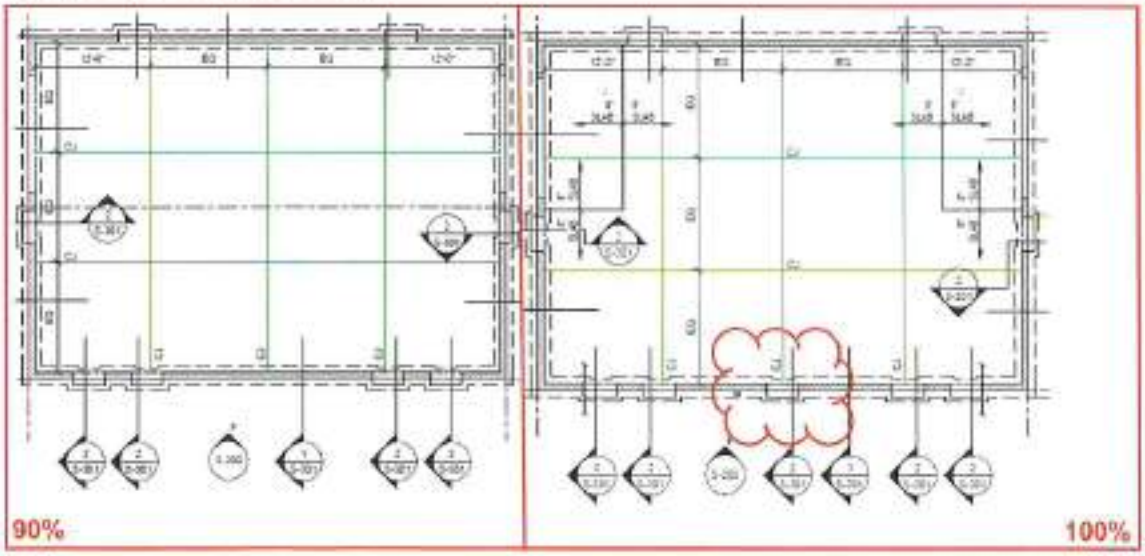
20. 7" PCCP concrete



22. Added- 4" Bollards with Concrete infill

New bollards added near vacuum canopy area.

23. Increased footings (S-101)



Shade 'N Net Proposal/Contractual Agreement

This is a legal agreement once signed. Complete and initial all pages.

Purchaser: Willmeng Construction	City/District: Phoenix	Remit payment to Manufacturer:
Contact:	Quote #:	Shade 'N Net 5711 Washington Phoenix, AZ 85043
Title:	PO #:	
Sales Rep: JJ Orlando	Phone: (480)435-8056	Email: JJ@shade-n-net.com

Billing Information	Shipping Information	Jobsite Information
Willmeng Construction		PMGAA
Phone:	Contact:	Contact:
Fax:	Phone:	Phone:
Email:	Fax:	Fax:

Proposal Date: May 30, 2023	X	Install
Order Date:		Ship
Revised Date:		Deliver

PRICING- Change Order

DESCRIPTION	PRICE
Vacuum Canopy	
Custom (1) 96' x 46' x 9'4/11' hip structure with 6 columns vacuum prep and electrical prep and two cantilevers per revisions to engineering----------	$34,320.00
Installation, (6) footings, rebar cages, dirt haul, and equipment rental----------	$25,500.00
Stamped Engineering---------	$ 1,500.00

ACCESSORIES & MISCELLANEOUS

QTY	ITEM	DETAILS	COST
	Change Order	$ 61,320.00	
	Sales Tax	$	
	TOTAL PRICE	$ 61,320.00	

PAYMENT TERMS:

(1) Upon execution of the Agreement (50% Deposit)	$
(2) Upon delivery of materials to the jobsite	$ 0.00

NOTES:

HAWKEYE ELECTRIC INC

PRICING DETAIL CHARGES

JOB NAME:	JOB NUMBER:	DATE:	HAWKEYE PROJ MGR:	CONTRACT CHANGE	
PMGAA CAR RENTAL RENOVATIONS	2022-95	02/17/23	PATRICK TILTON	Hawkeye SCO #	SCO1
JOBSITE ADDRESS:	CLIENT NAME & ADDRESS			Hawkeye PCO #	SCO1
6262 S. SOSSOMAN ROAD	WILLMENG CONSTRUCTION			Drawing #	
MESA, AZ 85212	1702 E HIGHLAND DRIVE			Delta #	
	PHOENIX, AZ 85016			Document Date	

COR DESCRIPTION:	Additional Days Req'd (calendar days)	CHARGE LABOR RATE ($/hr)	$68.00
CHANGE SWITCHGEAR FROM SIEMENS TO CALIFORNIA COMPANY			

CHARGE ITEM	MATERIALS			LABOR				CHARGES TOTAL
	Quan	$/EA	Total	hr/unit	tot hrs	$/hr	Total	
			$ -			$ 68.00	$ -	$ -
TITANSOLAR POWER SES - 30-34 WEEKS DEL.	1	$ 88,000.00	$ 88,000.00			$ 68.00	$ -	$ 88,000.00
			$ -			$ 68.00	$ -	$ -
CREDIT SIEMENS SES	(1)	$ 23,927.00	$ (23,927.00)			$ 68.00	$ -	$ (23,927.00)
			$ -			$ 68.00	$ -	$ -
			$ -			$ 68.00	$ -	$ -
			$ -			$ 68.00	$ -	$ -
			$ -			$ 68.00	$ -	$ -
			$ -			$ 68.00	$ -	$ -
			$ -			$ 68.00	$ -	$ -
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			$ -			$ 68.00	$ -	$ -
			$ -			$ 68.00	$ -	$ -
			$ -			$ 68.00	$ -	$ -
Total from Page 2			$ -		0.00	$ 68.00	$ -	$ -
NET TOTALS		tot mat'ls:	$ 64,073.00	tot hr:	0.00	tot labor:	$ -	$ 64,073.00

JOB EXPENSE	AMOUNT	PAGE SUMMARY		TOTALS
Material Delivery from each supplier of materials in CO	$ -	Material Total		$ 64,073.00
Foreman Supervision / Coordination	$ -	Labor Total		$ -
Clean-Up / Haul Off	$ -	Project Indirect Costs		$ 3,203.65
Rentals - Manlift / Scaffold / Forklift Etc.	$ -	Job Expense		$ -
Programming, Testing, Certifications	$ -	SUBTOTAL		$ 67,276.65
Reprographics - Prints & Field Drawings	$ -	OH @	10 %	$ 6,727.67
As-Builts	$ -	SUBTOTAL		$ 74,004.32
Small Tools (1.0% of materials)	$ -	Profit @	5% %	$ 3,700.22
Consumables (1.5% of materials)	$ -	SUBTOTAL		$ 77,704.53
Warranty (2% of sum of labor and materials)	$ -	Bond @	%	$ -
Planning/Safety/ToolBox Talks - 1 Hr Per Every 8 Hours Worked	$ -	Tax @	%	$ -
	$ -	TOTAL		$ 77,704.53
Total Direct Job Expense:	$	TOTAL CHARGES		$ 77,704.53

26. Added light fixtures

LIGHTING FIXTURE SCHEDULE

TYPE	DESCRIPTION	MANUFACTURER	CATALOG NUMBER	LAMPS	MOUNTING	INPUT WATTS	VOLTAGE	REMARKS
A	[illegible]	LITHONIA	[illegible]	[illegible]	[illegible]	[illegible]	120V	-
		ELITE	APPROVED EQUAL					
		METALUX	APPROVED EQUAL					
B	[illegible]	LITHONIA	[illegible]	[illegible]	[illegible]	[illegible]	120V	-
		ELITE	APPROVED EQUAL					
		METALUX	APPROVED EQUAL					
C	[illegible]	LITHONIA	[illegible]	[illegible]	[illegible]	[illegible]	120V	-
		ELITE	APPROVED EQUAL					
		METALUX	APPROVED EQUAL					
D	[illegible]	LITHONIA	[illegible]	[illegible]	[illegible]	[illegible]	120V	-
		ELITE	APPROVED EQUAL					
		METALUX	APPROVED EQUAL					
E	[illegible]	LITHONIA		-	-	-	120V	-
		ELITE	APPROVED EQUAL					
		METALUX	APPROVED EQUAL					
F	[illegible]	LITHONIA		-	-	-	120V	-
		ELITE	APPROVED EQUAL					
		METALUX	APPROVED EQUAL					
G	[illegible]	LITHONIA		-	-	-	120V	-
		ELITE	APPROVED EQUAL					
		METALUX	APPROVED EQUAL					
[illegible]	-	U.S. ARCHITECTURAL LIGHTING	[illegible]	-	-	-	120V	BACK-BACK
[illegible]	-	U.S. ARCHITECTURAL LIGHTING	[illegible]				120V	SINGLE
[illegible]	-	U.S. ARCHITECTURAL LIGHTING	[illegible]	-	-	-	120V	SINGLE
[illegible]	-	U.S. ARCHITECTURAL LIGHTING	[illegible]	-	-	-	120V	SINGLE

90%

LIGHTING FIXTURE SCHEDULE

TYPE	DESCRIPTION	MANUFACTURER	CATALOG NUMBER	LAMPS	MOUNTING	INPUT WATTS	VOLTAGE	REMARKS	FIXTURE IMPRESSIONS
A	[illegible]	LITHONIA	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	-
			APPROVED EQUAL						
			APPROVED EQUAL						
B	[illegible]	LITHONIA	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	-
			APPROVED EQUAL						
			APPROVED EQUAL						
C	[illegible]	LITHONIA	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	-
			APPROVED EQUAL						
			APPROVED EQUAL						
D	[illegible]	LITHONIA	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	
			APPROVED EQUAL						
			APPROVED EQUAL						
E	[illegible]	LITHONIA	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	-
			APPROVED EQUAL						
			APPROVED EQUAL						
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	-
			APPROVED EQUAL						
			APPROVED EQUAL						
[illegible]	-	U.S. ARCHITECTURAL LIGHTING	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	
[illegible]	[illegible]	U.S. ARCHITECTURAL LIGHTING	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	
[illegible]	[illegible]	U.S. ARCHITECTURAL LIGHTING	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	
[illegible]	[illegible]	U.S. ARCHITECTURAL LIGHTING	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	
[illegible]	[illegible]	LITHONIA	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	
			APPROVED EQUAL						
			APPROVED EQUAL						
[illegible]	[illegible]	LITHONIA	[illegible]	1	[illegible]	[illegible]	120V	[illegible]	
			APPROVED EQUAL						
			APPROVED EQUAL						

100%

CHANGE ORDER

No: 11001

To: Willmeng Construction	Job Name/Number: PGMAA P501210068
Attn: Tim Donoghue	Job Phone:
Address: 1702 E Highland Ave	Job Location: Mesa Gateway
City, State, Zip: Phoenix AZ 85016	Existing Contract Number:
Phone: (480) 968-4755	Existing Contract Date:
Date: 01/11/2023	Time Extension:

We hereby agree to make the following change(s):	*Amount +/-*
Changes per the 100% drawing received on 1/09/2023	
Qty 4 - 1/2 HP Sump Pumps - Removed from Drawing - Deduction from original plan	
Project Additions Below	
System Height extension per Architect and Engineer **Added as per Architect (Not shown in drawing)**	
Lift Station Pumps (2 total) **Added as per Sheet Q-001**	
Hardware kit for liftstation pumps	
Labor	

THIS CHANGE ORDER BECOMES PART OF AND IN CONFORMANCE WITH THE EXISTING CONTRACT.

We hereby agree to make the change(s) specified above at the price indicated per this Change Order.

Authorized Contractor Signature

Date of Acceptance

The prices and specifications of this Change Order are satisfactory and are hereby accepted. All work is to be performed under the established terms and conditions specified in the original contract unless otherwise specified.

Owner Signature

Date of Acceptance

24. 3HP Lift pump (Qty 2) added to Car Wash equipment

CAR WASH EQUIPMENT LIST						
ITEM	Description	Manufacturer	Model	Type Comments	Operating Voltage	Electrical Phases
CW1.1A	64" 1,500 GALLON POLY CW RECLAIM WATER AST	CHEM-TAINER	TC1500W-GREEN	FLAT BOTTOM, UV RESISTANT, 10'-6 1/2" HIGH		
CW1.1B	64" 1,500 GALLON POLY CW RO AST	CHEM-TAINER	TC1500W-GREEN	FLAT BOTTOM, UV RESISTANT		
CW3.0	CAR WASH TUNNEL (TYP)	BELANGER	INSTA KLEEN			
CW4.2	(2) - 3 HP R.O. PUMPS W/CONTROLLER	BELANGER		(4 TOTAL) 3HP PUMPS, SKID MOUNTED		
CW4.7	CARBON FILTER	NS				
CW4.8C	R.O. CONSOLE - 7000 GPD	FLEXEON	CT-7000			
CW4.9	(1) -3 HP RECOVERY CONSOLE W/CONTROL PANEL	BELANGER		(4 TOTAL) 3HP PUMPS, SKID MOUNTED, PROVIDE WITH CONTROL PANELS		
CW5.1	CAR WASH AIR AND SOAP PANEL	BELANGER			480	3
CW5.2	CAR WASH CONTROL PANEL	BELANGER	INSTA KLEEN CONTROL PANEL		480	3
CW5.3	CAR WASH BLOWER PANEL	BELANGER	AIRBLADE MOTOR STARTED PANEL		480	3

90%

CAR WASH EQUIPMENT LIST						
ITEM	Description	Manufacturer	Model	Type Comments	Operating Voltage	Electrical Phases
CW1.1A	64" 1,500 GALLON POLY CW RECLAIM WATER AST	CHEM-TAINER	TC1500W-GREEN	FLAT BOTTOM, UV RESISTANT, 10'-6 1/2" HIGH	N/A	N/A
CW1.1B	64" 1,500 GALLON POLY CW RO AST	CHEM-TAINER	TC1500W-GREEN	FLAT BOTTOM, UV RESISTANT	N/A	N/A
CW3.0	CAR WASH TUNNEL (TYP)	BELANGER	INSTA KLEEN		N/A	N/A
CW4.2B	2HP RO PUMPING UNIT WITH CONTROLLER			(4) TOTAL 2HP PUMPS, SKID MOUNTED	480	3
CW4.7	CARBON FILTER	NS			N/A	N/A
CW4.8C	R.O. CONSOLE - 7000 GPD	FLEXEON	CT-7000	(2 TOTAL) 2HP LOAD	480	3
CW4.9	(1) -2 HP RECLAIM PUMP W/CONTROL PANEL	BELANGER		(4 TOTAL) 2HP PUMPS, SKID MOUNTED, PROVIDE WITH CONTROL PANELS	480	3
CW4.10	(1) -3 HP RECLAIM LIFT PUMP	BELANGER		(2 TOTAL) 3HP PUMPS, SKID MOUNTED	480	3
CW5.1	CAR WASH AIR AND SOAP PANEL	BELANGER			480	3
CW5.2	CAR WASH CONTROL PANEL	BELANGER	INSTA KLEEN CONTROL PANEL		480	3
CW5.3	CAR WASH BLOWER PANEL	BELANGER	AIRBLADE MOTOR STARTED PANEL		480	3

100%

25. Car Wash Utility track height increased 10'-8" (Communication between Architect & Manufacturer)

""**From:** Clough, Cawlin <Cawlin.Clough@stantec.com>
Sent: Thursday, December 1, 2022 12:57 PM
To: Eusebio, Mitch <meusebio@belangerinc.com>
Cc: MacAloney, Neil <Neil.MacAloney@stantec.com>; **Laurence, Ronald** <R.B.LaurenceJr@stantec.com>
Subject: Re: [EXT] FW: PMGAA Car Wash Utility Track Info

Thanks Mitch,
Yes, bottom of utility track at 10'-8" AFF is preferred.
-Cawlin

Get Outlook for iOS

From: Eusebio, Mitch <meusebio@belangerinc.com>
Sent: Thursday, December 1, 2022 1:26:33 PM
To: Clough, Cawlin <Cawlin.Clough@stantec.com>
Cc: MacAloney, Neil <Neil.MacAloney@stantec.com>; **Laurence, Ronald** <R.B.LaurenceJr@stantec.com>
Subject: RE: [EXT] FW: PMGAA Car Wash Utility Track Info

Cawlin,

Below is the email that we discussed a few minutes ago. Just wanted to confirm that the bottom of the track still needs to be installed 10'8" AFF. We can make that modification but just wanted to make sure it was still a requirement. ""

I also need verification from your team on the sump pump system style the engineer/architect is planning. There has been back and forth on in pit pumps or lift pump stations for the reclaim side would be used. We quoted the in pit 120 v 1 ph sump style per spec and need to know if that is the direction or if they want the updated plans to reflect Lift pump stations, which would be 3 ph power? Cost difference is a little under $15K and based on what direction they wanted to go with we can provide a change order and finalized drawings. Either style functionally will work with the system.

Let us know on that and we will move ahead accordingly.

Thanks again.

1

Addendum -#1

April 29, 2023

Pratik Kadu
Willmeng Construction

Re: PMGAA Add #1

Benchmark Surveying & Consulting is pleased to submit this change order for the above referenced project. Our total fee as shown in the scope below is **$5,500.00.**

1. Office Calculation/Admin
2. Limits
3. Rough Grade
4. Light Poles
5. Subgrade Bluetops
6. ABC Bluetops
7. Striping
8. Fence
9. Asbuilts

We look forward to continuing our working relationship with you and your company. If you have any questions or concerns, please feel free to call me at your earliest convenience at 480-861-0011 or email me at bbautista@azbenchmark.com.

Sincerely,

BJ Bautista, R.L.S.
Managing Partner
Benchmark Surveying & Consulting

APPROVED BY: _____ ***TITLE:*** _____ ***DATE:*** _____

Dickens Quality Demolition, LLC
1111 N. 19th Avenue
Phoenix, AZ 85009
Phone: 258-8088
Fax: 258-8139

Date: April 28, 2023
Job Name: PGMA Rental Car Facility
Contractor Job #:
DQD Job #: 23-036
Prepared by: Craig Snider
To: Pratik Kadu
Company: Willmeng
Address: 1702 E. Highland Ave.
Phoenix, AZ. 85016

Change Order

This C.O. is for the additional scope for the south parking lot – Concrete curb and gutter, chain link fence, and 3' thick
Concrete slab
Labor – $2,746.00
Equipment – $2,154.00
Disposal – $2,770.00
Subtotal - $7,670.00
15% - $1,150.00
Total - $8,820.00

Signature of Authorized Personnel:	**Previous Contract Amount: $**
	Amount of This Order: $8,820.00
	Total Contract and Extras: $

BOTTA'S
CONCRETE CONSTRUCTION, CORP.
4549 E. Jensen St.
Mesa, AZ., 85205

Potential Change Order #1

05/01/2023

Roland Radtke
602-769-2816
roland@bottasconcrete.com
Company License: ROC 135493 & 135494

PMGAA Rental Car Facility CO#1

Mesa

Description	Quantity	Unit
Site Concrete		
7" PCCP	572.00	SF
Bollard install, steel by others	4.00	EA
Light pole base	7.00	EA
Site Concrete Total Estimate		**$17,458.63**
Total Estimate		**$17,458.63**

THIS BID EXCLUDES THE FOLLOWING: Bollards(materials only), Bubbler boxes, Catch basins, Color concrete, Compaction, Compaction Certification, Concrete wheel stops, Curing other than by chemicals, Demolition, Dewatering, Dry wells, Excess Fill, Furnish Embeds, Hardeners, Hard dig/soft dig, Housekeeping pads, Joint sealant, Lay out building corners, Masonry Rebar, Monument sign, Mow curb/extruded curb, Over excavate and recompaction under footings, Performance/Payment Bonds, Permits, Precast Concrete, Remove excess spoils from site, Repair/replace damaged utilities, Rip rap, Retaining walls, Sales Tax, Sealers, Shoring , site preparation to within 1/10th , Special finishes, Storm drain concrete, Termite Pretreat, Testing, Transformer pads, Traffic control/barricade, Truncated domes, Trench drains, Vapor barrier, Waterproofing. Unless noted in bid above.

Proposal good for 30 days from above date.

HAWKEYE ELECTRIC INC

PRICING DETAIL CHARGES

JOB NAME:	JOB NUMBER:	DATE:	HAWKEYE PROJ MGR:	CONTRACT CHANGE	
PMGAA CAR RENTAL RENOVATIONS	2022-95	04/27/23	PATRICK TILTON	Hawkeye SCO #	SCO2
JOBSITE ADDRESS:	CLIENT NAME & ADDRESS			Hawkeye PCO #	SCO2
6262 S. SOSSOMAN ROAD	WILLMENG CONSTRUCTION			Drawing #	
MESA, AZ 85212	1702 E HIGHLAND DRIVE			Delta #	
	PHOENIX, AZ 85016			Document Date	

COR DESCRIPTION:	Additional Days Req'd (calendar days)	CHARGE LABOR RATE ($/hr)	$70.00
MAKE CHANGES PER DELTA 3 ADDENDUM 1			

CHARGE ITEM	MATERIALS			LABOR				CHARGES TOTAL
	Quan	$/EA	Total	hr/unit	tot hrs	$/hr	Total	
NEW TYPE PWS POLES	7	$ 2,871.00	$ 20,097.00	5.00	35.00	$ 70.00	$ 2,450.00	$ 22,547.00
NEW TYPE PWS HEADS	14	$ 1,033.00	$ 14,462.00	3.65	51.10	$ 70.00	$ 3,577.00	$ 18,039.00
CHANGE HEADS ON ORIGINAL POLES (NC)	20	$ -	$ -	0.00	0.00	$ 70.00	$ -	$ -
NEW TRENCHING	610	$ 3.00	$ 1,830.00	0.05	30.50	$ 70.00	$ 2,135.00	$ 3,965.00
COMPACTION	610	$ 1.00	$ 610.00	0.03	18.30	$ 70.00	$ 1,281.00	$ 1,891.00
3/4" CONDUIT	610	$ 1.30	$ 793.00	0.03	18.30	$ 70.00	$ 1,281.00	$ 2,074.00
4/4" 90, COUPLINGS	16	$ 6.50	$ 104.00	0.50	8.00	$ 70.00	$ 560.00	$ 664.00
#10 XHHW WIRE	1,830	$ 0.26	$ 475.80	0.01	14.64	$ 70.00	$ 1,024.80	$ 1,500.60
			$ -			$ 70.00	$ -	$ -
5" PVC ADDED 2 X 190'	380	$ 8.95	$ 3,401.00	0.06	22.80	$ 70.00	$ 1,596.00	$ 4,997.00
ADDED TRENCHING/BACKFILL	190	$ 11.00	$ 2,090.00	0.09	17.10	$ 70.00	$ 1,197.00	$ 3,287.00
MULETAPE	380	$ 0.28	$ 106.40	0.01	3.80	$ 70.00	$ 266.00	$ 372.40
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
			$ -			$ 70.00	$ -	$ -
Total from Page 2			$ -		0.00	$ 70.00	$ -	$ -
NET TOTALS		tot mat'ls:	$ 43,969.20	tot hr:	219.54	tot labor:	$ 15,367.80	$ 59,337.00

JOB EXPENSE	AMOUNT	PAGE SUMMARY	TOTALS
Material Delivery from each supplier of materials in CO	$ -	Material Total	$ 43,969.20
Foreman Supervision / Coordination	$ -	Labor Total	$ 15,367.80
Clean-Up / Haul Off	$ -	Project Indirect Costs	$ 2,966.85
Rentals - Manlift / Scaffold / Forklift Etc.	$ -	Job Expense	$ 960.49
Programming, Testing, Certifications	$ -	SUBTOTAL	$ 63,264.34
Reprographics - Prints & Field Drawings	$ -	OH @ 10 %	$ 6,326.43
As-Builts	$ -	SUBTOTAL	$ 69,590.77
Small Tools (1.0% of materials)	$ -	Profit @ 5% %	$ 3,479.54
Consumables (1.5% of materials)	$ -	SUBTOTAL	$ 73,070.31
Warranty (2% of sum of labor and materials)	$ -	Bond @ %	$ -
Planning/Safety/ToolBox Talks - 1 Hr Per Every 16 Hours Worked	$ 960.49	Tax @ %	$ -
	$ -	TOTAL	$ 73,070.31
Total Direct Job Expense:	$ 960.49	TOTAL CHARGES	$ 73,070.31

D & O Contractors, Inc.

7818 N 68th Ave
Glendale, AZ 85303

Phone: 623-463-0555
Fax: 623-847-0888

To:	Willmeng Construction	**Contact:**	Eli Newton
Address:	2048 N 44th Street, Suite 200	**Phone:**	480-968-4755
	Phoenix, AZ 85008	**Fax:**	480-557-6788
Project Name:	Rental Car Facility Car & Sub Storage Area	**Bid Number:**	
Project Location:	6350 S Sossaman, Mesa, AZ	**Bid Date:**	3/29/2023

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Clear & Grubb	5.00	ACRE	$3,144.06	$15,720.30
2	Earthwork Includes: Site Cut And Fill, Haul Off Excess Dirt	1.00	LS	$124,293.94	$124,293.94
3	4" GSA For Rental Car Parking	11,493.00	SY	$7.83	$89,990.19
4	Onsite Paving 3"ac/3"abc Use The Existing GSA Remove 1" GSA And Add 3"abc To Make 3"ac/6"abc & GSA	11,493.00	SY	$29.74	$341,801.82
5	Add Gorilla Snot	1.00	LS	$13,523.92	$13,523.92

Total Bid Price: **$585,330.17**

Notes:

- Please Vist us at:
  WWW. DO Contractors.com
- Adendum #
- Engineer: Dibble Lot 58 Plans
  Plans: Civils Date: 3/20/23
  Soils Report:
  Date: Rev./Add #
- EXCLUSIONS: Sales Tax, Bond or Permit Fees, Engineering, Surveying, As-Builts, Testing or Inspection Fees, Parkway Grading, Topsoil Placement in Landscape Areas, Weed Killer, Preservative Seal, Prime Coat, Concrete or Pipe Work, Dry Utilities, Drywell, Rip/Rap, Structural Backfill, Striping, Signage, Utility Removal or Relocation, Overexcavation, Fine Grade for Concrete, Underground Utility Conflicts, SWMP Erosion Control, and Maricopa Edge, and Maricopa County Project information sign, Special Municipal Insurance requirements, SWPP, Utility adj, Jersey Barrier, Traffic signs etc
- ADDITIONAL NOTES:

  1. This Proposal was prepared from use of Civil Drawings Only
  2. Price includes 2 Move-In for Earthwork, 1 Move-in for curb grade, 1 Move-In for Paving.
  3. Additional Move-Ins @ additional cost for Gorilla Snott Add $12,000.00
  4. Material Prices of $96.00 per ton AC and $18.00 ABC Confirmed to 9/30/23
- Prices Good for 30 days from date of Proposal

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. **Buyer:** _____ **Signature:** _____ **Date of Acceptance:** _____	**CONFIRMED:** **D & O Contractors, Inc.** **Authorized Signature:** _____ **Estimator:** Rick Morris 602-576-1357 rick@docontractors.com

6527 W Northview Ave
Glendale AZ 85301
1-877-97-FENCE
AZROC 317570

Change order #1

Date: 4-11-2023
Contractor: Willmeng
Contact:
Phone:
Project: PMGAA Car Rental

Address:

Furnish and install as follows:

- 590' of 7' chain link fence on southwest side of job site
- 2-7/8" (ss40) corner and term posts, 2-3/8" (ss40) line posts, 1-5/8" (ss40) top rail, 7' chain link fabric (9ga, 2" mesh)
- Installed

Total = $ 19,216.78

***** Due to extreme market volatility, prices and availability are subject to change daily *****

Exclusions: Taxes, Permits, Engineering Stamps & Drawings, Core Drilling, Concrete Pads, Concrete Gate Tracks, Grading, Survey, Clearing & Grubbing, Running of High & Low Voltage, Running of Conduits, Fire Department Permits, Hauling of Spoils, and Signage.

Customer Authorization: _____
Customer Name (please print):_____
Date: _____
We appreciate your business. Thank you.

Dane Roberts
Diamond Iron, LLC.
Cell Phone: **480-686-0573**
Email: Dane@diamondiron.com

Atwater Construction
3447 South 36th Street
Phoenix, Arizona 85040

Phone: 623-582-3909
Fax: 623-582-3902

CHANGE REQUEST

To: **Eli Newton**
enewton@willmeng.com
Jesus Garcia
jgarcia@willmeng.com
Pratik Kadu
pkadu@willmeng.com

Cr # **1a**

Date : **5/22/2023**

Job : **PMGAA Car Rental Renovations**
Atwater # **2180**

Issued by: **Ken Millsap**

Description: **Civil Plan Changes Per Addendum 1 Plans (Engineer Stamped 4/18/2023)**

We are pleased to offer the following specifications and pricing to make the following changes:

Deleted Items:
Sheet C-500 Fire: (-1 Ea) 4" MJ 90°
Sheet C-502 Fire: (-2 Ea) 6" Double Check Backflow Preventor, Domestic Water: (-1 Ea) 8"x4" Tapping Sleeve & Valve

Added Items:
Sheet C-401 Storm Drain: Construction Notes 50 12" HDPE & 60 HDPE End Section
Sheet C-500 Fire: 4" DIP, CL 350 & 4"x4" Tee.
Sheet C-502 Fire: (2 Ea) 6" Reduced Pressure Backflow Preventor (Sheet C-502 1 Backflow Still has Note 79 For Eastern Backflow), Domestic Water: (1 Ea) 8"x6" Tapping Sleeve & Valve

Credit: Material Cost	-1	Ea	$	12,348.12	$	(12,348.12)
Add: Material Cost	1	Ea	$	36,931.96	$	36,931.96
ABC -Bedding / Shading	25	Tn	$	27.00	$	675.00
Thrustblocking	4	Ea	$	125.00	$	500.00
Foreman	16	Hr	$	90.00	$	1,440.00
Operator	16	Hr	$	75.00	$	1,200.00
Pipe Layer	16	Hr	$	70.00	$	1,120.00
Laborer	16	Hr	$	65.00	$	1,040.00
Backhoe	16	Hr	$	90.00	$	1,440.00
Crew Truck	16	Hr	$	50.00	$	800.00
Water Truck	16	Hr	$	80.00	$	1,280.00
210GLC Excavator	16	Hr	$	250.00	$	4,000.00

Total amount to provide this work ..... $ 38,078.84

Approved by

Signature / Title / Date

Print Name / Company

Proposal

Moyers Contracting Inc
336 W. Cullumber Ave
Gilbert, AZ 85233
Phone: 480-892-5117 Fax: 480-892-9373
Todd Templeton - Estimator

Date	Proposal #
5/1/2023	23-291

TO:

Estimating

PROJECT:

PMGA Rental Car Care Facility - Additional
Phoenix-Mesa Gatway Airport
Phoenix, AZ

Quantity	Description	Unit Price	Amount
1	Lump Sum Parking Lot;	$2,400.00	$2,400.00
	Layout		$0.00
	41 - Lines		$0.00
	2 - 4" white striping 2' oc @ 45'		$0.00
	Taken from sheet: C-303		$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00

Total Proposal Price $2,400.00

Notes: See exclusions & insurance coverage below

3 weeks notice needed for scheduling
This price does not include weekend, after hours or night work
This job is priced for (1) Trip(s), each additional trip @ $350.

Exclusions:

Bonds, Sales Tax, Permits, Cleaning or Sweeping, Obliteration, Thermoplastic, Glass Beads, Offsite Striping or Signs, Core Drilling, Fire Lane Signs, Painted Red Curb, Any SignsThat Require Lifting Equipment, Ground Penetrating Radar or X-Raying of Concrete, temporary Striping, Utility Locating, Any & All Traffic Control, extruded Curb

General Information:

Insurance Agent:	BizSmart
General Aggregate:	$1,000,000.00
Products-Comp/Op Aggregate:	$1,000,000.00
Auto Single Limit:	$1,000,000.00
Umbrella:	$1,000,000.00
Workers Comp:	$1,000,000.00
Bond Rate:	$15.00 per $1,000 - $50,000.00 Aggregate, $50,000.00 per project
Privilege Tax #:	07-6603276-2
ROC #:	71704
EIN #:	80-0508548

A-1 FIRE SPRINKLERS, LLC

24302 N. 98th Lane
PEORIA, AZ 85383
Ph: 623-572-8955 ~ Fx: 623-572-8956

CHANGE ORDER ESTIMATE

PROJECT NAME: PMGAA RENTAL CAR FACILITY
PROJECT #:
CONTRACTOR NAME: WILLMENG CONSTRUCTION
REF #: CO #1 **DATE:** 05/02/23
DESCRIPTION of WORK: REDESIGN AND PERFORM NEW HYDRAULIC CALCULATIONS FOR NEW UNDERGROUND DESIGN

MATERIAL		
Other Material		
Other Material		
	TOTAL MATERIAL:	

LABOR	HOURS	EACH	TOTAL
Fitter		$105.00	
Supervision		$105.00	
Overtime		$34.25	
		TOTAL FIELD LABOR:	

TOOLS, EQUIP., OTHER	UNITS	EACH	TOTAL
Truck - per Day		$80.00	
Fabrication Equip. - per Day		$30.00	
Manlift - Scissor 20 ft. - per Day		$90.00	
Manlift - Boom 62 ft. - per Day		$410.00	
Subsistance - per Day		$55.00	
Core Drilling - per Hole		$48.00	
Freight on Materials			
		TOTAL:	

DESIGN	HOURS	EACH	TOTAL
Project Mgr.	2.0	$94.80	$189.60
Design Engineer	4.0	$79.00	$316.00
Hydraulic Calculations	4.0	$79.00	$316.00
Supervision	0.4	$94.80	$37.92
Overtime		$39.50	
		TOTAL DESIGN LABOR:	**$859.52**

FABRICATION	HOURS	EACH	TOTAL
Cut, Thread, Weld Line		$33.71	
Supervision		$39.32	
Overtime		$16.86	
		TOTAL FABRICATION:	

TOTAL COSTS:	$860.00
FEE: 10%	$86.00
PERMIT:	
TAXES:	
WARRANTY:	
BOND:	
TOTAL QUOTE:	$946.00

TRENCH-ADE

825 S. 63rd Ave., Phx., Az. 85043
Phone: (602) 605-4150 ~ Fax: (602) 443-3278
daniel@trench-ade.com ~ www.trench-ade.com

Quote

To: WILLMENG
ELI NEWTON 928-606-4054
enewton@willmeng.com
PHOENIX MESA GATEWAY AIRPORT

Date: May 5, 2023
Quote #: 2311
Job #:
Job Name:

Qty	LF /EA	TOTAL WEIGHT	Description	Unit Price	Amount
2552.3	LF		NEW JERSEY STYLE 12.5' BARRIER W/ CONNECTING PINS	$60.00	$153,138.00
2552.3	LF		DELIVERY/INSTALL	$7.00	$17,866.10
				Subtotal	$171,004.10

STIPULATIONS & EXCLUTIONS:

1. Sales tax is included.
2. This quote expires 30 days from bid date.
3. 3% credit card processing fee will be added.
4. Subject to fuel sur-charge for delivery

Thank you for your business!

CARTER'S
INCORPORATED
A DESIGN / BUILD LANDSCAPE FIRM

May 5, 2023

Willmeng Construction, Inc.
1702 E. Highland Ave
Phoenix, AZ 85016

ATTENTION: Estimation Department

RE: LANDSCAPE AND IRRIGATION PROPOSAL: PMGAA RENTAL CAR CARE
Below please find our proposal for the above-listed project.

PLANS DATED: 4/18/23

BIDS ARE GOOD FOR 30 DAYS

ADDENDUM: 0

INCLUSIONS:

1) 12" DEEP LOOSE RIP RAP(NO FABRIC)
2) 6" DEEP 3" MINUS(WITH FABRIC)

TOTAL BASE PRICE ..... $ 36,850.00

EXCLUSIONS:

1) PERMITS, FEES, TAXES AND BONDS
2) GRADING, IMPORTED TOPSOIL, EXPORTED TOPSOIL AND BERMS
3) DEMOLITION/REPAIRS & RELOCATION OF EXISTING LANDSCAPE

BOND RATE 3.0

Sincerely,

Rick Carter
President

1310 N. ACACIA DRIVE, SUITE 101, GILBERT, ARIZONA 85233-1830
PHONE. 480.926.2970 FAX. 480.545.9582

United Site Services of Nevada, Inc.
4342 North 38th Dr
PHOENIX, AZ 85019

Salesperson Contact
Jarhett Darner
Mobile: 480-297-4208
Office:
Fax:
Jarhett.Darner@unitedsiteservices.com

Site Service Quotation

Quote No.: 414-2444053 **Quote Date:** 05/02/23 **Quote Expires:** 06/01/23

Sell To: WILLMENG CONSTRUCTION AZ
ACCOUNTS PAYABLE
2048 N 44TH ST
PHOENIX, AZ

Ship To: WILLMENG CONSTRUCTION AZ
PMGAA Car Rental Renovation
6033 S Sossaman Rd
MESA, AZ 85212

Cust. #: USS-524444
Phone: 480-968-4755

Attn: JESUS GARCIA
Phone: 602-481-4591
Terms: Due Upon Receipt

Comments & Special Instructions

7 28DBC 18%
6x12TSP 1500 $2.79
8LP 42 $10
6PS 1500 $1.95
P&D 2 $200

Temporary fence pricing for long-term projects is based on the initial term listed on the agreement which will be billed on a 28 day billing cycle. All new fence orders are subject to a minimum install fee and will be listed on the corresponding agreement. If the fence is needed beyond the initial term listed on this agreement, a residual (rental) fee will apply to all fence and related products on site. This residual percentage amount will appear on your agreement and will be invoiced each billing cycle until the fence is removed. Price includes initial delivery, installation and removal. Any additional deliveries, moves or removals will be charged based on the pricing in this agreement and the schedule below. All partial deliveries and removals are subject to a minimum trip charge as outlined in the agreement.

USS DOES NOT ENGAGE IN OR SIGN PROJECT LABOR AGREEMENTS (PLA). USS WILL, HOWEVER, PROVIDE FENCE TO OUR CUSTOMERS FOR SELF-INSTALLATION IN THESE INSTANCES.

IF THIS IS A PREVAILING WAGE PROJECT, DAVIS BACON RATES WILL BE USED TO ESTIMATE PREVAILING WAGE. RATE WILL BE CHARGED AS SITE MANDATES. CUSTOMER IS RESPONSIBLE TO PROVIDE USS WITH DIR OR CPR FORM PRIOR TO INSTALL. All installs, pickups, moves, or repairs accrue at current Davis Bacon Wage Act wages if the project is prevailing wage.

Miscellaneous Charges
Add $1.00 per ft for moves (subject to $450.00 minimum fee)
Add $1.00 per ft for rocky ground, hillside or hand carry.

Hole patching (cold patch) available in designated areas, will be $8 per hole in asphalt and $10 per hole in concrete (subject to $450 minimum fee)
Add $250 per hour based on two-person crew for waiting time related to site delays, safety classes, site orientations or any other reason for delay, etc.
It is the customer's responsibility to keep fence line free of vegetation and snow. All growth and or snow must be cleared prior to delivery or removal.

Continued..

United Site Services of Nevada, Inc.
4342 North 38th Dr
PHOENIX, AZ 85019

Salesperson Contact
Jarhett Darner
Mobile: 480-297-4208
Office:
Fax:
Jarhett.Darner@unitedsiteservices.com

Site Service Quotation

Quote No.: 414-2444053 **Quote Date:** 05/02/23 **Quote Expires:** 06/01/23

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Cust. #: USS-524444
Phone: 480-968-4755

Attn: JESUS GARCIA
Phone: 602-481-4591
Terms: Due Upon Receipt

Comments & Special Instructions

SHOULD YOUR FENCE REQUIRE DRIVEN POST, CUSTOMER WILL NEED TO MARK THE FENCE LINE FOR UNDERGROUND UTILITIES LOCATE COMPANY (ie: DIG ALERT) AND LET USS KNOW ONCE COMPLETED. USS WILL CALL TO SCHEDULE THE UNDERGROUND ASSESSMENT. IN SOME STATES THE LOCATE APPOINTMENT CAN BE SCHEDULED BY THE CUSTOMER, HOWEVER USS MUST BE LISTED ON THE PAPERWORK. PLEASE NOTE THIS WILL TAKE 3-5 BUSINESS DAYS TO CLEAR BASED ON LOCAT UTILITY LOCATE AVAILABILITY.

Damaged or missing fence will be billed per the schedule below:
Chain Link: $6.00 per foot
Panel Fence: $12.25 per foot
Gates: 2x standard per foot charge for item. ie, 10' gate for panel fence will be charged at $24.50 per foot.

If damaged fence has to be removed and reinstalled, customer will be billed for damaged fence and for additional installation charges.

Item	Unit	Quantity	From	Thru	Unit Price	Total Price	
Fence Rental	EA	1	05/05/23	11/16/23	0.00	0.00	one time
Fuel & Inflation Surcharge						0.00	one time
Fence Rental Subtotal:						0.00	
Fence - 6x12 T-Stand Panel	FT	1,500	05/05/23	11/16/23	2.79	4,185.00	one time
Fuel & Inflation Surcharge						414.32	one time
Fence - 6x12 T-Stand Panel Subtotal:						4,599.32	
Fence - 8FT Line Post	EA	42	05/05/23	11/16/23	10.00	420.00	one time
Fuel & Inflation Surcharge						41.58	one time
Fence - 8FT Line Post Subtotal:						461.58	
Fence - 6FT Privacy Screen	FT	1,500	05/05/23	11/16/23	1.95	2,925.00	one time
Fuel & Inflation Surcharge						289.58	one time
Fence - 6FT Privacy Screen Subtotal:						3,214.58	
Fence-Delivery, Setup, Removal	EA	2	05/05/23	05/05/23	200.00	400.00	one time

Continued..

United Site Services of Nevada, Inc.
4342 North 38th Dr
PHOENIX, AZ 85019

Salesperson Contact
Jarhett Darner
Mobile: 480-297-4208
Office:
Fax:
Jarhett.Darner@unitedsiteservices.com

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MESA, AZ 85212

Cust. #: USS-524444
Phone: 480-968-4755

Attn: JESUS GARCIA
Phone: 602-481-4591
Terms: Due Upon Receipt

Item	Unit	Quantity	From	Thru	Unit Price	Total Price
Fuel & Inflation Surcharge						39.60 one time
Fence-Delivery, Setup, Removal Subtotal:						**439.60**

Total: 8,715.08

Accepted: _____ Date: _____

Remit To: United Site Services, PO Box 660475, Dallas, TX 75266-0475

NOTE: Total prices have been calculated for 1 billing period only. Damage Waiver is optional. Please read the terms and conditions on the last page of this document for more information.

Plus applicable fees and taxes

Est. Date: 2-Jun-22
Revision #1: 10-Aug-22
Revision #2: 1-Sep-22

64,555.08 - Labor+GC's/Month
14,908.78 - Labor+GC's/Week

Rental Car Care Facility

OPEN - Burden Rate Worksheet
Hide Zero Value Rows | Show All Rows

	Duration (Months)	Duration (Weeks @4.33)	Assumed % To Job	Tier 1 Weekly Salary	Total Base Salary	Q1 Burden 68.00%	Total Weekly Labor	Total Labor Expense
FIELD SUPERVISION/LABOR								
SUPERINTENDENT								
SUPERINTENDENT	8.00	34.64	100%	$2,644.23	$91,596.15	$62,285.38	$4,442.31	$153,881.54
OPERATIONS SUPPORT MANAGER	8.00	34.64	15%	3,173.08	16,487.31	11,211.37	$799.62	$27,698.68
SAFETY MANAGER	8.00	34.64	10%	2,346.15	8,127.08	5,526.41	$394.15	$13,653.49
FIELD/OFFICE PERSONNEL								
PROJECT MANAGER								
SR PROJECT MANAGER	8.00	34.64	40%	2,846.15	39,436.31	26,816.69	$1,912.62	$66,253.00
ASSISTANTS TO PROJECT MANAGER								
PROJECT ENGINEER	8.00	34.64	60%	1,730.77	35,972.31	24,461.17	$1,744.62	$60,433.48
ACCOUNTING PERSONNEL								
CONTRACT ADMINISTRATOR	0.00	0.00	0%	1,519.23	0.00	0.00	$0.00	$0.00
DIVISION PROJECT MANAGER								
DIVISION P.M.	8.00	34.64	10%	3,461.54	11,990.77	8,153.72	$581.54	$20,144.49
TOTAL PROJECT LABOR COST							10,424.08	361,090.02

Page 1

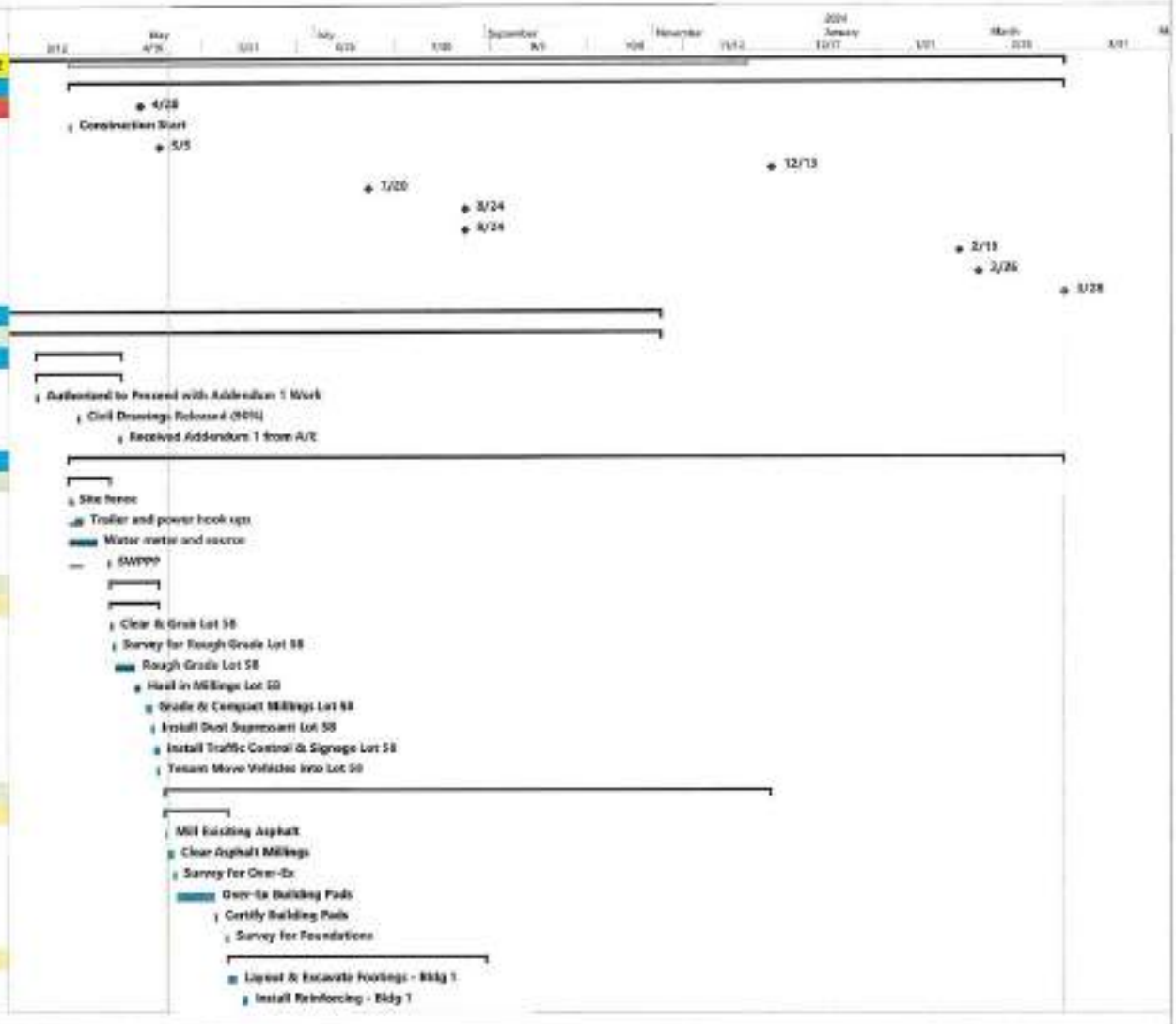
CPM REFLECTING 90 DAYS TIME EXTENSION-

Phoenix-Mesa Gateway Airport

PMGAA Rental Car Care Facility

willmeng

ID	Task Name	Duration	Start
1	**PMGAA Car Rental Renovation**	**383 days?**	**Thu 12/22/22**
2	**[illegible]**	**[illegible]**	**[illegible]**
3	**NTP**	**[illegible]**	**[illegible]**
4	Construction Start	1 day	Mon 4/3/23
5	Phase 1 Complete	0 days	Fri 5/5/23
6	Phase 2 Complete	0 days	Wed 11/13/24
7	Phase 3 Complete	0 days	Thu 7/20/23
8	Phase 4 Complete	0 days	Thu 8/24/23
9	Phase 5 State	0 days	Thu 8/24/23
10	Phase 6 Complete	0 days	Mon 2/19/24
11	Substantial Completion	0 days	Mon 2/26/24
12	Final Completion	0 days	Thu 3/28/24
13	**[illegible]**	**[illegible]**	**[illegible]**
14	**Procurement**	**224 days**	**Thu 12/22/22**
24	**[illegible]**	**[illegible]**	**[illegible]**
25	**Addendum 1 - Added Parking at Lot 58**	**25 days**	**Wed 4/22/24**
26	Authorized to Proceed with Addendum 1 Work	1 day	Wed 5/22/23
27	Civil Drawings Released (90%)	1 day	Thu 4/6/23
28	Received Addendum 1 from A/E	1 day	Fri 4/21/23
29	**[illegible]**	**[illegible]**	**[illegible]**
30	**Mobilization**	**11 days**	**Mon 4/3/23**
31	Site fence	1 day	Mon 4/3/23
32	Trailer and power hook ups	3 days	Wed 4/5/23
33	Water meter and source	8 days	Mon 4/3/23
34	SWPPP	1 day	Mon 4/17/23
35	**Phase 1- Parking**	**14 days**	**Tue 4/18/23**
36	**Area B -Parking at Lot 58**	**14 days**	**Tue 4/18/23**
37	Clear & Grub Lot 58	1 day	Tue 4/18/23
38	Survey for Rough Grade Lot 58	1 day	Wed 4/19/23
39	Rough Grade Lot 58	5 days	Thu 4/20/23
40	Haul in Millings Lot 58	2 days	Thu 4/27/23
41	Grade & Compact Millings Lot 58	2 days	Mon 5/1/23
42	Install Dust Suppressant Lot 58	1 day	Wed 5/3/23
43	Install Traffic Control & Signage Lot 58	2 days	Thu 5/4/23
44	Tenant Move Vehicles into Lot 58	1 day	Fri 5/5/23
45	**Phase 2 - Buildings & Sitework**	**153 days?**	**Mon 5/8/23**
46	**Area A - Pad Prep**	**16 days**	**Mon 5/8/23**
47	Mill Existing Asphalt	1 day	Mon 5/8/23
48	Clear Asphalt Millings	2 days	Tue 5/9/23
49	Survey for Over-Ex	1 day	Thu 5/11/23
50	Over-Ex Building Pads	10 days	Fri 5/12/23
51	Certify Building Pads	1 day	Fri 5/26/23
52	Survey for Foundations	1 day	Tue 5/30/23
53	**Support Building #1**	**47 days**	**Wed 5/31/23**
54	Layout & Excavate Footings - Bldg 1	3 days	Wed 5/31/23
55	Install Reinforcing - Bldg 1	2 days	Mon 6/5/23



Phoenix-Mesa Gateway Airport

PMGAA Rental Car Care Facility

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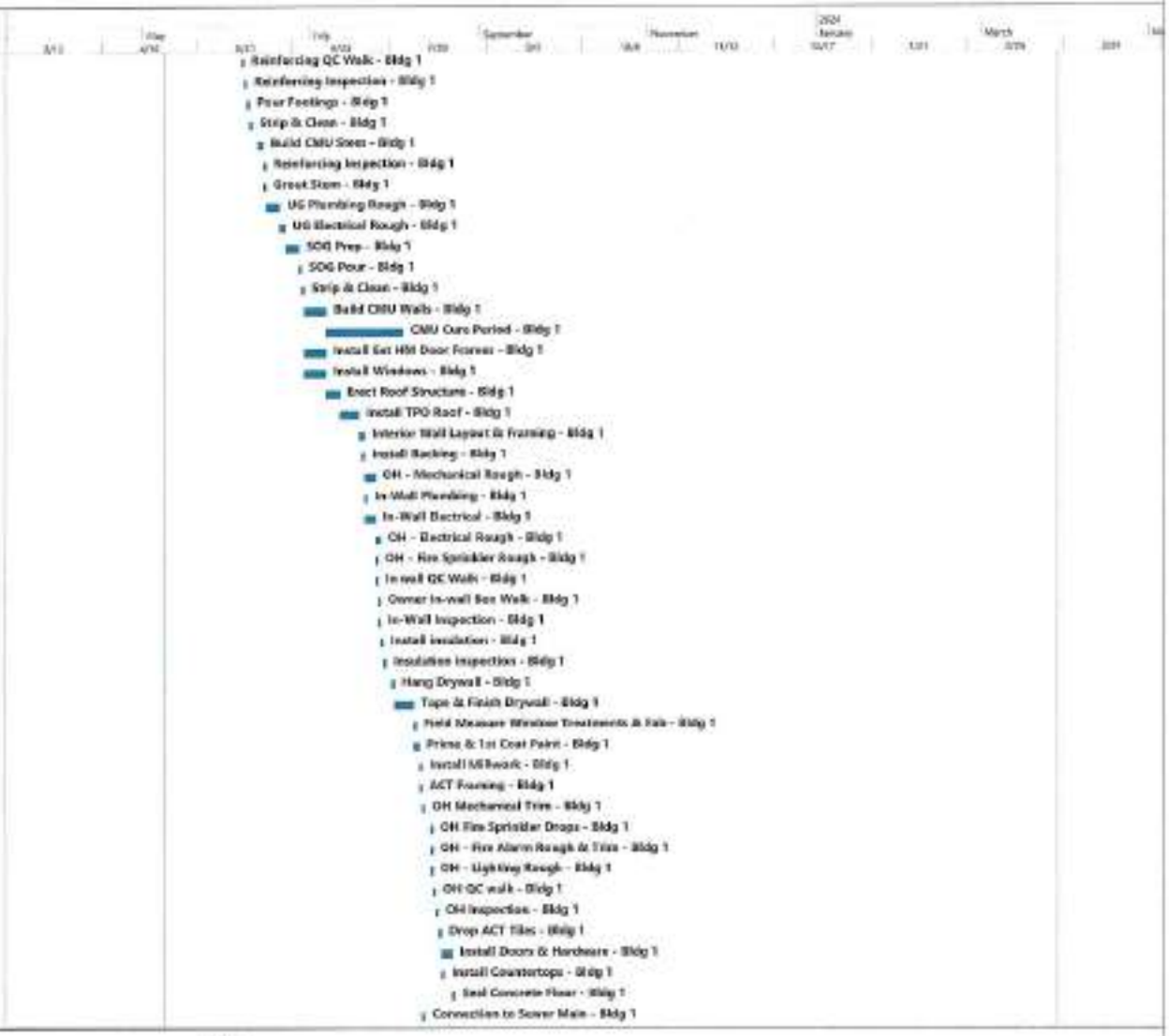
ID	Task Name	Duration	Start
56	Reinforcing QC Walk - Bldg 1	1 day	Tue 6/6/23
57	Reinforcing Inspection - Bldg 1	1 day	Wed 6/7/23
58	Pour Footings - Bldg 1	1 day	Thu 6/8/23
59	Strip & Clean - Bldg 1	1 day	Fri 6/9/23
60	Build CMU Stem - Bldg 1	2 days	Mon 6/12/23
61	Reinforcing Inspection - Bldg 1	1 day	Wed 6/14/23
62	Grout Stem - Bldg 1	1 day	Wed 6/14/23
63	UG Plumbing Rough - Bldg 1	3 days	Thu 6/15/23
64	UG Electrical Rough - Bldg 1	2 days	Tue 6/20/23
65	SOG Prep - Bldg 1	3 days	Thu 6/22/23
66	SOG Pour - Bldg 1	1 day	Tue 6/27/23
67	Strip & Clean - Bldg 1	1 day	Wed 6/28/23
68	Build CMU Walls - Bldg 1	5 days	Thu 6/29/23
69	CMU Cure Period - Bldg 1	28 days	Fri 7/7/23
70	Install Ext HM Door Frames - Bldg 1	5 days	Thu 6/29/23
71	Install Windows - Bldg 1	5 days	Thu 6/29/23
72	Erect Roof Structure - Bldg 1	3 days	Fri 7/7/23
73	Install TPO Roof - Bldg 1	5 days	Wed 7/12/23
74	Interior Wall Layout & Framing - Bldg 1	2 days	Wed 7/12/23
75	Install Backing - Bldg 1	1 day	Thu 7/20/23
76	OH - Mechanical Rough - Bldg 1	2 days	Fri 7/21/23
77	In-Wall Plumbing - Bldg 1	1 day	Fri 7/21/23
78	In-Wall Electrical - Bldg 1	2 days	Fri 7/21/23
79	OH - Electrical Rough - Bldg 1	2 days	Tue 7/25/23
80	OH - Fire Sprinkler Rough - Bldg 1	1 day	Tue 7/25/23
81	In-wall QC Walk - Bldg 1	1 day	Tue 7/25/23
82	Owner In-wall Box Walk - Bldg 1	1 day	Wed 7/26/23
83	In-Wall Inspection - Bldg 1	1 day	Wed 7/26/23
84	Install Insulation - Bldg 1	1 day	Thu 7/27/23
85	Insulation Inspection - Bldg 1	1 day	Fri 7/28/23
86	Hang Drywall - Bldg 1	1 day	Mon 7/31/23
87	Tape & Finish Drywall - Bldg 1	5 days	Tue 8/1/23
88	Field Measure Window Treatments & Fab - Bldg 1	1 day	Tue 8/8/23
89	Prime & 1st Coat Paint - Bldg 1	2 days	Tue 8/8/23
90	Install Millwork - Bldg 1	1 day	Thu 8/10/23
91	ACT Framing - Bldg 1	1 day	Thu 8/10/23
92	OH Mechanical Trim - Bldg 1	1 day	Fri 8/11/23
93	OH Fire Sprinkler Drops - Bldg 1	1 day	Mon 8/14/23
94	OH - Fire Alarm Rough & Trim - Bldg 1	1 day	Mon 8/14/23
95	OH - Lighting Rough - Bldg 1	1 day	Mon 8/14/23
96	OH QC walk - Bldg 1	1 day	Tue 8/15/23
97	OH Inspection - Bldg 1	1 day	Wed 8/16/23
98	Drop ACT Tiles - Bldg 1	1 day	Thu 8/17/23
99	Install Doors & Hardware - Bldg 1	2 days	Fri 8/18/23
100	Install Countertops - Bldg 1	1 day	Fri 8/18/23
101	Seal Concrete Floor - Bldg 1	1 day	Tue 8/22/23
102	Connection to Sewer Main - Bldg 1	1 day	Fri 8/31/23



Phoenix-Mesa Gateway Airport

PMGAA Rental Car Care Facility

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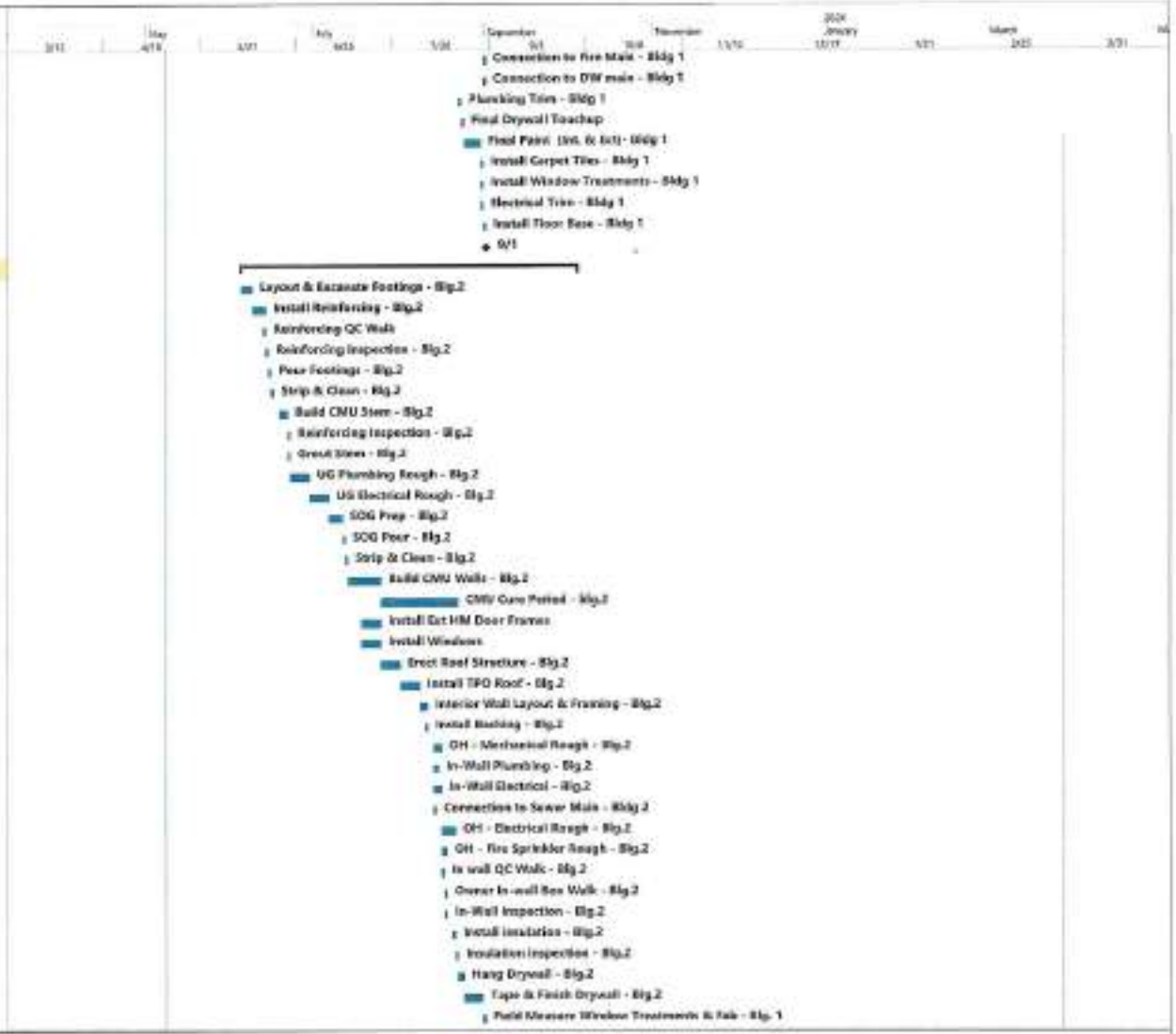
ID	Task Name	Duration	Start
103	Connection to Fire Main - Bldg 1	1 day	Fri 9/1/23
104	Connection to DW main - Bldg 1	1 day	Fri 9/1/23
105	Plumbing Trim - Bldg 1	1 day	Wed 8/23/23
106	Final Drywall Touchup	1 day	Thu 8/24/23
107	Final Paint (Int. & Ext) - Bldg 1	4 days	Fri 8/25/23
108	Install Carpet Tiles - Bldg 1	1 day	Thu 8/31/23
109	Install Window Treatments - Bldg 1	1 day	Thu 8/31/23
110	Electrical Trim - Bldg 1	1 day	Thu 8/31/23
111	Install Floor Base - Bldg 1	1 day	Fri 9/1/23
112	Bld. 1 Complete	0 days	Fri 9/1/23
113	**Support Building #2**	**88 days?**	**Mon 6/5/23**
114	Layout & Excavate Footings - Blg.2	4 days	Mon 6/5/23
115	Install Reinforcing - Blg.2	3 days	Fri 6/9/23
116	Reinforcing QC Walk	1 day	Tue 6/13/23
117	Reinforcing Inspection - Blg.2	1 day	Wed 6/14/23
118	Pour Footings - Blg.2	1 day	Thu 6/15/23
119	Strip & Clean - Blg.2	1 day	Fri 6/16/23
120	Build CMU Stem - Blg.2	3 days	Mon 6/19/23
121	Reinforcing Inspection - Blg.2	1 day	Thu 6/22/23
122	Grout Stem - Blg.2	1 day	Thu 6/22/23
123	UG Plumbing Rough - Blg.2	5 days	Fri 6/23/23
124	UG Electrical Rough - Blg.2	4 days	Fri 6/30/23
125	SOG Prep - Blg.2	3 days	Fri 7/7/23
126	SOG Pour - Blg.2	1 day	Wed 7/12/23
127	Strip & Clean - Blg.2	1 day	Thu 7/13/23
128	Build CMU Walls - Blg.2	8 days	Fri 7/14/23
129	CMU Cure Period - Blg.2	28 days	Wed 7/26/23
130	Install Ext HM Door Frames	3 days	Wed 7/19/23
131	Install Windows	3 days	Wed 7/19/23
132	Erect Roof Structure - Blg.2	3 days	Wed 7/26/23
133	Install TPO Roof - Blg.2	3 days	Wed 8/2/23
134	Interior Wall Layout & Framing - Blg.2	3 days	Wed 8/9/23
135	Install Backing - Blg.2	1 day	Fri 8/11/23
136	OH - Mechanical Rough - Blg.2	3 days	Mon 8/14/23
137	In-Wall Plumbing - Blg.2	2 days	Mon 8/14/23
138	In-Wall Electrical - Blg.2	3 days	Mon 8/14/23
139	Connection to Sewer Main - Blg.2	1 day?	Mon 8/14/23
140	OH - Electrical Rough - Blg.2	3 days	Thu 8/17/23
141	OH - Fire Sprinkler Rough - Blg.2	2 days	Thu 8/17/23
142	In wall QC Walk - Blg.2	1 day	Thu 8/17/23
143	Owner in-wall Box Walk - Blg.2	1 day	Fri 8/18/23
144	In-Wall Inspection - Blg.2	1 day	Fri 8/18/23
145	Install Insulation - Blg.2	1 day	Mon 8/21/23
146	Insulation Inspection - Blg.2	1 day	Tue 8/22/23
147	Hang Drywall - Blg.2	2 days	Wed 8/23/23
148	Tape & finish Drywall - Blg.2	5 days	Fri 8/25/23
149	Field Measure Window Treatments & Fab - Blg. 1	1 day	Fri 8/1/23



Phoenix-Mesa Gateway Airport

PMGAA Rental Car Care Facility

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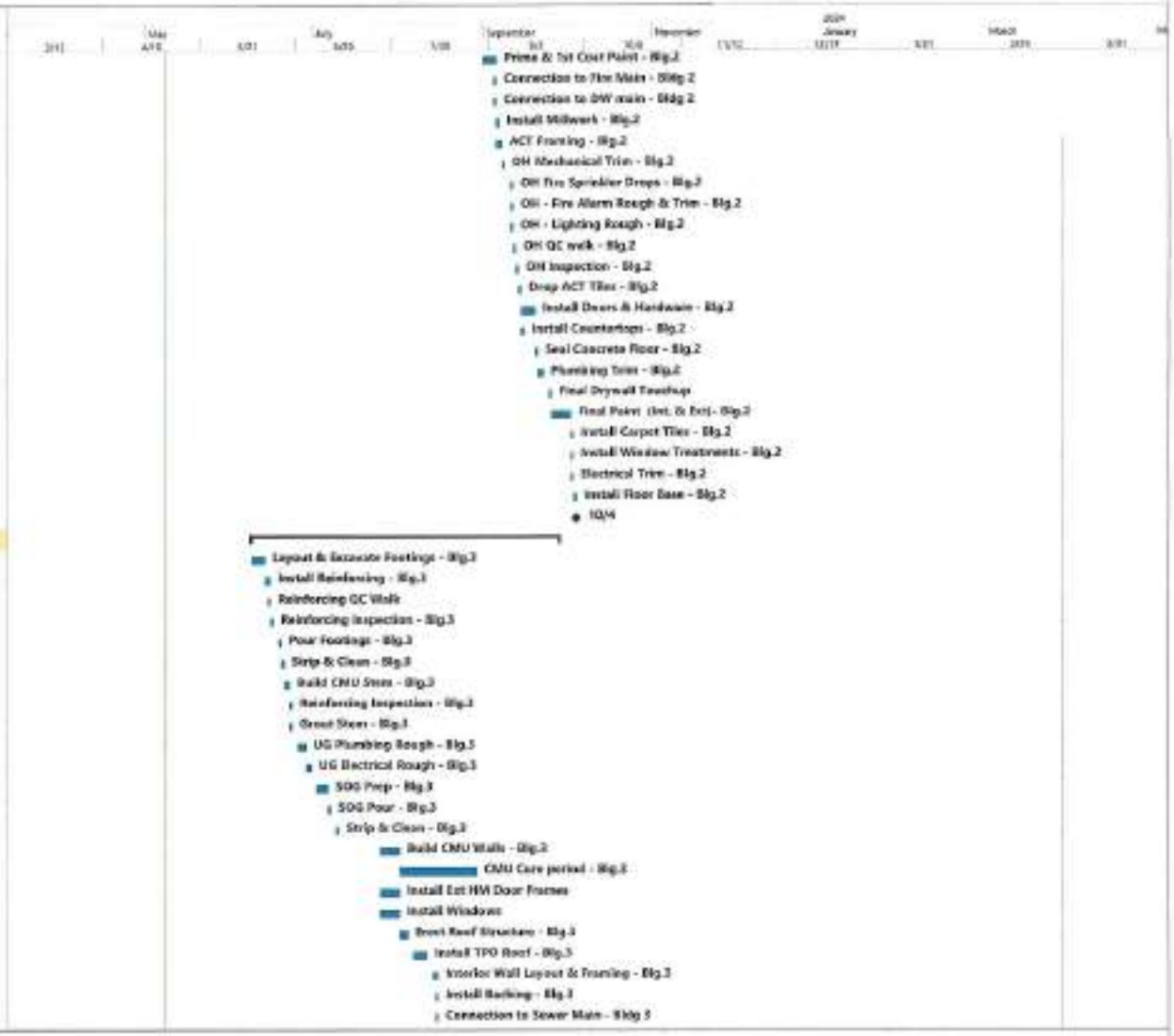
ID	Task Name	Duration	Start
150	Prime & 1st Coat Paint - Blg.2	2 days	Fri 9/1/23
151	Connection to Fire Main - Bldg 2	1 day	Tue 9/5/23
152	Connection to DW main - Bldg 2	1 day	Tue 9/5/23
153	Install Millwork - Blg.2	1 day	Wed 9/6/23
154	ACT Framing - Blg.2	2 days	Wed 9/6/23
155	OH Mechanical Trim - Blg.2	1 day	Fri 9/8/23
156	OH Fire Sprinkler Drops - Blg.2	1 day	Mon 9/11/23
157	OH - Fire Alarm Rough & Trim - Blg.2	1 day	Mon 9/11/23
158	OH - Lighting Rough - Blg.2	1 day	Mon 9/11/23
159	OH QC walk - Blg.2	1 day	Tue 9/12/23
160	OH Inspection - Blg.2	1 day	Wed 9/13/23
161	Drop ACT Tiles - Blg.2	1 day	Thu 9/14/23
162	Install Doors & Hardware - Blg.2	3 days	Fri 9/15/23
163	Install Countertops - Blg.2	1 day	Fri 9/15/23
164	Seal Concrete Floor - Blg.2	1 day	Wed 9/20/23
165	Plumbing Trim - Blg.2	2 days	Thu 9/21/23
166	Final Drywall Touchup	1 day	Mon 9/25/23
167	Final Paint (Int. & Ext)- Blg.2	5 days	Tue 9/26/23
168	Install Carpet Tiles - Blg.2	1 day	Tue 10/3/23
169	Install Window Treatments - Blg.2	1 day	Tue 10/3/23
170	Electrical Trim - Blg.2	1 day	Tue 10/3/23
171	Install Floor Base - Blg.2	1 day	Wed 10/4/23
172	Bld. 2 Complete	0 days	Wed 10/4/23
173	**Support Building #3**	**78 days**	**Fri 6/9/23**
174	Layout & Excavate Footings - Blg.3	3 days	Fri 6/9/23
175	Install Reinforcing - Blg.3	2 days	Wed 6/14/23
176	Reinforcing QC Walk	1 day	Thu 6/15/23
177	Reinforcing Inspection - Blg.3	1 day	Fri 6/16/23
178	Pour Footings - Blg.3	1 day	Mon 6/19/23
179	Strip & Clean - Blg.3	1 day	Tue 6/20/23
180	Build CMU Stem - Blg.3	2 days	Wed 6/21/23
181	Reinforcing Inspection - Blg.3	1 day	Fri 6/23/23
182	Grout Stem - Blg.3	1 day	Fri 6/23/23
183	UG Plumbing Rough - Blg.3	3 days	Mon 6/26/23
184	UG Electrical Rough - Blg.3	2 days	Thu 6/29/23
185	SOG Prep - Blg.3	3 days	Mon 7/3/23
186	SOG Pour - Blg.3	1 day	Fri 7/7/23
187	Strip & Clean - Blg.3	1 day	Mon 7/10/23
188	Build CMU Walls - Blg.3	5 days	Wed 7/26/23
189	CMU Cure period - Blg.3	28 days	Wed 8/2/23
190	Install Ext HM Door Frames	5 days	Wed 7/26/23
191	Install Windows	5 days	Wed 7/26/23
192	Erect Roof Structure - Blg.3	3 days	Wed 8/2/23
193	Install TPO Roof - Blg.3	5 days	Mon 8/7/23
194	Interior Wall Layout & Framing - Blg.3	2 days	Mon 8/14/23
195	Install Backing - Blg.3	1 day	Tue 8/15/23
196	Connection to Sewer Main - Bldg 3	1 day	Tue 8/15/23



Phoenix-Mesa Gateway Airport

PMGAA Rental Car Care Facility

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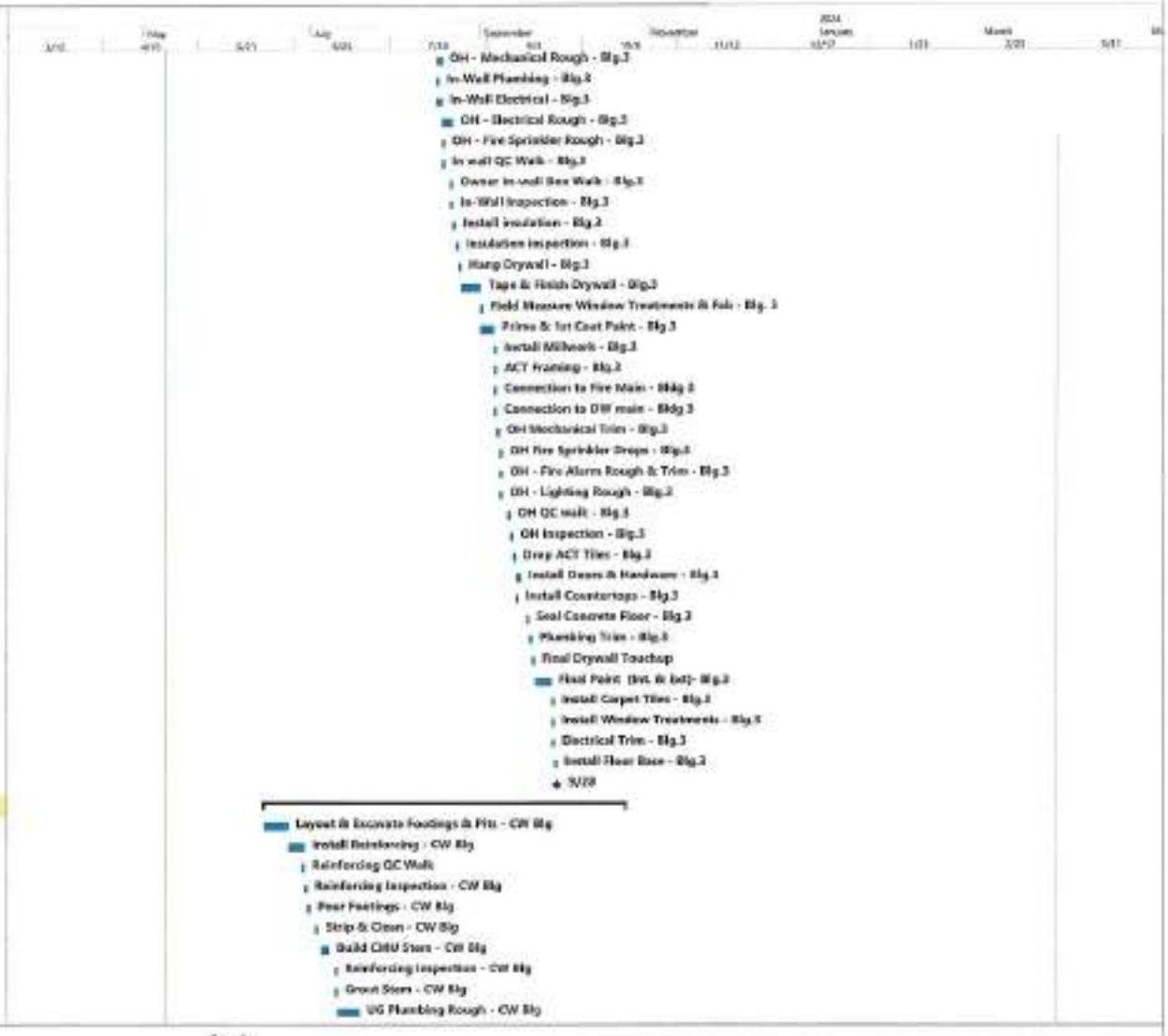
ID	Task Name	Duration	Start
197	OH - Mechanical Rough - Blg.3	2 days	Wed 8/16/23
198	In-Wall Plumbing - Blg.3	1 day	Wed 8/16/23
199	In-Wall Electrical - Blg.3	2 days	Wed 8/16/23
200	OH - Electrical Rough - Blg.3	2 days	Fri 8/18/23
201	OH - Fire Sprinkler Rough - Blg.3	1 day	Fri 8/18/23
202	In-wall QC Walk - Blg.3	1 day	Fri 8/18/23
203	Owner in-wall Sign Walk - Blg.3	1 day	Mon 8/21/23
204	In-Wall Inspection - Blg.3	1 day	Mon 8/21/23
205	Install Insulation - Blg.3	1 day	Tue 8/22/23
206	Insulation Inspection - Blg.3	1 day	Wed 8/23/23
207	Hang Drywall - Blg.3	1 day	Thu 8/24/23
208	Tape & Finish Drywall - Blg.3	5 days	Fri 8/25/23
209	Field Measure Window Treatments & Fab - Blg. 3	1 day	Fri 9/1/23
210	Prime & 1st Coat Paint - Blg.3	2 days	Fri 9/1/23
211	Install Millwork - Blg.3	1 day	Wed 9/6/23
212	ACT Framing - Blg.3	1 day	Wed 9/6/23
213	Connection to Fire Main - Bldg.3	1 day	Wed 9/6/23
214	Connection to DW main - Bldg.3	1 day	Wed 9/6/23
215	OH Mechanical Trim - Blg.3	1 day	Thu 9/7/23
216	OH Fire Sprinkler Drops - Blg.3	1 day	Fri 9/8/23
217	OH - Fire Alarm Rough & Trim - Blg.3	1 day	Fri 9/8/23
218	OH - Lighting Rough - Blg.3	1 day	Fri 9/8/23
219	OH QC walk - Blg.3	1 day	Mon 9/11/23
220	OH Inspection - Blg.3	1 day	Tue 9/12/23
221	Drop ACT Tiles - Blg.3	1 day	Wed 9/13/23
222	Install Doors & Hardware - Blg.3	2 days	Thu 9/14/23
223	Install Countertops - Blg.3	1 day	Thu 9/14/23
224	Seal Concrete Floor - Blg.3	1 day	Mon 9/18/23
225	Plumbing Trim - Blg.3	1 day	Tue 9/19/23
226	Final Drywall Touchup	1 day	Wed 9/20/23
227	Final Paint (Int. & Ext)- Blg.3	4 days	Thu 9/21/23
228	Install Carpet Tiles - Blg.3	1 day	Wed 9/27/23
229	Install Window Treatments - Blg.3	1 day	Wed 9/27/23
230	Electrical Trim - Blg.3	1 day	Wed 9/27/23
231	Install Floor Base - Blg.3	1 day	Thu 9/28/23
232	Bld 3 Complete	0 days	Thu 9/28/23
233	**Car Wash Building**	**62 days**	**Wed 6/14/23**
234	Layout & Excavate Footings & Pits - CW Blg	7 days	Wed 6/14/23
235	Install Reinforcing - CW Blg	4 days	Fri 6/23/23
236	Reinforcing QC Walk	1 day	Wed 6/28/23
237	Reinforcing Inspection - CW Blg	1 day	Thu 6/29/23
238	Pour Footings - CW Blg	1 day	Fri 6/30/23
239	Strip & Clean - CW Blg	1 day	Mon 7/3/23
240	Build CMU Stem - CW Blg	3 days	Wed 7/5/23
241	Reinforcing Inspection - CW Blg	1 day	Mon 7/10/23
242	Grout Stem - CW Blg	1 day	Mon 7/10/23
243	UG Plumbing Rough - CW Blg	6 days	Tue 7/11/23



Phoenix-Mesa Gateway Airport

PMGAA Rental Car Care Facility

willmeng

ID	Task Name	Duration	Start
244	UG Electrical Rough - CW Blg	3 days	Wed 7/26/23
245	SOG Prep - CW Blg	3 days	Mon 7/24/23
246	SOG Pour - CW Blg	1 day	Thu 7/27/23
247	Strip & Clean - CW Blg	1 day	Fri 7/28/23
248	Build CMU Walls - CW Blg	15 days	Wed 8/2/23
249	Install Ext HM Door Frames	5 days	Wed 8/2/23
250	Erect Hollow core Precast Roof - CW Blg	5 days	Wed 8/23/23
251	Build CMU Parapets	5 days	Wed 8/30/23
252	CMU/Mortar Cure Period - CW Blg	28 days	Thu 8/7/23
253	Install TPO Roof - CW Blg	5 days	Thu 8/7/23
254	Fire Sprinkler Rough - CW Blg	2 days	Thu 8/14/23
255	Plumbing Rough - CW Blg	5 days	Thu 8/14/23
256	Electrical Rough - CW Blg	5 days	Thu 8/14/23
257	Fire Alarm Rough & Trim - CW Blg	1 day	Thu 8/21/23
258	EP Rough QC Walk - CW Blg	1 day	Fri 8/22/23
259	Owner In-wall Box Walk - CW Blg	1 day	Mon 8/25/23
260	Rough Inspection - CW Blg	1 day	Tue 8/26/23
261	Install Doors & Hardware - CW Blg	2 days	Wed 8/27/23
262	Paint (Int. & Ext)- CW Blg	5 days	Thu 10/5/23
263	Install Car Wash Equipment - CW Blg	5 days	Thu 10/12/23
264	Electrical Trim - CW Blg	3 days	Thu 10/19/23
265	Plumbing Trim - CW Blg	3 days	Thu 10/19/23
266	CW Blg. Complete	0 days	Mon 10/23/23
267	Canopies	42 days	Thu 8/7/23
268	Survey for Canopies	1 day	Thu 8/7/23
269	Drill for Canopy Footings	5 days	Fri 8/8/23
270	Reinforcing at Canopy Footings	2 days	Wed 9/13/23
271	Reinforcing Inspection	1 day	Mon 9/18/23
272	Pour Canopy Footings	1 day	Tue 9/19/23
273	Set Canopy Columns	3 days	Wed 9/20/23
274	Install Fabric Canopies	4 days	Tue 10/17/23
275	Install Vacuum Equipment	10 days	Mon 10/23/23
276	Power	11 days	Mon 11/6/23
277	Set SES Gear	1 day	Mon 11/6/23
278	Install SES Gear - Green Tag	3 days	Tue 11/7/23
279	SRP Install	15 days	Tue 11/14/23
280	Permanent Power On	0 days	Wed 12/6/23
281	Sitework	61 days	Fri 7/21/23
282	Utilities	30 days	Fri 7/21/23
283	Install UG Sewer Line	15 days	Fri 7/21/23
284	Install UG Fire Line	15 days	Fri 8/11/23
285	Install UG Domestic Water	15 days	Fri 8/11/23
286	Paving	16 days	Mon 8/28/23
287	Rough Grade	3 days	Mon 8/28/23
288	UG Site Lighting	2 days	Thu 9/28/23
289	Concrete Aprons, Stoops, and Pads	5 days	Mon 10/2/23
290	Fine Grade	4 days	Mon 10/9/23

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: April 2023 Financials
Date: June 20, 2023

Attached is the monthly Financials Report for April 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
April, 2023

	Month of April 2023				Y-T-D as of April 2023			
	Apr FY22 Actual	Apr FY23 Actual	YOY Variance	B/(W)	YTD FY22 Actual	YTD FY23 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	19,777	23,291	3,514	18%	194,248	245,566	51,318	26%
Fuel Flowage Fees	68,178	53,922	(14,256)	-21%	560,879	554,352	(6,527)	-1%
Landing Fees	144,297	130,355	(13,942)	-10%	1,265,525	1,209,253	(56,272)	-4%
Lease Income Aero	257,099	291,648	34,549	13%	2,770,708	2,648,386	(122,322)	-4%
Fuel Sales	864,810	578,514	(286,296)	-33%	4,940,941	6,502,794	1,561,853	32%
Services Sold - Aero	509,679	525,697	16,018	3%	4,394,958	4,832,347	437,389	10%
Sub-total Aero Operating Revenues	1,863,840	1,603,427	(260,413)	-14%	14,127,259	15,992,698	1,865,439	13%
Non-Aeronautical Operating Revenues								
Concessions	179,035	139,360	(39,675)	-22%	1,001,798	1,238,246	236,448	24%
Lease Income Non-Aero	119,653	112,898	(6,755)	-6%	1,197,598	1,124,416	(73,182)	-6%
Parking	268,590	306,800	38,210	14%	3,389,860	3,815,154	425,294	13%
Rental Car Fees	331,533	435,899	104,366	31%	1,979,243	2,676,758	697,515	35%
Svcs Sold - Non Aero	127,178	127,204	26	0%	159,404	167,644	8,240	5%
Sub-total Non-Aero Operating Revenues	1,025,989	1,122,161	96,172	9%	7,727,903	9,022,218	1,294,315	17%
Total Operating Revenues	**2,889,829**	**2,725,588**	**(164,241)**	**-6%**	**21,855,162**	**25,014,916**	**3,159,754**	**14%**
Operating Expenses								
Cost of Goods Sold	625,098	375,177	249,921	40%	3,379,074	4,500,614	(1,121,540)	-33%
Personnel	785,676	778,449	7,227	1%	7,777,792	8,340,444	(562,652)	-7%
Comm & Utilities	57,275	57,738	(463)	-1%	698,377	758,036	(59,659)	-9%
Contractual Services	478,545	491,679	(13,134)	-3%	4,443,811	5,133,792	(689,981)	-16%
Insurance	46,524	50,979	(4,455)	-10%	476,649	552,869	(76,220)	-16%
Other	11,547	31,591	(20,044)	-174%	359,462	253,656	105,806	29%
Repair & Maintenance	41,029	80,110	(39,081)	-95%	580,541	763,069	(182,528)	-31%
Supplies & Materials	68,079	62,998	5,081	7%	824,841	756,081	68,760	8%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,622,382]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**2,113,773**	**1,928,721**	**185,052**	9%	**18,540,547**	**21,058,561**	**(2,518,012)**	-14%
Operating Income (Loss) Before Depreciation	**776,056**	**796,867**	**20,811**	3%	**3,314,615**	**3,956,355**	**641,740**	19%
	26.9%	29.2%			15.2%	15.8%		
Depreciation		1,212,376				14,055,212		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **June 20, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	July 2023
Request for Proposals	2023-020-RFP	ATM Services	September 2023
Request for Proposals	2023-021-RFP	Airport Vending Concessions	September 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Qualifications	2023-024-RFQ	CMAR for Baggage Claim Makeup	June 2023	September 2023
Request for Proposals	2023-006-RFP	Car Rental Concession	July 2023	September 2023

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $38,144.

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, July 18, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Chip Wilson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Chip Wilson, Chair)

3. **Pledge of Allegiance**

4. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

5. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

6. **Presentation** – Gateway Tomorrow, Tony Bianchi, Planning Project Manager

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **June 20, 2023**.

   b) **Resolution No. 23-39 –** Authorizing paving services with **Sunland Asphalt of Arizona, Inc. (Sunland)** for the Taxiway Circle Access Reconstruction Project in an amount not to exceed $463,155.28 under CIP 982.

   c) **Resolution No. 23-40 –** Authorizing the purchase of airfield asphalt repair services with **Sunland Asphalt of Arizona, Inc. (Sunland)** for an amount not to exceed $175,000.

   d) **Resolution No. 23-41 –** Authorizing the purchase of one new forklift from **Big Lift Material Handling**, in an amount not to exceed $65,000.

   e) **Resolution No. 23-42 –** Approving Authorization of Services (AOS) 20B-2303 Amendment #1 to the contract with **Dibble Engineering** for the RWY 12R-30L Reconstruction, in an amount of $73,774.00, to redesign the project into a single bid package, resulting in a total contract amount not to exceed $1,068,366.00.

f) **Resolution No. 23-43 –** Approving Authorization of Services (AOS) 20A-2202 Amendment #1 to the contract with **Kimley-Horn & Associates** for the Aviation Way and Utility Extensions Infrastructure project, in an amount of $28,889.18, for design support services pre and post construction, resulting in a total contract amount not to exceed $200,486.18.

Consideration and Possible Approval of:

8. **Resolution No. 23-44 –** Approval of the **Boyer Gateway East, L.C. Initial Master Plan** as provided to the Airport Authority, per the Master Development Agreement (MDA) dated June 21, 2022.

9. **Board Member Comments/Announcements**

10. **Next Meeting: Tuesday, September 19, 2023 at 9:00 a.m.**

11. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- PMGAA Board of Directors Elects Slate of Officers for FY24
- Gateway Airport Sets New Total Passenger Activity Record in FY23
- Allegiant Adding Nonstop Service to Portland, OR in November
- City of Phoenix Withdrawing Membership in PMGAA on June 30, 2024
- The Boyer Company Presents Initial Master Plan for Gateway East
- Lori Collins Joins PMGAA as Director of Business and Economic Development
- Roof Installed on 5-Gate, 30,000 Square Foot Terminal Addition

Executive Director's Report

July 2023

Gateway East Master Development

A 273-Acre First-Class Business Park being Developed by The Boyer Company on the East Side of Phoenix-Mesa Gateway Airport

Financial Snapshot

OPERATING INCOME	May		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY22	FY23	
Revenues	$2,614,838	$2,144,487	**($470,351)**	$24,469,998	$27,159,404	**$2,689,406**
Less Expenses	$2,037,250	$2,142,646	**$105,396**	$20,577,798	$23,201,206	**$2,623,408**
Operating Income *(Before Depreciation)*	**$577,588**	**$1,841**	**($575,747)**	**$3,892,2000**	**$3,958,198**	**$65,998**

Investment Fund Balances: As of May, the Local Governmental Investment Pool (LGIP) 700 = $6,136,335; Wells Fargo; Collateralized Money Market = $8,637,509 and Brokered CD's = $42,434,311; Total $57,208,155. The market value accounting adjustment was $203,095 for the month. The entry is for accounting purposes only. PMGAA invests in fixed rate instruments.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) reported a net operating income of $1,841 for May 2023, $575,747 below financial results last May. Aeronautical revenues this May decreased by 25% compared to May 2022. The reduction in aeronautical revenue was directly related to a decrease in commercial, military, and U.S. Forest Service operations during the month. This reduction in activity resulted in lower Fuel Flowage Fees, Landing Fees, Fuel Sales, and Services Sold.

Non-airline revenues – food, beverage, and retail concessions, customer parking, and ground transportation – decreased by 3% in May 2023, mirroring a 3% decrease in passenger activity during the month.

Operating expenditures for May increased by 5% ($105,396).

Fiscal year-to-date 2023 (FYTD23), total operating revenues have increased by 11% and total operating expenditures have increased by 13%. Total operating expenditures remain 2% under FY23 budget.

PMGAA is currently conducting a long-range planning study called **Gateway Tomorrow** to help identify the facilities and infrastructure needed to relocate the commercial passenger terminal to the east side of the Airport. An important component of the study is to evaluate available funding sources and develop the beginning outline of a financing plan that includes federal, state, and local assistance, as well as the issuance of general airport revenue bonds (GARB). PMGAA staff is currently working to obtain a bond rating.

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	September 2023
Request for Proposals	2023-020-RFP	ATM Services	September 2023
Request for Proposals	2023-021-RFP	Vending Services	September 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Qualifications	2024-001-RFQ	CMAR for in-line checked baggage system improvements	July 2023
Request for Proposals	2024-002-RFP	Car Rental Concessions	July 2023

Airport Operations

Gateway Airport Sets New Total Passenger Activity Record in FY23

There are several important cornerstones of Gateway Airport's growing operation – commercial passenger service, general aviation activity (including corporate), transient military training, U.S. Forest Service – Mesa Base operations, maintenance, repair, and overhaul (MRO) services, and private aeronautical and non-aeronautical development.

Gateway Airport's Commercial Passenger Terminal

In FY23 (July 2022 – June 2023), Gateway Airport set a new total passenger activity record, welcoming more than 1.9MM sun-seeking visitors and local air travelers during the previous 12-month period.

Assuming half the total passengers last year originated from outside Arizona, that's almost one million Airport customers contributing to the regional economy by renting cars, staying in hotels, eating in restaurants, shopping, attending sporting events, and playing golf or other outdoor activities.

Gateway Airport is a major economic engine, contributing more than $1.8 billion each year to the Phoenix East Valley economy, creating thousands of jobs, and improving access to the global marketplace.

PASSENGER COUNTS		May		% Change	FYTD		% Change
		2022	2023		FY22	FY23	
Passengers	TOTAL	137,336	132,535	-3%	1,677,855	1,779,548	6%
	Deplaned	66,202	63,328	-4%	844,824	892,963	6%
	Enplaned	71,134	69,207	-3%	833,031	886,585	6%
Allegiant	Scheduled	136,288	132,535	-3%	1,603,814	1,658,655	3%
Swoop	Scheduled	946	0	-100%	25,261	44,778	77%
Sun Country	Scheduled	53	0	-100%	22,282	32,828	47%
WestJet	Scheduled	0	0	0%	7,959	11,372	43%
Flair	Scheduled	0	0	0%	11,779	31,521	168%
Swift	Charter	49	0	-100%	1,887	394	-79%

OPERATIONS	May		% Change	FYTD		% Change
	2022	2023		FY22	FY23	
Air Carrier	1,010	830	-18%	11,920	11,147	-6%
Military	264	258	-2%	4,013	3,328	-17%
General Aviation	19,752	18,687	-6%	209,439	210,763	1%
TOTAL	**21,026**	**19,775**	**-6%**	**225,372**	**225,238**	**0%**

Engineering and Planning

Roof Installed on 5-Gate, 30,000 Square Foot Terminal Addition

Terminal Addition Roof being Installed

PMGAA takes every opportunity to celebrate important construction milestones. Whether it's a floor being poured, walls being erected, or the roof being installed, each project represents progress. Gateway Airport's $28MM 5-gate, 30,000 sq. ft. commercial passenger terminal addition is making progress!

This much-needed Airport project is being partially funded through a $14.4MM federal Bipartisan Infrastructure Law (BIL) Airport Terminal Program (ATP) grant and a $7MM Arizona Department of Transportation grant. PMGAA would like to thank the federal government and the State of Arizona for their investment in this important Airport project.

The project is expected to be completed in January 2024 and operational in February.

Business Development

Lori Collins Joins PMGAA as Director of Business and Economic Development

PMGAA is pleased to announce the appointment of Lori Collins as Director of Business and Economic Development. Ms. Collins brings a wealth of knowledge and experience in strategic planning, economic growth initiatives, airport management, and commercial real estate to the Authority. She joins PMGAA with a proven track record of success in driving economic development in various Phoenix area municipalities.

As Director of Business and Economic Development, Collins will be responsible for executing Gateway Airport's Strategic Business Plan, cultivating relationships with local, regional, national, and international businesses, and working with aeronautical and non-aeronautical companies interested in relocating or expanding at Gateway Airport. Lori's broad experience and unique understanding of greater Phoenix market dynamics will benefit Gateway Airport's reputation as a premier aviation and business location.

The Boyer Company Presents Initial Master Plan for Gateway East

In 2022, PMGAA selected The Boyer Company (Boyer) of Salt Lake City, UT as the master developer for Gateway East, a 273-acre mixed-use first-class Airport Business Park located on the east side of the Airport. Boyer is an experienced large-scale commercial developer with a long track record of successful projects.

Conceptual Site Plan for Gateway East Development

Boyer was chosen from a group of twelve very qualified development companies because they shared PMGAA's vision for a high-quality development featuring office, manufacturing, industrial, and commercial retail. Boyer presented their Initial Master Plan to the PMGAA Board of Directors at their June meeting. Once the plan is approved by the PMGAA Board, Boyer will submit a development lease for its first project, a 275,000 sq. ft. manufacturing facility and U.S. headquarters for XNRGY Climate Systems.

PMGAA Eyes 10-Acre Site on the South Ramp for Redevelopment

As a former military base, Gateway Airport has a number of Air Force buildings remaining around its airfield. These buildings have become prime redevelopment targets for aviation companies interested in growing or relocating their business to the Airport. In 2024, PMGAA will offer a 10-acre site on the south ramp of the airfield as a redevelopment opportunity. This site is a great location for any company looking for aeronautical land with great access to the Airport's three 10,000-foot runways.

Community Noise Report

CALLERS	May		FYTD	
	2022	2023	FY22	FY23
Total	7	9	127	136

AIRCRAFT TYPE	May		FYTD	
	2022	2023	FY22	FY23
	Callers	Callers	Callers	Callers
Commercial	2	7	74	78
GA Total	3	2	15	33
Helicopter	0	0	7	0
Military	2	0	31	25
Total	7	9	127	136

LOCATION	May		FYTD	
	2022	2023	FY22	FY23
Mesa	3	1	46	60
Gilbert	3	6	63	51
Gold Canyon	0	0	1	2
Queen Creek	1	2	12	17
Queen Valley	0	0	3	2
Apache Junction	0	0	1	4
Fountain Hills	0	0	1	0
TOTAL	7	9	127	136

PMGAA received communications from 9 individuals regarding aircraft noise issues during the month of May 2023, compared to 7 received last May. This time of year, when the temperature increases, noise calls tend to decrease because area residents keep windows closed and the air conditioning on.

PMGAA Team Member Spotlight

Employee Name: **Tony Steeneck**
Employee Title: **Project Manager**
PMGAA Department: **Engineering and Facilities**
Years with PMGAA: **25**

What are your job responsibilities for PMGAA? As a Project Manager with the Engineering & Facilities Team, I work to manage capital improvement projects for the airport. This includes developing scope and negotiating fees with consultants and managing/coordinating efforts through the design process. Once a project is bid and funded, the work shifts to coordinating the efforts in constructing the project and managing the budget. Communicating with many internal and external departments and agencies is essential for a successful project.

What is your most memorable Gateway Airport moment? So many to choose from. I am proud to have had a small part in the growth and development of Gateway. From working the Cox Airshows, seeing the first Presidential visit, the start of scheduled air service, the development of the passenger terminal and the many airfield improvements and private developments. In the end, the most memorable moment is likely to be the one coming in August when I retire.

What is something people may not know about you? My wife and I enjoy traveling and typically focus on the food, arts, and music scenes for the area we visit. We are also becoming Segway geeks. We have taken Segway tours in many locations like Portland, Salt Lake City, Austin, Savanah, and Washington DC. It is a great way to see a city.

Gateway Aviation Services

PMGAA pumped more than 1.23MM gallons of aviation fuel during the month of May 2023, a 21% decrease compared to the 1.55MM gallons dispensed during last May. Commercial Jet A fuel activity showed signs of improvement and was only down 5% during the month.

FYTD23, Gateway Aviation Services has pumped more than 16.47MM gallons of aviation fuel.

FUEL (Gallons)	May			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	44,059	31,544	-28%	429,998	434,637	1%
Retail Jet A	65,600	50,507	-11%	519,287	731,602	41%
Contract	478,656	220,876	-54%	3,690,760	3,174,096	-14%
Commercial	975,006	929,473	-5%	13,537,998	12,137,330	-10%
TOTAL	**1,554,321**	**1,232,400**	**-21%**	**18,178,043**	**16,477,665**	**-9%**

Community and Government Relations

PMGAA Board of Directors Elects Slate of Officers for FY24

Mayor Chip Wilson
Apache Junction
Chairman

Lt. Gov. Monica Antone
GRIC
Vice Chair

Mayor Julia Wheatley
Queen Creek
Secretary

Mayor John Giles
Mesa
Treasurer

City of Phoenix Withdrawing Membership in PMGAA on June 30, 2024

The City of Phoenix has informed the PMGAA Board of Directors of its intention to withdraw its membership in PMGAA on June 30, 2024. In a letter dated June 30, 2023 to FY23 PMGAA Board Chair Brigette Peterson, Phoenix City Councilmember Jim Waring said:

> *"The City of Phoenix values its long-standing relationship with the Phoenix-Mesa Gateway Airport Authority (PMGAA) and has enjoyed our long history of supportive participation on the Board of this critical commercial reliever airport. Thanks to the Board's leadership, the airport has excelled and is now well positioned for long-term growth and success.*
>
> *Given PMGAA's strength and financial solvency, as well as Phoenix's need to continue making financial investments in its own system of airports, now is the right time to conclude our participation on the PMGAA Board."*

Allegiant Adding Nonstop Service to Portland, OR in November

Great News! Allegiant Air, Gateway Airport's largest airline is adding twice weekly nonstop service to Portland, Oregon beginning this November. Portland is an extremely popular two-way destination for Phoenix. In the winter, Oregonians flock south for some much-needed sunshine, and in the summer, Valley residents head north for some respite from the heat.

For more information visit www.allegiantair.com.

MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | June 20, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) was convened on Tuesday, June 20, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix*
Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community
Mayor Julia Wheatley, Queen Creek (*via audioconference*)
Mayor John Giles, Mesa
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney

1. **Call to Order** at 9:02 a.m. (Mayor Peterson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - Fiscal Year-to-Date (FYTD) Net Operating Income is $3,956,355.
   - Phoenix-Mesa Gateway Airport (Airport, Gateway Airport) welcomed 169,747 commercial passengers during April 2023. This is a slight dip compared to the 171,015 passengers during April last year.
   - DSV B-747 Scheduled Cargo Service - DSV Air and Sea is a global transport and logistics company. In May it celebrated the expansion of its air cargo network to Gateway Airport. In February DSV signed a lease for a 22,000 sq. ft. hangar and will begin twice weekly scheduled service at the end of June with weekly service arriving from Europe and weekly service from Asia.
   - SkyBridge Arizona is constructing two 250,000 sq. ft. industrial buildings. These two large buildings are being built to accommodate both single and multiple tenants. Once financing is secured, SkyBridge Arizona hopes to begin construction of the 127-room dual-brand hotel along Sossaman Road. Northern Arizona University (NAU), in partnership with Kind Hospitality and SkyBridge, is building a two-story facility next to the hotel. The first floor will be a sit-down, high-quality restaurant and the second floor will be NAU's hospitality program. Construction of

DRAFT

Taxilane Sierra will begin in the fourth quarter of this year. This final piece of the horizontal infrastructure will open a significant amount of aeronautical land for SkyBridge Arizona to develop.

- Matt Jensen and Adrian Evarkiou attended the June PMGAA Board meeting as representatives of The Boyer Company. Mr. Jensen presented on the Initial Master Plan for the Gateway***East*** master development.
- Progress on Phase I of Gulfstream's new 225,000 sq. ft. West Coast Service Center continues. Gulfstream is working towards a completion date in the beginning of 2024.
- Boeing is leasing one half of Hangar A in the Gateway Executive Airpark. Tenant improvement work will be completed before opening their facility in the fall of this year.
- Virgin Galactic is leasing the remaining two hangars in the Gateway Executive Airpark. Progress for the customization of these hangars continues. The steel has been erected on the 125,000 sq. ft. hangar and the reinforced footings have been poured on the second hangar. Completion of these two hangars is anticipated for Q2 2024.
- PMGAA will issue a Request for Proposals for the demolition of several older Airport buildings along with the old Air Traffic Control Tower. At that time, the older buildings on Lot 50 and Lot 45 will also be demolished. This will provide a ten-acre redevelopment opportunity of aeronautical land located on the south ramp of the airport.
- The growing population of greater Phoenix is causing some challenges for the supply of Jet-A aviation fuel in the Valley. During COVID, the need for Jet-A diminished and more diesel fuel and unleaded fuel were added to the pipeline from California. As the aviation sector has recovered, allocations of Jet-A sometimes are scarce. PMGAA is actively evaluating options to ensure an adequate supply of Jet-A in the future.
- Progress continues for the Airport's new 30,000 sq. ft. five-gate terminal addition. The concrete block walls and steel beams are being erected. The project is expected to be complete in January 2024 with operations beginning mid-February.
- Construction of the enclosed pedestrian walkway connecting the ticketing terminal and the security screening checkpoint will begin in July. This customer service enhancement project will increase the queuing area for the security screening checkpoint and will keep passengers in a climate-controlled environment from ticketing through security screening. This project is anticipated to be complete before the busy travel period begins in February/March 2024.
- Due to increasing passenger activity at PMGAA, a new TSA In-Line Checked Baggage System (BHS) is being installed to improve efficiency and speed up baggage processing. This will be paid for with a TSA grant. The design for this project will be complete in June.
- Improvements to the Rental Car Care Facility are underway. The project includes new vehicle wash and vacuum bays, upgraded maintenance facilities, additional vehicle queuing and storage and new operations offices. PMGAA, in conjunction with all its rental car companies, is investing between $9 - $10MM to make the improvements. The funding for the project comes from the Airport's dedicated Customer Facility Charge (CFC) account.
- Fuel Farm Expansion - The Authority has purchased three new 50,000-gallon Jet-A fuel storage tanks that will be delivered in August. This additional fuel storage capacity will provide the Airport with approximately seven days of on-Airport fuel storage. This project began in June and is scheduled to be completed by the end of the year.
- The Airport and the FAA are working on funding for the first phase of the inside runway reconstruction project. If funding isn't available for FY24, the project may need to be pushed into FY25.

6. **Gateway East Presentation** – Matt Jensen, Project Manager, The Boyer Company

Mr. Jensen provided an informative overview of the various components included in Gateway***East*** Initial Master Plan.

Lt. Governor Antone asked if the property had been cleared through Native American Graves Protection and Repatriation Act (NAGPRA). Executive Director O'Neill assured her the site has been approved by the Federal Aviation Administration's issuance of a Finding of No Significant Impact (FONSI) for the Environmental Assessment.

Mayor Giles stated both the Authority and the City of Mesa are proud of the partnership with The Boyer Company on this exciting regional project.

7. **Consent Agenda**

a) **Minutes** of the Board Meeting held on **May 16, 2023**.

b) **Resolution No. 23-28 –** Authorizing an agreement for financial participation between the **City of Mesa** and Phoenix-Mesa Gateway Airport Authority to share state and federal lobbyist and consulting services effective July 1, 2023 in the amount of $108,060.

c) **Resolution No. 23-29 –** Authorizing the purchase of janitorial supplies from **Network Services Company in partnership with Waxie Sanitary Supply** for FY24, in an amount not to exceed $126,000.

d) **Resolution No. 23-30 –** Authorizing the purchase of Jet A fuel and 100LL Avgas from **Ascent Aviation** for Airport Authority resale in the amount of $3,995,750.

e) **Resolution No. 23-31 –** Authorizing the purchase of Unleaded and Diesel fuel from the **lowest priced State contract vendor** at market prices for Airport Authority use and resale in an amount not to exceed $634,850. This amount will provide fuel for the 2024 fiscal year.

f) **Resolution No. 23-32 –** Authorizing the purchase of international waste management services from **Stericycle, Inc. (Stericycle)** in an amount not to exceed $55,000 for fiscal year 2024.

g) **Resolution No. 23-33 –** Authorizing Amendment 3 to the Land Lease Agreement with **Gateway Executive Airpark, LLC** for lots 11-14 in order to add an additional 19,386.18 square feet to the Premises.

h) **Resolution No. 23-34 –** Approving an unscheduled 5% **market adjustment** for the PMGAA Executive Director/CEO.

i) **Resolution No. 23-35 –** Authorizing an amendment extending the existing Intergovernmental Agreement (IGA) with the City of Mesa for **Aircraft Rescue and Firefighting** (ARFF) Maintenance, effective July 1, 2023, through June 30, 2024, with costs estimated to be approximately $40,000.

j) **Resolution No. 23-36 –** Authorizing a Facility Lease Agreement with **Straube's Aircraft Services Inc.** for the property located at 6262 S. Taxiway Circle, Mesa, AZ 85212 with an Effective Date of

July 1st, 2023. The Term for the Agreement is thirty-six (36) months, terminating on June 30th, 2026, with one (1), two (2) year renewal option.

k) **Resolution No. 23-37 –** Authorizing an amendment of the FY23 Carryover Capital Budget to add $1,710,015.99 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR contract, with **Willmeng Construction, Inc**. and design contract with **TranSystems**, due to rental car companies' requests and Phoenix-Mesa Gateway Airport Authority approved changes that are necessary to meet the desired needs of the car rental companies.

Mayor Chip Wilson moved to approve the Consent Agenda.
Lt. Governor Monica Antone seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 23-38** Authorizing a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with **Willmeng Construction, Inc**., due to rental car companies' requests and Phoenix-Mesa Gateway Airport Authority approved changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $1,959,950.76 under CIP 1242 and provides an additional 90 contract days.

Mayor John Giles moved to approve Resolution No. 23-38.
Mayor Chip Wilson seconded the motion.
The motion was carried unanimously.

9. **Election of Chair and Vice Chair**

Mayor Julia Wheatley motioned to nominate Mayor Wilson to become Chair and Lt. Governor Antone to become Vice Chair.
Mayor John Giles seconded the motion.
The motion was carried unanimously.

10. **Election of Secretary and Treasurer**

Lt. Governor Monica Antone motioned to nominate Mayor Wheatley to become Secretary and Mayor Giles to become Treasurer.
Mayor Chip Wilson seconded the motion.
The motion was carried unanimously.

11. **Board Member Comments/Announcements.**
Executive Director O'Neill conveyed appreciation on behalf of the Authority for Mayor Peterson's outstanding vision and leadership as PMGAA's Chairman of the Board of Directors during FY23.

Mayor Peterson said it has been an honor for her to serve as the Chair of PMGAA's Board of Directors and expressed her gratitude for the kind words and the support of the board and the staff.

She also congratulated Lt. Governor Antone and the Gila River Indian Community on the opening of the Gila River Casino Santan Mountain.

12. **Next Meeting: Tuesday, July 18, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

13. **Adjournment.**
    The meeting adjourned at 9:56 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-39

To:	**Board of Directors**
From:	**R. J. Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Taxiway Circle Access Reconstruction – Sunland Asphalt - CIP 982**
Date:	**July 18, 2023**

Proposed Motion
To authorize paving services with Sunland Asphalt for the Taxiway Circle Access Reconstruction Project in an amount not to exceed $463,155.28 under CIP 982.

Narrative

Due to the age of the pavement and the wear and tear on the roadway after being the "haul" route for two major projects (TWY K and the new ATCT Construction), the access roadway, in front of Building 1080, is in need of replacement.

PMGAA staff propose replacing the approximately 4,500 square yards of pavement located in front of Building 1080, and the parking lot drive lanes.

PMGAA and Sunland Asphalt are both participants of the Mohave Educational Services Cooperative (MESC) Purchasing Group. Under MESC, Sunland Asphalt was awarded the Paving Contract #19P-ACE-0318, and it is through this competitive selection that PMGAA will utilize Sunland Asphalt for paving services. This contract is available upon request.

A quote was obtained utilizing the MESC pricing as noted below:

Sunland Asphalt of Arizona, Inc. $463,155.28

Fiscal Impact
The Paving Services for this Taxiway Circle Access Replacement Project are included in the FY23 Capital Budget and Carry over into FY24 with non-grant funding under CIP 982.

Attachment(s): Proposal, Map

RESOLUTION NO. 23-39

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize paving services with Sunland Asphalt of Arizona, Inc. (Sunland) for the Taxiway Circle Access Reconstruction Project in an amount not to exceed $463,155.28 under CIP 982.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes paving services with Sunland Asphalt of Arizona, Inc. (Sunland) for the Taxiway Circle Access Reconstruction Project in an amount not to exceed $463,155.28 under CIP 982. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of July, 2023.

Chip Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PMGAA
Air Traffic
Control
Tower
FAA
Technical
Operations
Taxiway Circle
Velocity Way

SUNLAND ASPHALT
AZROC# 111922 | AZROC# 095189

3030 S. 7TH STREET, PHOENIX, AZ 85040
PHONE: 602.323.2800 | WWW.SUNLANDASPHALT.COM

To:	Phoenix Mesa Gateway	**Contact:**	Rich Adams
Address:	5835 S Sossaman Rd	**Phone:**	480-988-7600
	Mesa, AZ 85212 US	**Fax:**	
Project Name:	Taxiway Circle Access Reconstruct 6-22-2023	**Bid Number:**	PH020791
Project Location:	5835 S Sossaman Rd, Mesa, AZ	**Bid Date:**	7/5/2023

Item Description	Total Price

Phase 1

Remove And Replace Asphalt $271,275.41

Provide Traffic Control And Barricades During Our Scope Of Work.
Make Necessary Saw Cuts.
Remove And Haul Off Approx. 27 Linear Feet Of Ribbon Curb.
Remove And Haul Off Approx. 28,973 Square Feet Of Existing Concrete To A Depth Of 7 Inches.
Remove And Haul Off Approx. 6,064 Square Feet Of Existing Asphalt/Base Material To A Depth Of 7 Inches.
Move Cuts To Fills.
Fine Grade For Concrete.
Form And Pour Approx. 27 Linear Feet Of New Ribbon Curb.
Add 5 Percent Lime To Approx. 28,973 Square Feet. Blend To A Depth Of 8 Inches.
Fine Grade, Moisture Condition, And Compact Subgrade To +/- 0.10 Feet On Approx. 35,037 Square Feet.
Construct A 4 Inch Aggregate Base Course (ABC) Section On Approx. 35,037 Square Feet.
Fine Grade Aggregate Base Course, Add Moisture, And Compact To Grade On Approx. 35,037 Square Feet.
Pave Approx. 35,037 Square Feet With 3/4 Inch Arterial EVAC Asphalt Surface Course To An Average Finished Depth Of 3 Inches After Compaction With A Steel Wheeled Vibratory Roller.
Stripe 1,550 Linear Feet Of Cross Hash Markings Using Yellow Latex Traffic Paint.
Stripe 1,550 Linear Feet Of Cross Hash Markings Using White Latex Traffic Paint.
Paint 1 Stop Bar With "STOP" Using 24" Stencils Using White Latex Traffic Paint.

This Proposal Is Based On Performing The Work In 1 Phase/Mobilization.

Phase 2

Remove And Replace Asphalt $23,707.68

Provide Traffic Control And Barricades During Our Scope Of Work.
Make Necessary Saw Cuts.
Remove And Haul Off Approx. 1,105 Square Feet Of Existing Concrete To A Depth Of 7 Inches.
Move Cuts To Fills.
Fine Grade, Moisture Condition, And Compact Subgrade To +/- 0.10 Feet On Approx. 1,105 Square Feet.
Construct A 4 Inch Aggregate Base Course (ABC) Section On Approx. 1,105 Square Feet.
Fine Grade Aggregate Base Course, Add Moisture, And Compact To Grade On Approx. 1,105 Square Feet.
Pave Approx. 1,105 Square Feet With 3/4 Inch Arterial EVAC Asphalt Surface Course To An Average Finished Depth Of 3 Inches After Compaction With A Steel Wheeled Vibratory Roller.

This Proposal Is Based On Performing The Work In 1 Phase/Mobilization.

Item Description	Total Price

Phase 3

Remove And Replace Asphalt $45,770.79

Provide Traffic Control And Barricades During Our Scope Of Work.
Make Necessary Saw Cuts.
Remove And Haul Off Approx. 24 Linear Feet Of Ribbon Curb.
Remove And Haul Off Approx. 2,402 Square Feet Of Existing Concrete To A Depth Of 7 Inches.
Remove And Haul Off Approx. 1,336 Square Feet Of Existing Asphalt/Base Material To A Depth Of 7 Inches.
Move Cuts To Fills.
Fine Grade For Concrete.
Form And Pour Approx. 24 Linear Feet Of New Ribbon Curb.
Fine Grade, Moisture Condition, And Compact Subgrade To +/- 0.10 Feet On Approx. 3,739 Square Feet.
Construct A 4 Inch Aggregate Base Course (ABC) Section On Approx. 3,739 Square Feet.
Fine Grade Aggregate Base Course, Add Moisture, And Compact To Grade On Approx. 3,739 Square Feet.
Pave Approx. 3,739 Square Feet With 3/4 Inch Arterial EVAC Asphalt Surface Course To An Average Finished Depth Of 3 Inches After Compaction With A Steel Wheeled Vibratory Roller.

This Proposal Is Based On Performing The Work In 1 Phase/Mobilization.

Phase 4

Grade / Install Trash Pad / Install Rip Rap $50,553.73

Provide Traffic Control And Barricades During Our Scope Of Work.
Make Necessary Saw Cuts.
Move Cuts To Fills.
Remove And Haul Off Approx. 1,410 Square Feet Of Existing Dirt To A Depth Of 24 Inches.
Fine Grade For Concrete.
Form And Pour 6" Thick Concrete Trash Pad.
Install 6, 6" Steel Bollards.
Fine Grade, Moisture Condition, And Compact Subgrade To +/- 0.10 Feet On Approx. 3,467 Square Feet.
Install Approx. 300 Square Feet Of Rip Rap.

This Proposal Is Based On Performing The Work In 1 Phase/Mobilization.

Allowances

Screen Wall - Allowance $35,000.00

SWPP - Allowance $7,500.00

Bond

Bond $5,639.50

Bid Price Subtotal:	**$439,447.11**
Total State, County And City Of Mesa Sales Tax 5.40%:	**$23,708.17**
Total Bid Price:	**$463,155.28**

Notes:

- **MOHAVE EDUCATIONAL SERVICE CO-OP BID**
  CONTRACT NUMBER: 19P-ACE-0318
  SPECIAL NOTE:
  The terms and conditions of Mohave Educational Services Co-Op Bid, Contract Number 19P-ACE-0318 will prevail over any and all terms and conditions stated in the proposal.
  Prices are valid until September 30th, 2023.
- **In order to hold pricing, this proposal must be signed and returned within 15 days from the bid date specified above. Due to the pricing volatility of our industry at the moment, Sunland reserves the right to update pricing at any time prior to start of work.**
- **Material pricing is good through 9-30-2023.**
- **Sunland Asphalt routinely uses recycled material in hot mix asphalt products.**
- **Sunland Asphalt will not be held liable for any underground cables, electrical lines, water lines or any other underground obstruction not locatable or not buried to a depth less than 18" below the existing finished grade.**
- **Plan Sheets**
  - Bid was generated off plan sheets: G-101 Stamped 6/7/2023, G-102 Stamped 6/21/2023, G-103 Stamped 6/21/2023, C-101 Stamped 6/20/2023, PM-101 Stamped: 6/6/2023.
- Pricing excludes night/weekend work, testing, any rebar in the existing concrete, SWPPP, badging, safety classes, fees, bonds, notifications, protection of concrete after initial placement, colored concrete, decorative concrete, rebar, fibers, wire mesh, dowels, imbeds, footings, masonry, caulking, truncated domes, ABC beneath concrete, asphalt patch back, QC testing, utility adjustment hardware, utility adjustments, gate loops, painting bumper blocks, permanent signage, herbicide, removal and disposal of existing fabric underlayment, water source, or survey/staking in price unless noted above. Any pre-existing ADA compliance issues are excluded from contract unless specifically stated in proposal.
- Additional (downtime/mobilization) charges may result from delays beyond the control of Sunland Asphalt (or its subcontractors) which prohibit the above mentioned work from being completed as scheduled. (i.e., unmoved vehicles, disregard for Sunland traffic control, sanitation/delivery services, sprinkler runoff, etc.)

- The depth of the existing asphalt is only an estimate. Additional depth may require additional charges. The removal of the asphalt has been bid for that function alone and does not include excavation of the base or subbase. If at the time of the removal, it is determined that contamination of water has weakened either the base or the subbase, additional charges would be negotiated to correct the unforeseen problem. If upon the removal of the asphalt, it is found that structures exist below such as concrete footings, abandoned pipes, metal supports, etc., an additional charge would be negotiated to remove these obstructions if they would impede or prohibit grade consistencies.

ACCEPTED:	**CONFIRMED:**
The above prices, specifications and conditions are satisfactory and are hereby accepted.	**Sunland Asphalt & Construction, LLC**
Buyer: _____	
Signature: _____	**Authorized Signature:** Tad Peters
Date of Acceptance: _____	**Project Consultant:** Tad Peters

- **Sunland Asphalt Addendum Terms and Conditions:**
  Contractor and Owner hereby accept the terms of the attached Proposal subject to = the terms and conditions set forth in this Addendum. The Proposal and Addendum shall be collectively referred to as the "Contract." This Addendum is attached hereto and incorporated herein by reference. If any of the terms of the Proposal are inconsistent with the terms of this Addendum, then this Addendum shall be controlling and the parties shall be bound by the terms and conditions of this Addendum.
- 1. WORK
  Contractor will furnish all necessary labor, materials, and equipment to complete the work specified in the Contract (the "Work"). All surfaces to which material is to be applied shall be in a condition similar to the condition at the time the project was bid. Owner shall specify one representative to represent the Owner who has authority to accept the Work and authorize changes to the Work. Owner shall provide reasonable access to a water supply source. Owner grants Contractor permission to utilize photos and videos of the Work and the project site in the promotion of Contractor's business services.
- 2. PAYMENT
  Contractor shall be paid a monthly progress payment within 15 days after receipt of the payment by the Owner for the value of work performed. Final payment, including all retention, shall be due 15 days after the work described in the Proposal is substantially completed. No provision of this agreement shall serve to void the Contractor's entitlement to payment for properly performed work.
- 3. INTEREST AND EXPENSES
  All sums not paid when due shall bear an interest rate of 1 1/2% per month or the maximum legal rate permitted by law, whichever is less, and all costs of collection, including a reasonable attorneys' fee, shall be paid by Owner.
- 4. ATTORNEYS' FEES
  In the event of litigation regarding the Contract or collection efforts by Contractor, the prevailing party shall be awarded its reasonable attorneys' fees and costs, which shall include all costs that would normally be passed through to the client, specifically but not limited to research charges, travel costs, expert witness costs, copying costs, mailing costs, facsimile costs, had-delivery costs, Federal Express or Express Mail costs, taxable costs and disbursements.
- 5. CONTINUED PERFORMANCE
  Nothing in this Contract shall require the Contractor to continue performance if timely payments are not made to Contractor for suitably performed work.
- 6. BACK CHARGES
  No back charges or claim of the Owner for services shall be valid except by an agreement in writing by the Contractor before the work is executed, except in the case of the Contractor's failure to meet any requirement of the Contract. In such event, the Owner shall notify the Contractor of such default, in writing, and allow the Contractor reasonable time to correct any deficiency before incurring any cost chargeable to the Contractor.
- 7. WORK AREAS
  Owner is to prepare all work areas so as to be acceptable for Contractor to perform its work under the Contract. Owner shall notify Contractor in advance when the site will be ready for Contractor to perform its work and shall provide Contractor with free and unobstructed access so tehat the work can be commenced promptly and completed without delay. Contractor will not be called upon to start work until sufficient areas are ready to insure continued work.
- 8. TIME FOR PERFORMANCE
  Contractor shall be given a reasonable time in which to commence and complete the performance of the Contract. Contractor provides no assurances as to a complete date since the Work is subject to weather conditions, prior commitments, mechanical failures, and other cause beyond Contractor's control. Contractor shall not be responsible for delays or default where occasioned by any causes of any kind and extent beyond its control, including but not limited to: delay caused by Owner, architect and/or engineers, delays in transportation, shortages of raw materials, civil disorders, labor difficulties, vendor allocations, fires, floods, accident hazardous waste or controlled substances and acts of God. Contractor shall be entitled to equitable adjustment in the contract price for additional costs due to unanticipated project delays or accelerations. Contractor shall not be obligated to provide any labor or materials outside the scope of work unless Owner shall first agree in writing to equitably adjust the contract price to be paid Contractor.
- 9. WORKMANSHIP
  All workmanship and materials are guaranteed against defects for a period of one (1) year from the date of substantial completion of installation. This warranty is in lieu of all other warranties, express or implied, including any warranties of merchantability or fitness for a particular purpose. The exclusive remedy shall be that Contractor will replace or repair any part of its work which is found to be defective. Contractor shall not be responsible for special, incidental or consequential damages. Contractor shall not be responsible for damage to its work by other parties or for improper use of equipment by other industry standard practices and will override strict compliance and strict performance. Contractor makes no warranty regarding drainage where the slope provided or allowable is less than two percent (2%). Contractor's warranty does not extent to or cover settlement or cracking of asphalt or pavement due to expansive soils, improperly compacted utility trenches, or for failures caused by the inadequate compaction of the subgrade. Contractor shall not be liable for damage to underground utilities which were improperly installed and/or backfilled.
- 10. WORK HOURS
  Work called for herein is to be performed during Contractor's regular working hours as agreed to by the Owner and the Contractor.
- 11. NOTICE
  Any notice or written claim required by the Contract to be submitted to the Owner, on account of charges, extras, delays, acceleration, or otherwise, shall be furnished within a time period, and in a manner to permit the Owner to satisfy the requirements of the Contract, notwithstanding any shorter time period otherwise provided.
- 12. LIEN RIGHTS
  Nothing in this Contract shall serve to void Contractor's right to file a lien or claim on its behalf in the event that any payment to Contractor is not timely made.
- 13. LABOR
  Contractor shall not be bound by any of Owner's labor agreements (in whole or in part).
- 14. LIQUIDATED DAMAGES
  The Owner shall make no demand for liquidated damages for delays in any sum in excess of such amounts as may be specifically named in this Contract and no liquidated damages may be assessed against Contractor for more than the amount paid by the Owner for unexcused delays to the event actually caused by the Contractor.

- 15. SCHEDULE
  Contractor shall submit a schedule to Owner, Owner will review and notify Contractor of any schedule conflict. If Contractor finds it necessary to change his schedule, Owner will give his best effort to meet this change in schedule. Contractor shall not be penalized for non-performance and will be paid for work performed.
  .
- 16. INSURANCE RESTRICTION
  Notwithstanding any provision to the contrary, Contractor shall maintain the types and limitations on insurance as shown on the attached certificate of insurance. Contractor is not required to waive any claims or rights of subrogation against the Owner or any others for losses and claims covered or paid by Owner's workers compensation or general liability insurance. Acceptance of the Certificate of Insurance constitutes acceptance of the insurance of Contractor, including any additional insured requirements. In addition, Contractor shall not provide completed operations under an additional insured requirement.
- 17. INDEMNITY, HOLD HARMLESS
  To the fullest extent permitted by law, Contractor agrees to protect, defend, indemnify, and hold harmless Owner from and against all liability, loss, claims, demands, damages, suits, costs, fees, fines, penalties, expenses, and causes of action to the extent caused by Contractor or any of Contractor's employees, agents, representatives, subcontractors, or suppliers. Any indemnification or hold harmless obligation of the Contractor shall extend only to claims resulting to bodily injury and property damage and then only to that part or proportion of any claim damage, loss or defect that results from the negligence or intentional act of Contractor or someone for whom it is responsible. Nothing in this agreement shall require the Contractor to indemnify any other party from any damages including expenses and attorneys' fees to persons or property for any amount exceeding the degree Contractor directly caused such damages. Contractor shall not be responsible for fines or assessments made against Owner and Contractor. Contractor retains all rights of subrogation. Contractor will not indemnify anybody for any actions except for Contractor's own negligence and only in the proportional amount of its negligence.
- 18. RIGHT TO RELY
  Contractor shall rely on plans, drawings, specifications and other information provided by Owner, Owner, Architect or representatives of each. Contractor assumes no risk for unknown or unforeseen conditions not evident from the plans, drawings, specifications or other information provided to Contractor.
- 19. HAZARDOUS WASTE
  Contractor shall have no obligation to handle (that is, to remove, treat or transport) any substance which is considered hazardous waste or substance under state or federal law ("hazardous waste"). Handling hazardous waste shall be outside the scope of work of this Contract. Title to all hazardous waste shall remain with others and shall not be property of Contractor.
  .
- 20. SOILS
  Contractor shall have no liability to Owner or any third-party relating to underlying soil conditions. Contractor will not sacrifice the quality or integrity by placing asphalt pavement on base course or subgrade that is unstable or subgrade containing frost, including top lifts or overlays when temperatures do not meet material specifications. Contractor's warranty shall be waived and have no effect should Owner direct or authorize Contractor to pave on unstable subgrade or subgrade containing frost and Owner shall be responsible for any and all resulting damage or required repairs. If Owner requests that the top lift of asphalt be placed at a later date, the cost for all clean up and remobilization is the Owner's responsibility.
- 21. ENGINEERING SERVICES
  If Contractor provides subcontracted construction stakes and/or subcontracted engineering services, Owner agrees to indemnify and defend Contractor from and against any and all claims, demands, damages, costs or expenses, including attorneys' fees, resulting from or related to these services, including drainage of water as to direction and amount, both during and after performance of the Work. If a soil sterilizer or herbicide is applied by Contractor, it is applied at the request of Owner in an effort to retard weed growth and Contractor makes no representation or guarantee that its use will have the intended effect. Owner shall indemnify, hold harmless, and defend Contractor from and against any and all damages, claims, costs or expenses, including attorneys' fees and costs, resulting from these services. Owner is advised to retain an independent licensed soils engineer for a study of the existing soils in order to recommend a specific pavement design. Contractor may modify the Proposal to include such recommendations.
- 22. AMERICANS WITH DISABILITIES AC
  Owner is solely responsible for maintaining the subject property in full compliance with the ADA and agrees to indemnify and hold Contractor harmless from and against any and all liability, claims, damages or expenses, including attorneys' fees, relating in any way to ADA requirements or issues. Contractor recommends that Owner obtain the services of a certified ADA consultant for site evaluations and recommendations as required by Federal and State law. If directed by the Owner to obtain compliance, Owner may make recommendations for such work and additional charges may apply.
- 23. DISPUTE RESOLUTION
  Final determination of contract compliance and all dispute resolutions shall be handled in the jurisdiction and venue of Maricopa County, Arizona, and be governed by the laws of Arizona.

Sunland Asphalt & Construction, LLC 19P-ACE-0318
Mohave Contract Pricing

PRICING EFFECTIVE: 7/1/2023 - 9/30/2023

DATE: 7-5-2023
ACCOUNT NAME: Phoenix Mesa Gateway
SITE NAME: Phoenix Mesa Gateway Airport
PROPOSAL #: PH020791

SUNLAND ASPHALT

NOTICE: THIS PROPOSAL CONTAINS PROPRIETARY AND CONFIDENTIAL INFORMATION OF SUNLAND ASPHALT & CONSTRUCTION, LLC AND SHALL NOT BE USED, DISCLOSED OR REPRODUCED, IN WHOLE OR IN PART, FOR ANY PURPOSE OTHER THAN TO EVALUATE THIS PROPOSAL, WITHOUT THE PRIOR WRITTEN CONSENT OF AN OFFICER OF SUNLAND ASPHALT & CONSTRUCTION, LLC TITLE IN AND TO THIS DOCUMENT (OR FILE, IF ELECTRONICALLY SUBMITTED) AND ALL INFORMATION CONTAINED HEREIN REMAINS AT ALL TIMES IN SUNLAND ASPHALT & CONSTRUCTION, LLC

Pricing Zone: 1A ☑ Verified
Apply P&P Bond?: Yes ☑ Verified

SERVICE CATEGORY	WORK ITEM	NOTES	UNITS	QTY	PRICE	MOHAVE ZONE COEFFICIENT	EXTENDED PRICE	VERIFIED?
PHASE 1								
OTHER_RATES	Labor and equipment rate, $ per man hour	Pot Holing		32	$ 134.419	1.000	$ 4,301.40	Yes
CONCRETE_SAWCUTTING	Mobilization Charge			1	$ 65.203	1.000	$ 65.20	Yes
CONCRETE_SAWCUTTING	Charge per linear foot times thickness in inches			7000	$ 1.234	1.000	$ 8,636.86	Yes
ASPHALT_SAWCUTTING	Charge per linear foot times thickness in inches			246	$ 0.389	1.000	$ 95.61	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Mobilization Charge (over 500 cubic yards)			1	$ 717.769	1.000	$ 717.77	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Concrete		626	$ 53.273	1.000	$ 33,348.73	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Asphalt		56	$ 53.273	1.000	$ 2,983.27	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Dirt/Existing Base		75	$ 53.273	1.000	$ 3,995.46	Yes
ADDITIONAL TRUCKING TIME		Non Contract Pass Thru Item - Additional Trucking Due To Reduced Capacity And Increased Dump Fees Due To Concrete Demolition		1		1.000	$ 19,100.00	Yes
SITE_GRADING	Mobilization Charge			1	$ 1,435.539	1.000	$ 1,435.54	Yes
SITE_GRADING	Charge per cubic yard	Move Millings		131	$ 13.219	1.000	$ 1,731.73	Yes
SITE_GRADING	Charge per cubic yard	7" Material		626	$ 13.219	1.000	$ 8,275.27	Yes
CONCRETE_CURB_AND_GUTTER	Minimum charge	27 Linear Feet		1	$ 2,115.531	1.000	$ 2,115.53	Yes
LIME_SOIL_STABILIZATION	Mobilization Charge			1	$ 3,857.904	1.000	$ 3,857.90	Yes
LIME_SOIL_STABILIZATION	Lime Slurry-Charge per square foot per 8 inch depth			28973	$ 0.454	1.000	$ 13,164.62	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	1" Dirt After Lime Stabilization		90	$ 53.273	1.000	$ 4,794.55	Yes
FINE_GRADE_AREA	Mobilization Charge			1	$ 1,076.654	1.000	$ 1,076.65	Yes
FINE_GRADE_AREA	Charge per square yard	Subgrade		3893	$ 2.142	1.000	$ 8,339.54	Yes
GRADE_AND_PLACE_ABC	Mobilization Charge			1	$ 722.128	1.000	$ 722.13	Yes
GRADE_AND_PLACE_ABC	Charge per square foot times thickness in inches of ABC	Place ABC		140148	$ 0.186	1.000	$ 26,123.56	Yes
FINE_GRADE_AREA	Mobilization Charge			1	$ 1,076.654	1.000	$ 1,076.65	Yes
FINE_GRADE_AREA	Charge per square yard	Fine Grade ABC		3893	$ 2.142	1.000	$ 8,339.54	Yes
ASPHALT_CONCRETE_OVERLAY	Mobilization Charge			1	$ 1,772.326	1.000	$ 1,772.33	Yes
ASPHALT_CONCRETE_OVERLAY	Charge per square foot 3 inch depth			35037	$ 2.399	1.000	$ 84,051.87	Yes
STRIPING	Mobilization Charge			1	$ 241.996	1.000	$ 242.00	Yes
STRIPING	4" line, charge per linear foot (new layout)	White Lines		1550	$ 0.273	1.000	$ 422.61	Yes
STRIPING	4" line, charge per linear foot (new layout)	Yellow Lines		1550	$ 0.273	1.000	$ 422.61	Yes
STRIPING	24 inch numbers/letters, charge per each	STOP		4	$ 5.361	1.000	$ 21.44	Yes
STRIPING	4" line, charge per linear foot (new layout)	Stop Bar		72	$ 0.273	1.000	$ 19.63	Yes
CONSTRUCTION_SURVEY	Non-Registered Surveyor (2 men and equipment), per hour rate			32	$ 266.200	1.000	$ 8,518.40	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	Supervision		88	$ 134.419	1.000	$ 11,828.86	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	Non Contract Pass Thru Item		64	$ 134.419	1.000	$ 8,602.81	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	PRIVATE LOACTORS - Non Contract Pass Thru Item		8	$ 134.419	1.000	$ 1,075.35	Yes
PHASE 2								
OTHER_RATES	Labor and equipment rate, $ per man hour	Pot Holing		16	$ 134.419	1.000	$ 2,150.70	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Mobilization Charge			1	$ 358.885	1.000	$ 358.88	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Concrete		24	$ 53.273	1.000	$ 1,278.55	Yes
FINE_GRADE_AREA	Mobilization Charge			1	$ 1,076.654	1.000	$ 1,076.65	Yes
FINE_GRADE_AREA	Charge per square yard	Subgrade		123	$ 2.142	1.000	$ 263.49	Yes
GRADE_AND_PLACE_ABC	Mobilization Charge			1	$ 722.128	1.000	$ 722.13	Yes
GRADE_AND_PLACE_ABC	Charge per square foot times thickness in inches of ABC			4420	$ 0.186	1.000	$ 823.89	Yes
FINE_GRADE_AREA	Mobilization Charge			1	$ 1,076.654	1.000	$ 1,076.65	Yes
FINE_GRADE_AREA	Charge per square yard	Fine Grade ABC		123	$ 2.142	1.000	$ 263.49	Yes
ASPHALT_CONCRETE_OVERLAY	Mobilization Charge			1	$ 1,772.326	1.000	$ 1,772.33	Yes
ASPHALT_CONCRETE_OVERLAY	Charge per square foot 3 inch depth			1105	$ 2.399	1.000	$ 2,650.84	Yes
CONSTRUCTION_SURVEY	Non-Registered Surveyor (2 men and equipment), per hour rate			8	$ 266.200	1.000	$ 2,129.60	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	Supervision		16	$ 134.419	1.000	$ 2,150.70	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour			48	$ 134.419	1.000	$ 6,452.11	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	PRIVATE LOACTORS - Non Contract Pass Thru Item		4	$ 134.419	1.000	$ 537.68	Yes
PHASE 3								
OTHER_RATES	Labor and equipment rate, $ per man hour	Pot Holing		24	$ 134.419	1.000	$ 3,226.05	Yes
CONCRETE_SAWCUTTING	Mobilization Charge			1	$ 65.203	1.000	$ 65.20	Yes
CONCRETE_SAWCUTTING	Charge per linear foot times thickness in inches			1526	$ 1.234	1.000	$ 1,882.84	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Mobilization Charge			1	$ 358.885	1.000	$ 358.88	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Concrete		52	$ 53.273	1.000	$ 2,770.18	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Asphalt		13	$ 53.273	1.000	$ 692.55	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Dirt/Existing Base		17	$ 53.273	1.000	$ 905.64	Yes
CONCRETE_CURB_AND_GUTTER	Minimum charge	24 Linear Feet		1	$ 2,115.531	1.000	$ 2,115.53	Yes
LIME_SOIL_STABILIZATION	Mobilization Charge			1	$ 3,857.904	1.000	$ 3,857.90	Yes
LIME_SOIL_STABILIZATION	Lime Slurry-Charge per square foot per 8 inch depth			2403	$ 0.454	1.000	$ 1,091.86	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	1" Dirt After Lime Stabilization		8	$ 53.273	1.000	$ 426.18	Yes
FINE_GRADE_AREA	Mobilization Charge			1	$ 1,076.654	1.000	$ 1,076.65	Yes
FINE_GRADE_AREA	Charge per square yard	Subgrade		415	$ 2.142	1.000	$ 889.01	Yes
GRADE_AND_PLACE_ABC	Mobilization Charge			1	$ 722.128	1.000	$ 722.13	Yes
GRADE_AND_PLACE_ABC	Charge per square foot times thickness in inches of ABC			14956	$ 0.186	1.000	$ 2,787.80	Yes
FINE_GRADE_AREA	Mobilization Charge			1	$ 1,076.654	1.000	$ 1,076.65	Yes
FINE_GRADE_AREA	Charge per square yard	Fine Grade ABC		415	$ 2.142	1.000	$ 889.01	Yes
ASPHALT_CONCRETE_OVERLAY	Mobilization Charge			1	$ 1,772.326	1.000	$ 1,772.33	Yes
ASPHALT_CONCRETE_OVERLAY	Charge per square foot 3 inch depth			3739	$ 2.399	1.000	$ 8,969.66	Yes
CONSTRUCTION_SURVEY	Non-Registered Surveyor (2 men and equipment), per hour rate			8	$ 266.200	1.000	$ 2,129.60	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	Supervision		24	$ 134.419	1.000	$ 3,226.05	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour			32	$ 134.419	1.000	$ 4,301.40	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	PRIVATE LOACTORS - Non Contract Pass Thru Item		4	$ 134.419	1.000	$ 537.68	Yes
PHASE 4								
OTHER_RATES	Labor and equipment rate, $ per man hour	Pot Holing		8	$ 134.419	1.000	$ 1,075.35	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Mobilization Charge			2	$ 358.885	1.000	$ 717.77	Yes
DEMO_HAUL_ASPHALT_DIRT_ETC	Charge per cubic yard of material	Dirt/Existing Base		109	$ 53.273	1.000	$ 5,806.73	Yes
SITE_GRADING	Mobilization Charge			1	$ 1,435.539	1.000	$ 1,435.54	Yes
SITE_GRADING	Charge per cubic yard	Retention Basin		109	$ 13.219	1.000	$ 1,440.90	Yes
FINE_GRADE_AREA	Mobilization Charge			4	$ 1,076.654	1.000	$ 4,306.62	Yes
FINE_GRADE_AREA	Charge per square yard	Trash Pad		51	$ 2.142	1.000	$ 109.25	Yes
CONCRETE_FLATWORK	6 inch thick per square foot			462	$ 10.395	1.000	$ 4,802.26	Yes
SAFETY_BOLLARDS_PLACED_IN_ASPHALT	Mobilization Charge			1	$ 583.689	1.000	$ 583.69	Yes
SAFETY_BOLLARDS_PLACED_IN_ASPHALT	6-inch diameter, concrete filled,charge per each			6	$ 869.632	1.000	$ 5,217.79	Yes
JOINT SEALANT		Non Contract Pass Thru Item		1000	$ 7.000	1.000	$ 7,000.00	Yes
FINE_GRADE_AREA	Mobilization Charge			4	$ 1,076.654	1.000	$ 4,306.62	Yes
FINE_GRADE_AREA	Charge per square yard	Landscaping		386	$ 2.142	1.000	$ 826.88	Yes
RIP RAP BUY		Non Contract Pass Thru Item		20	$ 30.000	1.000	$ 600.00	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	Install Rip Rap		24	$ 134.419	1.000	$ 3,226.05	Yes
CONSTRUCTION_SURVEY	Non-Registered Surveyor (2 men and equipment), per hour rate			16	$ 266.200	1.000	$ 4,259.20	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	Supervision		32	$ 134.419	1.000	$ 4,301.40	Yes
OTHER_RATES	Labor and equipment rate, $ per man hour	PRIVATE LOACTORS - Non Contract Pass Thru Item		4	$ 134.419	1.000	$ 537.68	Yes
SCREEN WALL - ALLOWANCE		ALLOWANCE		1		1.000	$ 35,000.00	Yes
SWPP - ALLOWANCE		ALLOWANCE		1		1.000	$ 7,500.00	Yes

☑ Verified	SUBTOTAL		$ 433,807.61
☑ Verified	Payment & Performance Bond	1.3%	$ 5,639.50
☑ Verified	TOTAL DUE		$ 439,447.11
☑ Verified	Mohave Administration Fee (Included in Total - Paid by Sunland Asphalt)	0.99%	$ 4,294.70

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-40

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Asphalt/Pavement maintenance and repairs**
Date:	**July 18, 2023**

Proposed Motion
To authorize the purchase of airfield asphalt repair services with Sunland Asphalt of Arizona, Inc. (Sunland) for an amount not to exceed $175,000.

Narrative
Due to use, age and weather, the condition of the asphalt requires crack-fill and seal coating maintenance to reduce further deterioration. Increased activity coincides with an increase in deterioration. There continues to be increasing GA and commercial flight activity, including heavy cargo and firefighting aircraft. Additionally, automobile parking lots and driveways require periodic asphalt crack-fill and seal coating to maintain accessibility for users.

The recommended course of action includes crack-fill and seal coat of asphalt surfaces as needed throughout the airport. Authorization of the purchase of airfield asphalt repair services is necessary to reduce FOD, repair deterioration and extend life cycles.

PMGAA and Sunland are both participants of the Mohave Educational Service Cooperative (MESC) Purchasing Group. Under MESC, Sunland was awarded Contract #19P-ACE-0318 for asphalt products and services, and it is through this competitive selection that PMGAA will utilize Sunland for asphalt services. This contract is available upon request.

Fiscal Impact
The maintenance expenses were included in the FY24 operating budget under Repair and Maintenance: Pavements.

Attachment(s)
None.

RESOLUTION NO. 23-40

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of airfield asphalt repair services with Sunland Asphalt of Arizona, Inc. (Sunland) for an amount not to exceed $175,000**.**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of airfield asphalt repair services with Sunland Asphalt of Arizona, Inc. (Sunland) for an amount not to exceed $175,000. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of July, 2023.

Chip Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-41

To:	**Board of Directors**
From:	**Matt Nebgen, Director FBO**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**CIP 1256 - Forklift**
Date:	**July 18, 2023**

Proposed Motion
To authorize the purchase of one new Forklift from Big Lift Material Handling, in an amount not to exceed $65,000.

Narrative
Phoenix Mesa Gateway Airport Authority's Fixed Based Operator (FBO) utilizes a Forklift to assist in servicing aircraft customers and tenants that come to the Phoenix-Mesa Gateway Airport. This unit will replace the FBO's current forklift which has reached the end of its useful life cycle.

PMGAA is a member of Sourcewell, a cooperative purchasing organization. Under Sourcewell, Big Lift Material Handling, in partnership with Hyundai, was awarded Contract #101816-HCE and it is through this competitive selection that PMGAA will utilize Big Lift Material Handling to purchase the forklift. This contract is available upon request.

Fiscal Impact
This purchase is included in the FY24 capital budget and is funded with non-Grant funds as Project 1256.

Attachment(s)
Quote

RESOLUTION NO. 23-41

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of one new Forklift from Big Lift Material Handling, in an amount not to exceed $65,000;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of one new Forklift from Big Lift Material Handling, in an amount not to exceed $65,000. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 18th day of July, 2023.

Chip Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

1315 E Gibson Lane Building E-2 Phoenix Arizona 85034 (602) 795-8400

TO : Phoenix-Mesa Gateway Airport Authority
6263 S Taxiway Circle
Mesa, AZ 85212-6399
Office: 480-988-7542
www.gatewayairport.com
Telephone :480-988-7728
Attention :Mr. Scott Johnson Date : 6/3/2023
Quotation : BA 02463 (B)
Special Quote : SOURCEWELL #101816-HCE

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(1) Hyundai 45L-9 10,000 lb. Capacity - 2-Speed with Kubota Engine, IC Pneumatic Tire Forklift
Standard Equipment

Engine:
Kubota WG3800 engine: 91.7 hp @ 2,450rpm, EPA / CARB Tier IV Final Compliant

Powertrain:
2 speed forward/1 speed reverse transmission
Wet disk brakes

Hydraulic system:
Power steering
3rd spool valve and lever
Levers on bonnet
Adjustable steering handle angle

Electrical system:
Color LCD monitor with Load weight indicator
Back up alarm
OPSS
Speed limit
Anti roll-back
Auto parking brake.
LED Front lights
LED Rear combination lights
Rear handle with horn switch

OHG & Others:
87" height OHG
Panoramic rear view mirror
Grammer full suspension seat with orange seat belt
Precleaner

Big Lift Material Handling 1315 E. Gibson Lane Bldg. E Phoenix AZ 85034
602-300-5178

1315 E Gibson Lane Building E-2 Phoenix Arizona 85034 (602) 795-8400

Mast	3 Stage Full Free Mast LH 186" OALH 94"
Attachment	Hook Type Side Shifting Fork Positioner - Synchronized (Class III)
Carriage	51.2" Hook Type Carriage with Backrest (Class III)
Forks	60 Inch Forks / With 96" Fork Extentions
Forks	Without Auto Fork Leveling
Hydraulic Hosing	4th Hosing for 3-Stage Mast
Hydraulic Control Valve	4th Spool Valve with Lever
Hydraulic Levers	Without Hydraulic Finger Tip Control
Overhead Guard	87" Standard Height OHG
Tires	Single Solid Drive and Steer Tires
Work Light	Front LED Lamp
Warning Device Light	Amber LED Strobe
Mirror	Panorama

Other Equipment & Accessories
L/P Tank With Fill Valve

Total Price Before Tax :$ 59,825.00
Tax $ 5,144.95
Total With Tax $ 64,969.95
36 Months/4,000 Hours Standard Warranty

Payment: Net 90 days Delivery / Cash or Financed
Prices are exclusive of any sales or use taxes now in force or which may be effective in the future by any federal, state,or local governments.
Payment: Net 90 Days /Cash or Financed
Credit Card payments for equipment purchases are subject to a 3.5% service charge.
Ordered Equipment cannot be canceled unless approved by Big Lift Material Handling management. If Cancellation is accepted, then it is subject to cancellation charges. Cancellation charges will vary depending on base model and exact specifications and in some cases these charges may equal up to 50% of the equipment quoted value. Big Lift Material Handling is committed to the timely delivery of our products. However, we are not liable for any delays or undelivered products that are beyond the direct control of our company. This includes manufacturing delays, natural disasters, or interruptions in transportation

Quote Authorization

Signed and accepted on behalf of:
Big Lift Material Handling

Signature: _____

Print Name: _____

Title: _____

Date: _____

Signed and accepted on behalf of:

Signature: _____
(SIGNATURE OF AUTHORIZED OFFICER OR REPRESENTATIVE REQUIRED)

Print Name: _____

Title: _____

Date: _____

Big Lift Material Handling 1315 E. Gibson Lane Bldg. E Phoenix AZ 85034
602-300-5178

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-42

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Chuck Odom, Chief Financial Officer** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**RWY 12R-30L Reconstruction Design Services – Dibble Engineering – Authorization of Services Amendment 1 for CIP 1072**
Date:	**July 18, 2023**

Proposed Motion

To approve Authorization of Services (AOS) 20B-2303 Amendment #1 to the contract with Dibble Engineering for the RWY 12R-30L Reconstruction, in an amount of $73,774.00, to redesign the project into a single bid package, resulting in a total contract amount not to exceed $1,068,366.00.

Narrative

On September 20, 2022, the Board approved an Authorization of Services for Design and Bid Phase Services for the RWY 12R-30L Reconstruction project with Dibble Engineering, resolution #22-55, in the amount of $994,592.00. The total budget for the project is $24,548,027.00. Since the project has been underway, Airport staff has issued one amendment against the AOS for required modifications.

AOS 20B-2303 Amendment #1: Original project documents were developed based on two separate bid packages. Due to anticipated federal, state and local funding, staff directed Dibble Engineering to redesign the project into a single bid package, requiring redevelopment of the existing base maps as well as updates to designs, the Engineer's report, Contract Documents, Technical Specifications, Phasing Plans, and cost estimates.	addition	$73,774.00

The current remaining budget unencumbered for the project after all charges and the above amendment is $23,427,008.89.

Fiscal Impact

This project is utilizing FAA, ADOT and PMGAA matching non-grant funds under Capital Improvement Project 1072.

Attachment(s)

AOS
Amendment 1

RESOLUTION NO. 23-42

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to approve Authorization of Services (AOS) 20B-2303 Amendment #1 to the contract with Dibble Engineering for the RWY 12R-30L Reconstruction, in an amount of $73,774.00, to redesign the project into a single bid package, resulting in a total contract amount not to exceed $1,068,366.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby approves Authorization of Services (AOS) 20B-2303 Amendment #1 to the contract with Dibble Engineering for the RWY 12R-30L Reconstruction, in an amount of $73,774.00, to redesign the project into a single bid package, resulting in a total contract amount not to exceed $1,068,366.00. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 18th day of July, 2023.

Chip Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

#2023 0070

Phoenix-Mesa Gateway Airport

AUTHORIZATION OF SERVICES
Dibble, AOS 20B-2303

The signing of this Authorization (Agreement) by Phoenix-Mesa Gateway Airport Authority (PMGAA) and Dibble & Associates Consulting Engineers Inc., 7878 N. 16th Street, Ste 300, Phoenix, AZ 85202, ("Dibble"), authorizes Dibble to carry-out and complete the services described below in consideration of the mutual covenants set forth below:

1. **PROJECT**: RWY 12R-30L Reconstruction – Design & Bid Phase Services under CIP 1072

2. **SCOPE OF WORK**: Perform and provide Design and Bid Phase Services for the Runway 12R-30L Reconstruction Project. Design Phase Services will include, but are not limited to, 100% Final Plans, Contract Documents, Technical Specifications, Final Quantities, and the Final Engineer's Report. The Bid Phase Services will include Project Management and Administration, Pre-Bid Meeting, Bid Opening, Tabulation and Recommendation. All services are to be performed in accordance with PMGAA Agreement C-2020-007-B, including the Standard Terms, and the attached detailed scope of work. Services shall be coordinated with and approved by a PMGAA Authorized Representative prior to start of work.

3. **FEE FOR SERVICES**: The fee for services shall be based upon the attached scope of work, not to exceed Nine hundred ninety-four thousand, five hundred ninety-two dollars and zero cents ($994,592), without the express written approval of PMGAA.

4. **AVAILABILITY OF PROJECT FUNDING:** The approval and continuation of this contract is subject to the availability of funds provided to, made available to, or appropriated by PMGAA for this purpose. In the event that funds are not available or appropriated for PMGAA's payment requirements under this contract for the goods and/or services to be provided hereunder, PMGAA may terminate this contract by providing notice to the consultant of the lack of the availability of funds. The consultant acknowledges and agrees that one source of funding for this contract may be funds made available from the Federal Aviation Administration and/or Arizona Department of Transportation, and that this contract, its approval and continuation, may be contingent on the availability of those funds being made to PMGAA.

5. **INCORPORATED:** The following documents are hereby incorporated with this Authorization of Services and made part thereof:

   ☑ PMGAA Agreement C-2020007-B dated December 17, 2019.

6. **ATTACHED:** The following documents are attached to this Agreement and are incorporated herein by this reference made part thereof:

☑ Updated Scope and Fee Proposal dated August 22, 2022.

PMGAA and Dibble acknowledge that they are in agreement with the terms and conditions as set forth in this Authorization.

APPROVED FOR PMGAA:

By: JBOneill

Print: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: 9/20/2022

ACCEPTED FOR Dibble:

By: Ryan Toner

Print: Ryan Toner

Title: Vice President

Date: 08/30/2022

#2023 0070A

Phoenix-Mesa Gateway Airport

AUTHORIZATION OF SERVICES
Dibble, AOS 20B-2303 Amendment 1

The signing of this Authorization (Agreement) by Phoenix-Mesa Gateway Airport Authority (PMGAA) and Dibble & Associates Consulting Engineers Inc., 7878 N. 16th Street, Ste 300, Phoenix, AZ 85202, ("Dibble"), authorizes Dibble to carry-out and complete the services described below in consideration of the mutual covenants set forth below:

1. **PROJECT**: RWY 12R-30L Reconstruction – Design & Bid Phase Services under CIP 1072

2. **SCOPE OF WORK**: Perform and provide Design and Bid Phase Services for the Runway 12R-30L Reconstruction Project. The 30% plan documents were developed based on two separate bid packages, being awarded in separate years. Due to anticipated federal, state and local funding, PMGAA staff requested Dibble to redesign the project into a single bid package with multiple alternative bids. This redesign will include but will not be limited to the redevelopment of existing base maps, plan sheets, Design/Bid Schedules, updated designs for asphalt transitions, an Engineers Report, Contract Documents, Phasing Plan, project quantities, and cost estimates. All services are to be performed in accordance with PMGAA Agreement C-2020-007-B, including the Standard Terms, and the attached detailed scope of work. Services shall be coordinated with and approved by a PMGAA Authorized Representative prior to start of work.

3. **FEE FOR SERVICES**: The fee for these additional services is based on the attached Scope of Work, not to exceed Seventy-three thousand, seven hundred seventy-four dollars and zero cents ($73,774) without express written approval of PMGAA. The original fee for this AOS was $994,592, and with this change, it brings the total for this task to $1,068,366.

4. **AVAILABILITY OF PROJECT FUNDING:** The approval and continuation of this contract is subject to the availability of funds provided to, made available to, or appropriated by PMGAA for this purpose. In the event that funds are not available or appropriated for PMGAA's payment requirements under this contract for the goods and/or services to be provided hereunder, PMGAA may terminate this contract by providing notice to the consultant of the lack of the availability of funds. The consultant acknowledges and agrees that one source of funding for this contract may be funds made available from the Federal Aviation Administration and/or Arizona Department of Transportation, and that this contract, its approval and continuation, may be contingent on the availability of those funds being made to PMGAA.

5. **INCORPORATED**: The following documents are hereby incorporated with this Authorization of Services and made part thereof:

   ☑ PMGAA Agreement C-2020007-B dated December 17, 2019.

6. **ATTACHED:** The following documents are attached to this Agreement and are incorporated herein by this reference made part thereof:

☑ Updated Scope and Fee Proposal dated February 9, 2023.

PMGAA and Dibble acknowledge that they are in agreement with the terms and conditions as set forth in this Authorization.

APPROVED FOR PMGAA:

By: J Brian O'Neill

Print: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: 3/9/2023

ACCEPTED FOR Dibble:

By:

Print: Jared Bass, P.E.

Title: Vice President - Sr. PM

Date: 3/7/2023

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-43

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Chuck Odom, Chief Financial Officer**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Aviation Way and Utility Extensions Infrastructure – Kimley-Horn & Associates – Authorization of Services Amendment 1 for CIP 1237**
Date:	**July 18, 2023**

Proposed Motion

To approve Authorization of Services (AOS) 20A-2202 Amendment #1 to the contract with Kimley-Horn & Associates for the Aviation Way and Utility Extensions Infrastructure project, in an amount of $28,889.18, for design support services pre and post construction, resulting in a total contract amount not to exceed $200,486.18.

Narrative

On October 19, 2021, the Board approved an Authorization of Services (AOS) for Engineering Design Phase Services for a Proposed Road and Utility Extensions project, for new Aeronautical Users Infrastructure with Kimley-Horn & Associates, resolution #21-48, in the amount of $171,597.00. The total budget for the project is $221,597.00. Since the project has been underway, Airport staff has issued one amendment against the AOS for required modifications.

Amendment #1: As the project moves into the construction phase, it is necessary to have design support during this phase from the designer, Kimley-Horn & Associates. Design support services include project administration, construction support as well as pre and post construction support.	addition	$28,889.18
Total Revised AOS Amount		$200,486.18

Fiscal Impact

This project is funded by PMGAA non-grant funds.

Attachment(s)

AOS
Amendment #1

RESOLUTION NO. 23-43

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to approve Authorization of Services (AOS) 20A-2202 Amendment #1 to the contract with Kimley-Horn & Associates for the Aviation Way and Utility Extensions Infrastructure project, in an amount of $28,889.18, for design support services pre and post construction, resulting in a total contract amount not to exceed $200,486.18;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby approves Authorization of Services (AOS) 20A-2202 Amendment #1 to the contract with Kimley-Horn & Associates for the Aviation Way and Utility Extensions Infrastructure project, in an amount of $28,889.18, for design support services pre and post construction, resulting in a total contract amount not to exceed $200,486.18. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of July, 2023.

Chip Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

#2022 0089

Phoenix-Mesa Gateway Airport

AUTHORIZATION OF SERVICES
Kimley-Horn & Associates, AOS 20A-2202

The signing of this Authorization (Agreement) by Phoenix-Mesa Gateway Airport Authority (PMGAA) and Kimley-Horn & Associates, 7740 N. 16th Street, Suite 300, Phoenix, AZ 85020 ("Kimley-Horn"), authorizes Kimley-Horn to carry-out and complete the services described below in consideration of the mutual covenants set forth below:

1. **PROJECT**: Design of a Proposed Road and Utility Extensions under CIP 1237.

2. **SCOPE OF WORK**: Perform and provide Engineering Design Services for a Proposed Road and Utility Extensions for a new Aeronautical Users Infrastructure being developed in the southeast corner of the Airport. All services are to be performed in accordance with PMGAA Agreement C-2020-007-A, including the Standard Terms, and the attached detailed scope of work. Services shall be coordinated with and approved by PMGAA Authorized Representative prior to start of work.

3. **FEE FOR SERVICES**: The fee for services shall be based upon the attached scope of work, not to exceed One hundred seventy-one thousand, five hundred ninety-seven dollars and zero cents ($171,597), of PMGAA non-grant funds without the express written approval of PMGAA.

4. **AVAILABILITY OF PROJECT FUNDING**: The approval and continuation of this contract is subject to the availability of funds provided to, made available to, or appropriated by PMGAA for this purpose. In the event that funds are not available or appropriated for PMGAA's payment requirements under this contract for the goods and/or services to be provided hereunder, PMGAA may terminate this contract by providing notice to the consultant of the lack of the availability of funds. The consultant acknowledges and agrees that one source of funding for this contract is PMGAA funds made available, and that this contract, its approval and continuation, may contingent on the availability of those funds being made to PMGAA.

5. **INCORPORATED:** The following documents are hereby incorporated with this Authorization of Services and made part thereof:

   ☑ PMGAA Agreement C-2020007-A dated December 17, 2019.

6. **ATTACHED:** The following documents are attached to this Agreement and are incorporated herein by this reference made part thereof:

☑ Scope and Fee Proposal dated September 2021.

PMGAA and Kimley-Horn acknowledge that they are in agreement with the terms and conditions as set forth in this Authorization.

APPROVED FOR PMGAA:

By: J O'Neill

Print: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: 10/19/2021

ACCEPTED FOR Kimley-Horn & Associates:

By: Steve Reeder

Print: Steve Reeder, P.E.

Title: Vice President

Date: 10/05/2021

AUTHORIZATION OF SERVICES
Kimley-Horn & Associates, AOS 20A-2202 Amendment 1

The signing of this Authorization (Agreement) by Phoenix-Mesa Gateway Airport Authority (PMGAA) and Kimley-Horn & Associates, 7740 N. 16th Street, Suite 300, Phoenix, AZ 85020 ("Kimley-Horn"), authorizes Kimley-Horn to carry-out and complete the services described below in consideration of the mutual covenants set forth below:

1. PROJECT: Aviation Way Design Construction Support and Observation Services under CIP1237.

2. SCOPE OF WORK: Perform and provide Design Construction Support and Observation Services for the Aviation Way Roadway and the Utility Extensions Infrastructure Project servicing the Gulfstream Service Center in the southeast corner of the Airport. All services are to be performed in accordance with PMGAA Agreement C-2020-007-A, including the Standard Terms, and the attached detailed scope of work. Services shall be coordinated with and approved by PMGAA Authorized Representative prior to start of work.

3. FEE FOR SERVICES: The fee for these additional services shall be based upon the attached scope of work, not to exceed Twenty-eight thousand, eight hundred eighty-nine dollars and eighteen cents ($28,889.18) of PMGAA non-grant funds without the express written approval of PMGAA. The original fee for this AOS was $171,597, and with this change, it brings to total for this task to $200,486.18.

4. AVAILABILITY OF PROJECT FUNDING: The approval and continuation of this contract is subject to the availability of funds provided to, made available to, or appropriated by PMGAA for this purpose. In the event that funds are not available or appropriated for PMGAA's payment requirements under this contract for the goods and/or services to be provided hereunder, PMGAA may terminate this contract by providing notice to the consultant of the lack of the availability of funds. The consultant acknowledges and agrees that one source of funding for this contract is PMGAA funds made available, and that this contract, its approval and continuation, may contingent on the availability of those funds being made to PMGAA.

5. INCORPORATED: The following documents are hereby incorporated with this Authorization of Services and made part thereof:

   ☑ PMGAA Agreement C-2020007-A dated December 17, 2019.

6. ATTACHED: The following documents are attached to this Agreement and are incorporated herein by this reference made part thereof:

☑ Scope and Fee Proposal dated April 2023.

PMGAA and Kimley-Horn acknowledge that they are in agreement with the terms and conditions as set forth in this Authorization.

APPROVED FOR PMGAA:	ACCEPTED FOR Kimley-Horn & Associates:
By:_____	By: Steve Reeder
Print: J. Brian O'Neill, A.A.E.	Print: Steve Reeder, P.E.
Title: Executive Director/CEO	Title: Vice President
Date:_____	Date: 07/13/2023

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-44

To: Board of Directors
From: Lori Collins, Director of Business and Economic Development
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject: Gateway East, L.C. Initial Master Plan
Date: July 18, 2023

Proposed Motion
To approve the Boyer Gateway East, L.C. Initial Master Plan as provided to the Airport Authority, per the Master Development Agreement (MDA) dated June 21, 2022.

Narrative
On June 21, 2022, the Phoenix-Mesa Gateway Airport Authority Board ("Board") approved the Master Development Agreement ("MDA") and Master Lease Agreement ("MLA") with Boyer Gateway East, L.C. for the property referred to as GatewayEast, each for a term of forty (40) years with no extensions, and each to be guaranteed by The Boyer Company, L.C.

Section 3.2.1 of the Master Development Agreement requires the Developer to deliver to the Authority, for the Authority's review and approval, a detailed conceptual land use development plan ("Initial Master Plan") as described in the MDA. Working with Authority Staff, Boyer Gateway East, L.C., provided the required components of the Initial Master Plan and it is ready for Board consideration. Once approved, the Initial Master Plan shall thereafter be the "Master Plan". GatewayEast shall be developed in accordance with the Master Plan.

Fiscal Impact
Not Applicable

Attachment(s)
Gateway East Initial Master Plan

RESOLUTION NO. 23-44

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to approve the Boyer Gateway East, L.C. Initial Master Plan as provided to the Airport Authority, per the Master Development Agreement (MDA) dated June 21, 2022;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby approves the Boyer Gateway East, L.C. Initial Master Plan as provided to the Airport Authority, per the Master Development Agreement (MDA) dated June 21, 2022. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 18th day of July, 2023.

Chip Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Gateway East Initial Master Plan

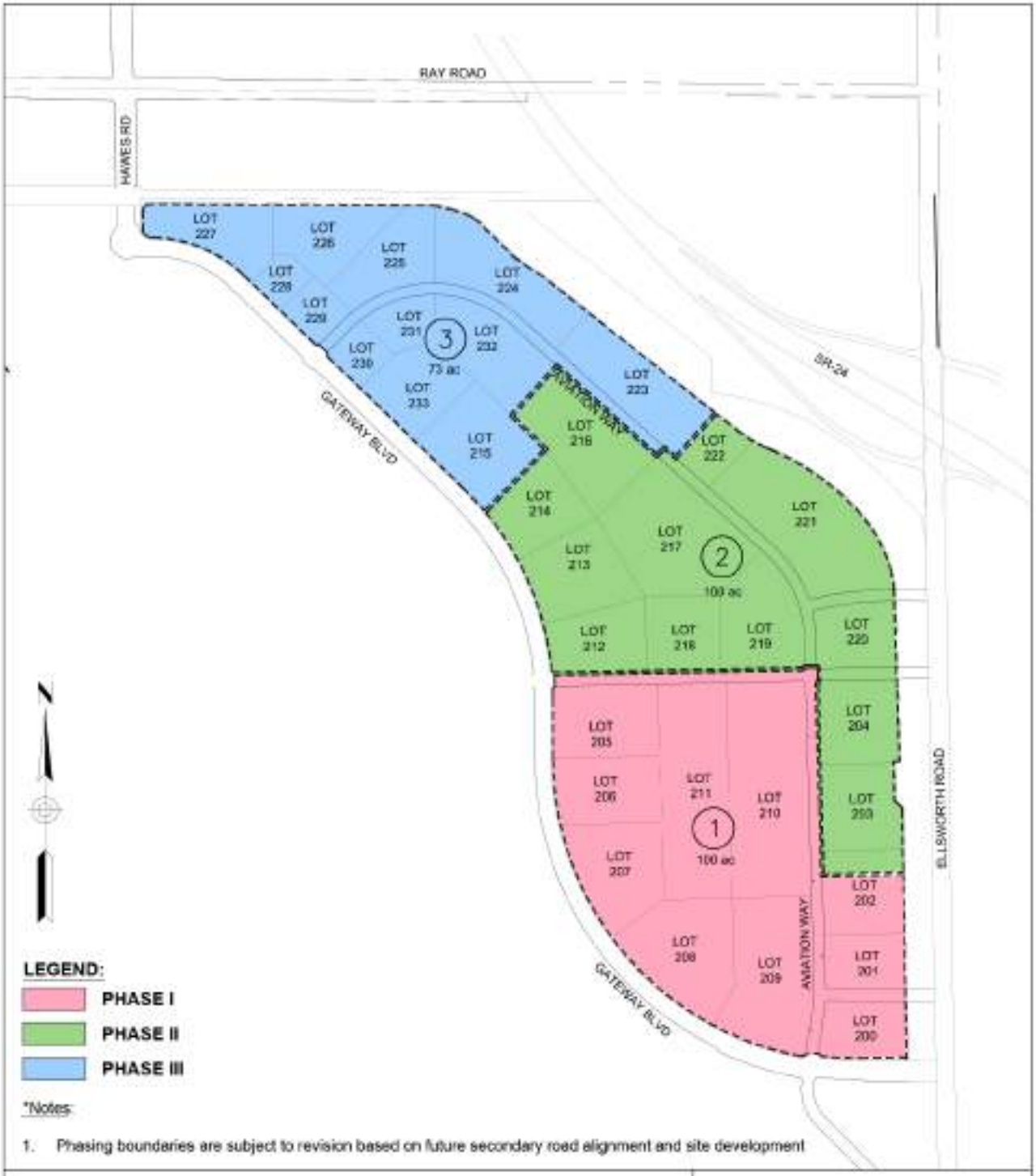
July 2023

Presented by The Boyer Company
as outlined in the Master Development
Agreement Exhibit C

Gateway East

Exhibit C (a) and (b)

Detailed site plan, lot map and phasing boundaries



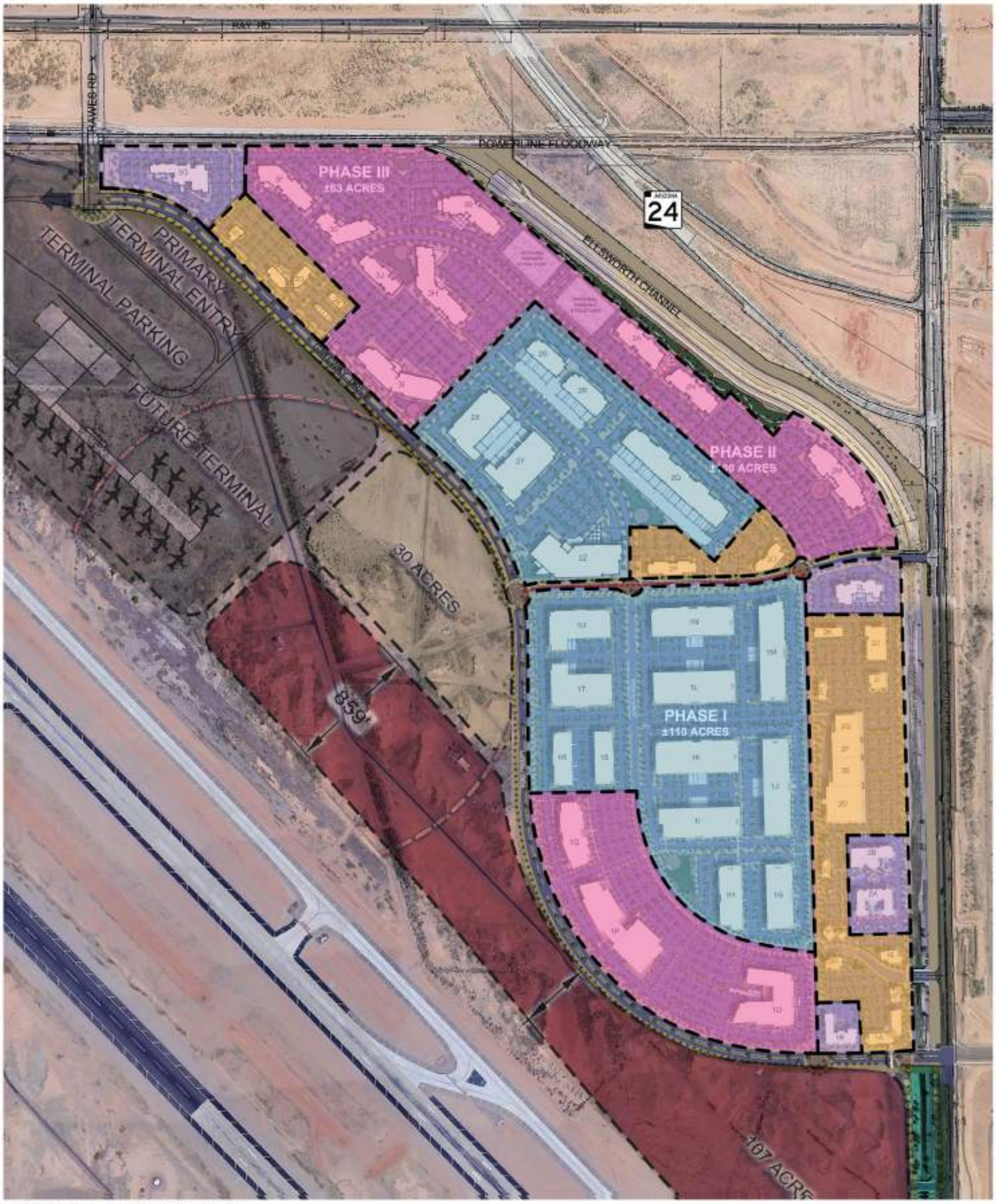
GATEWAY EAST
PROJECT NAME

SITE PLAN WITH PHASES
DRAWING TITLE

EXHIBIT C(a)
SHEET NUMBER

6/30/2023
DATE

DIBBLE



MASTER LAND USE PLAN

	SITE AREA (+/-)	OFFICE	RETAIL	HOSPITALITY	FLEX / INDUST.	TOTAL BLDG AREA (+/-)	F.A.R.
PHASE 1	4,791,600 SF (110 AC)	460,000 SF	46,000 SF	92,000 SF	935,500 SF	1,533,500 SF	.32
PHASE 2	4,356,000 SF (100 AC)	487,500 SF	139,400 SF	348,500 SF	418,000 SF	1,393,400 SF	.32
PHASE 3	2,741,500 SF (63 AC)	812,500 SF	20,800 SF	208,300 SF	–	1,041,600 SF	.38
TOTAL:	11,889,100 SF (273 AC)	1,760,000 SF	206,200 SF	648,800 SF	1,353,500 SF	3,968,500 SF	

*SITE PHASING AREAS ARE APPROXIMATE ONLY. BUILDING AREAS ARE SUBJECT TO CHANGE BASED ON FUTURE MARKET DEMAND

10.17.22
21013_ST16

GATEWAY EAST

BOYER

Phoenix-Mesa Gateway Airport

Butler Design Group, Inc

Gateway East

Exhibit C (c)

- Land use plan, zoning map, narrative
- Depiction of permitted restaurant locations

The Gateway East development is zoned LI-PAD using the City of Mesa zoning standards. This classification provides the overall project with significant flexibility when it comes to developing the different areas. The project is specifically focused on attracting tenants to the area who support the airport, are engaged in technology related areas, provide skilled manufacturing, provide office space and include a variety of retail, hotel and restaurant options. Each of these potential uses has been discussed in detail with the City of Mesa and in some cases, specific limitations and direction have been included in the approving documents to that the eventual land use also reflects City of Mesa expectations.

We intend to focus our efforts on attracting tenants to the development in the following areas:

Office

The development of office space will be undertaken on an as-needed basis and is expected to be done to meet the needs of specific tenants. We are focused on attracting larger office users who will require larger multi-story office buildings. We do not plan to pursue smaller single level office projects. We anticipate individual projects all requiring some office space within their building. However, larger stand-alone office development opportunities are expected to be located along Gateway Boulevard and in the Northeast corner of the site where the project faces State Route 24. These areas all have good visibility and are easily accessed from the main surrounding streets. The development of office space will be tenant-driven, we do not currently have plans to develop any type of speculative office.

Skilled Manufacturing/Industrial

The development of larger industrial type buildings that are constructed to meet the specific requirements of skilled manufacturing will be done on a build-to-suit basis. Potential tenants will be evaluated based on financial strength and stability, the type of work taking place in the building and their overall need for space. These larger buildings along with the typical loading and inventory storage areas will be located

on the interior of the project. The project is ideally situated to attract these types of tenants since we are able to accommodate a variety of building sizes and provide opportunities for expansion as the companies grow.

Hospitality

The commercial development in the area as well as the growth of the airport, the adjacent sports complex and the area's growing population, all add to an increased demand for hotel development. The project entitlements allow for the development of up to 10 hotel facilities. These buildings are expected to be located along the perimeter of the project so that they have frontage and exposure to Ellsworth Drive and the surrounding major roadways. We expect the hotel projects to tie into the planned retail and restaurant development. There is significant interest from a wide variety of business and extended stay type hoteliers who plan to take advantage of the proximity to the growing skilled labor pool. There is also interest in being close to the businesses which support the airport.

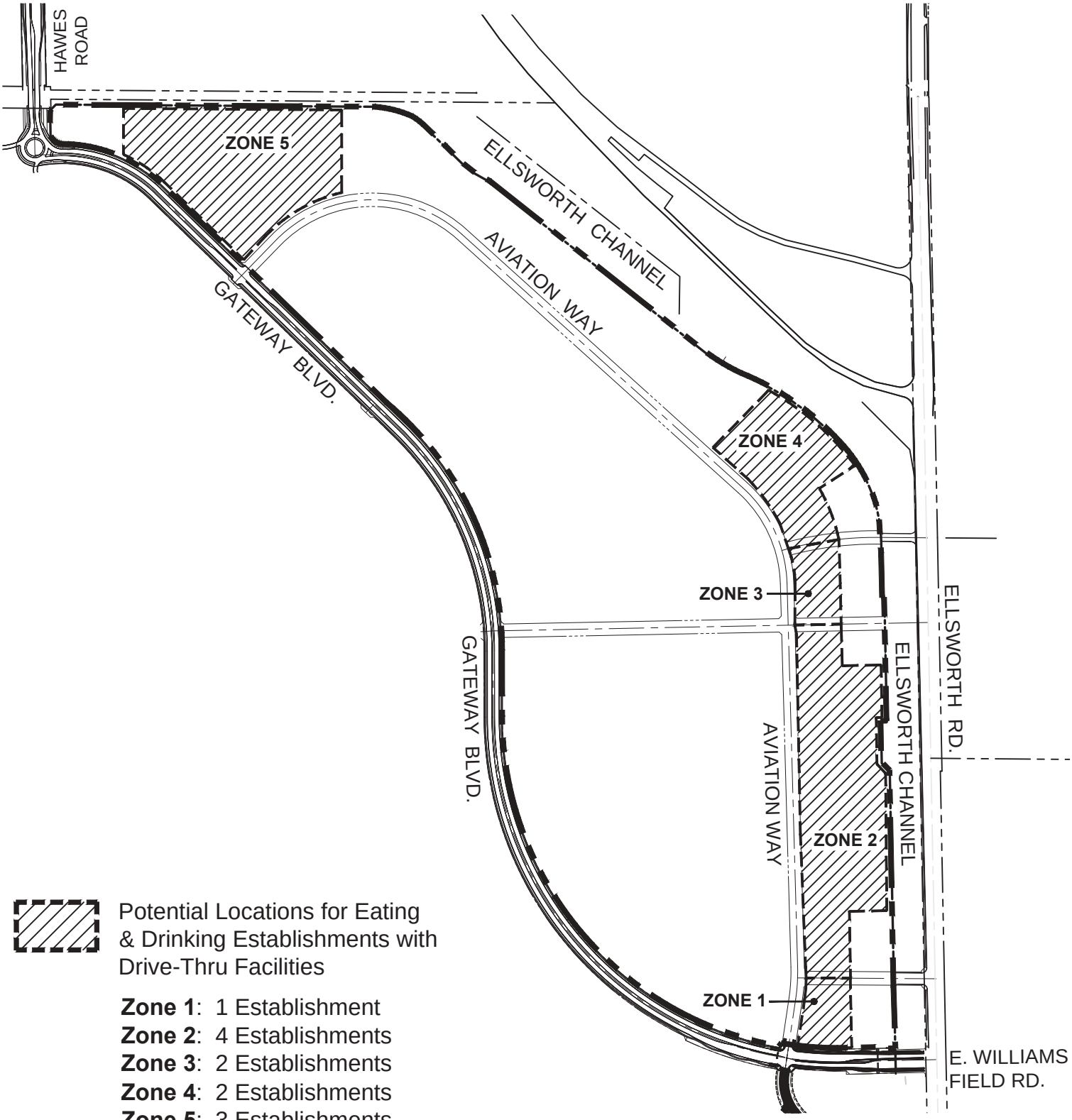
Restaurants

Throughout the entitlement process, the City of Mesa has made it clear that they would like to see additional restaurants in the area. The overall development plan includes the possibility of developing stand-alone restaurants along the Ellsworth frontage. Additionally, we have the ability to develop up to 8 drive-thru type restaurants. A variety of quality food options are important amenities as we work to establish Gateway East as the premier business park in the area.

Development Standards

The development of the project will be done in compliance with the Design Guidelines and PAD requirements that were both approved by the City of Mesa and are included as part of this overall exhibit. These development specifications and requirements were adopted after much discussion and negotiation between the City of Mesa, the airport and Boyer. The standards provide a clear vision for what is expected of each individual development project as it relates to landscaping, color palate, building quality, setbacks, exterior architecture and overall site planning.

In addition to the development standards, each individual development project will be reviewed and approved by the Airport Authority Board before it moves forward with specific City of Mesa approvals. This additional level of review insures that any project will meet the standards of the airport as well as the City of Mesa.



Potential Locations for Eating & Drinking Establishments with Drive-Thru Facilities

Zone 1: 1 Establishment
Zone 2: 4 Establishments
Zone 3: 2 Establishments
Zone 4: 2 Establishments
Zone 5: 3 Establishments

*NOTE: Conceptual road layout, subject to change.

Gateway East

Exhibit C (d)

- Horizontal infrastructure plans for Phase 1
  - Water
  - Sewer

The Gateway East master plan will be served by a vehicular street network consisting of both public and private streets. As is consistent with airport development, roadways will fall within recorded easements versus dedicated right of ways.

Gateway Boulevard will serve as the primary spine road for the overall development and provides the connection of Hawes Road at the northwest corner to Ellsworth Road at the southeast corner. Both locations will serve as signature points of entry for Gateway East and future airport development parcels located to the west and south adjacent to the airport runways. Gateway Boulevard will sit in a 110' wide public roadway easement with adjacent 8' PUE's on each side. Within the easement will be 2 travel lanes in each direction, bike lanes and a landscaped median with added turn lanes as approved with ongoing future development. Additional easement width will be recorded at specific intersections as required for additional lanes and turning movements. A detached, meandering 6' sidewalk will flank each side of the roadway with tree, shrub and groundcover landscaping up to the beginning of the PUE installed as part of the phased master infrastructure development. Earth berms and landscaping of the required 20' landscape setbacks, which include the PUE, will be provided by individual lot developments as they occur over time. Additional setback and enhanced landscape will occur at the primary entries at Hawes and Ellsworth.

Tesla Drive (to be renamed) will provide an east-west connection from Ellsworth Road to Gateway Boulevard with a new bridge crossing over the Ellsworth Channel at a full movement, signalized intersection. Tesla Drive will also fall in a public roadway easement 80' in width with 8' adjacent PUE's each side. The 46' wide pavement section will include a single travel lane in each direction with a shared center turn lane and bike lanes each side. Additional easement and roadway width may be necessary at primary intersections with final details to be determined through an approved traffic study document. A detached, 6' sidewalk and landscaping up to the PUE will be installed with the phased master infrastructure landscape development. PUE and remaining setback landscaping will occur with future lot development.

All remaining roadways are anticipated to be private and connect back to the primary public streets. CC&Rs for the Gateway East project with ensure the improvements will be maintained in an acceptable manner. The private streets will be located within a 74' wide private roadway easement with adjacent 8' PUE's. The 40' wide pavement section will include a single travel lane in each direction with a shared center turn lane. No dedicated bike lanes will be included on the private roadways. A detached, 6' sidewalk with low landscaping adjacent to the street and street trees in a 5' planting zone behind the walk will be included with the phased master infrastructure development. Earth berms and landscaping of the required 20' setback easement, which includes the PUE, will be the responsibility of individual lot developments when they occur. Landscape concepts have been developed for all setback areas and will be shared with future developments to assist in delivering consistent streetscape themes throughout Gateway East.

Additional infrastructure improvements include the installation of required culinary water lines and sanitary sewer lines to that the overall project is connected to the existing City of Mesa system in the area. The improvements will be sized to accommodate the expected development as well as additional development planned for the area. These improvements will be run under the various improved streets with lateral stub connections extended into individual lots along the primary and secondary streets.

The project will also connect to the City of Mesa storm water system. The plan includes collecting storm water on each individual site and then metering the water off into an underground storm system that eventually connects into the Ellsworth Flood Channel. Dealing with the storm water in this way will allow the land on the project to be maximized for development and simply used for on-site storm water detention. The underground pipes will be sized to accommodate the overall development.

Additional infrastructure, including phone, fiber, electrical and natural gas will all be included throughout the project. These utilities will typically be run in the PUE located along each street. Access will be provided to each project. These utilities are already in the area but will be extended as the main road and utility infrastructure work is in process.

The infrastructure for Gateway East presents some unique challenges. Working with the City of Mesa and the Airport Authority, we have developed an overall plan that takes into account the large area and significant investment required to improve the overall site. We plan to take advantage of the initial improvements being installed as part of the Gulfstream project and then add to those improvements as we develop the different phases of the project.

We are planning to do the following as per the requirements of the master development agreement:

Phase 1:
The Phase 1 improvements are expected to be installed in 2 to 3 stages. The first stage is the extension of Aviation Way from Gateway Boulevard to the Tesla Drive intersection as well as a section of Tesla from Ellsworth Boulevard to along with all required landscaping, sidewalks, electrical, sewer, water and communication conduits.

This initial stage also includes intersection improvements on Ellsworth and a bridge across the Ellsworth Channel.

Future stages will be completed as needed for individual projects. The work will include the completion of Tesla Drive over to Gateway Boulevard and the extension of Gateway Boulevard north to Tesla Drive as well as the sidewalks, remaining utilities and landscaping. Installing the infrastructure improvements in stages within each phase will allow us to maintain acceptable levels of equity investment while also not burdening any individual project stage with too many expenses.

Phase 2:
Phase 2 infrastructure improvements will be installed as required to service individual developments. This includes the continued extension of Gateway Boulevard north to Hawes Road and Aviation Way north to the planned Hawes road connection point. This will essentially open up both Phases 2 and 3 since the street extensions are critical to opening up that area. All required utilities, landscaping and sidewalks will be improved at the same time.

Phase 3:
Phase 3 infrastructure includes all of the planned streets and landscaping along any remaining sections of street. This phase of the project will benefit from lower costs since much of the major work will already be completed. This work will tie into the rest of the project and complete any outstanding work.

It is important to note that in each of these phases that the cost of the Gateway Boulevard improvements will be shared with the Airport Authority since this street will provide direct access to their property along the east edge of their runway.

GATEWAY EAST

PROJECT NAME

LOT MAP

DRAWING TITLE

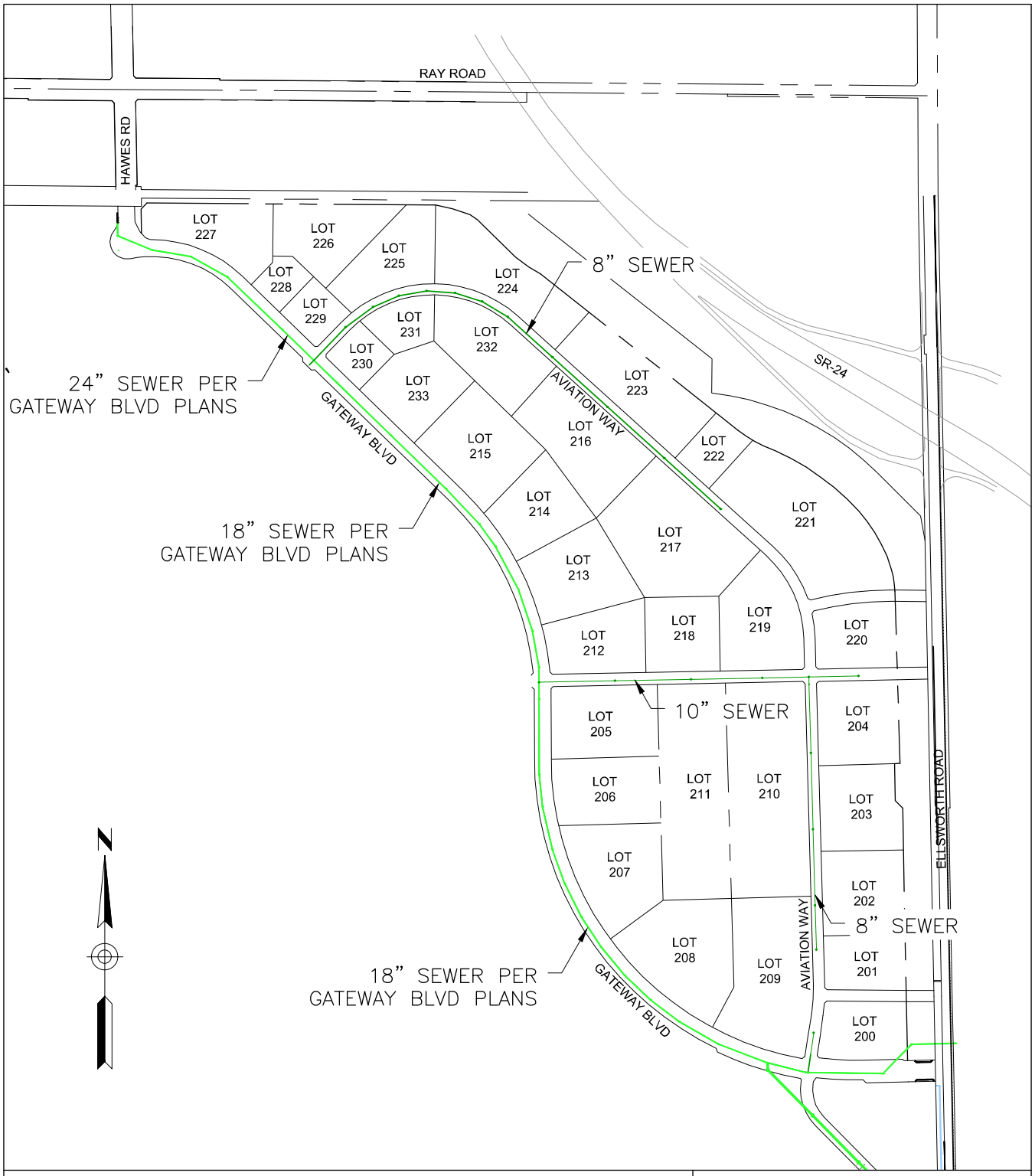
EXHIBIT C(b)

SHEET NUMBER

6/27/2023

DATE

DIBBLE



GATEWAY EAST

PROJECT NAME

CONCEPTUAL SEWER PLAN

DRAWING TITLE

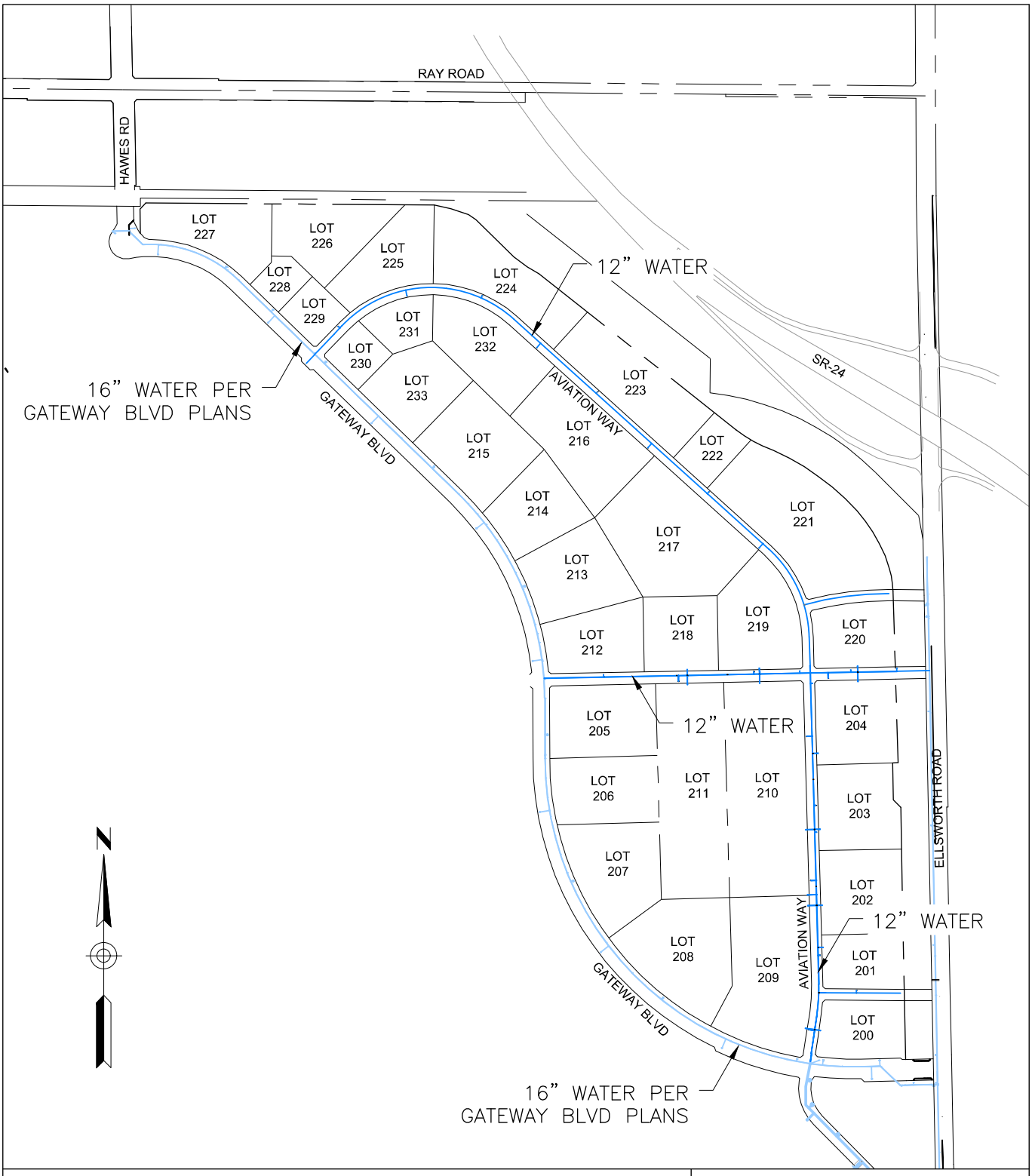
EXHIBIT C(d) - INFRASTRUCTURE PLAN

SHEET NUMBER

6/27/2023

DATE

DIBBLE



GATEWAY EAST

PROJECT NAME

CONCEPTUAL WATER PLAN

DRAWING TITLE

EXHIBIT C(d) - INFRASTRUCTURE PLAN

SHEET NUMBER

6/27/2023

DATE

DIBBLE

Gateway East

Exhibit C (e)

- Detailed financing plan

The development of Phase 1 of the Gateway East Development presents some unique challenges given the many different facets of the planned project. The Boyer Company anticipates funding the various phases using a combination of company provided equity as well as project specific construction and permanent loans. The various aspects of the project will be funded using the following options:

Planning and Entitlement

The costs associated with the initial planning and entitlement of the overall project are being paid for using Boyer Company equity funds. This includes the costs related to engineering and design efforts as well as legal and miscellaneous costs incurred as part of project planning, due diligence and the design and entitlement phase with the City of Mesa and the Airport Authority.

Project Infrastructure

The infrastructure for the project, including roads, utilities, sidewalks, common landscaping, signage and other related work, will be paid for using a combination of Boyer Company provided equity and typical bank debt. Initial estimates for the Phase 1 infrastructure improvements total approximately $25M. The project infrastructure is planned to be installed in phases so that overall costs are controlled and are incurred as the project develops. It is anticipated that much of the infrastructure will be installed in connection with the construction of specific buildings. As a result, the costs associated with the required work will be shared proportionally between individual projects that share street frontage.

We intend to charge an amount equal to ½ the costs associated with the infrastructure improvements to each project, based on the amount of their respective frontage. For example, if Project A has 500 feet of frontage along Aviation Way and the costs to improve that area are $2M, Project A will be charged ½ of the total or $1M. This method will allow us to spread the burden of the overall infrastructure costs between individual projects.

Other infrastructure costs will be shared proportionally across multiple projects since the work involved, benefits multiple phases or building projects. The costs for entry signage are an example of project costs that will be shared.

Individual Building Projects

As individual buildings and ground lease pads are developed, the costs related to the development of each will be paid for using a combination of Boyer provided equity and typical construction and permanent financing options. The required construction loans will be secured at the time a lease is executed and once the construction is complete and the Tenant is in occupancy, a permanent loan will be secured by Boyer. All lender required guaranties will be signed by Boyer.

On Going Project Maintenance

The project will have ongoing maintenance requirements for landscaping, street maintenance, signage costs and maintenance and other miscellaneous costs. We intend to utilize project specific CC&Rs which will detail the level of maintenance provided while also defining how those costs are to be shared with tenants who locate into the development. The Boyer Company has a full-time property manager and a local maintenance engineer who will take care of the project and make sure that the improvements are maintained in an acceptable manner while also keeping the overall budget in check. The property manager will establish annual maintenance and operation cost budgets which will be shared with each tenant and included in their monthly lease payments.

Summary

The debt and equity markets are heading into a period of higher interest rates and tighter funding requirements. As a result, it will be necessary to work closely with a variety of lenders as we work to secure the various loans for the different aspects of the project. The Boyer Company continues to maintain positive working relationships with local, regional and national lenders. We expect to solicit multiple proposals from qualified lenders for each project and then select the financing package that has the most favorable overall terms.

Gateway East

Exhibit C (f)

- PAD document and comprehensive landscape plans

GatewayEast

Phoenix-Mesa
Gateway
Airport

Approved by Mesa City Council on
June 19th, 2023

PAD

PLANNED AREA DEVELOPMENT

DEVELOPMENT TEAM

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CIVIL ENGINEER
DIBBLE
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Email: Kent.norcross@dibblecorp.com

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GATEWAY EAST PAD

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PAD - Zoning Standards

1. INTRODUCTION

The purpose of this request is to seek rezoning from Light Industrial within the Williams Gateway Airport Development Master Plan Overlay ("LI PAD") to Light Industrial and establish the Gateway East Planned Area Development Overlay with multiple Council Use Permits ("LI PAD CUP") on an approximate 273-acre site located at the southwest corner of South Ellsworth Road and East Ray Road (the "Site"), as shown in the Site Location aerial below. The Site is defined by the legal description provided with the PAD. We are seeking to rezone to LI PAD CUP to replace the Williams Gateway Airport Development Master Plan for this portion of the Development Master Plan to allow a mixed-use development, including industrial, office, manufacturing, retail, and hospitality uses on the Site.

1A. SITE LOCATION

The Site is located at the southwest corner of East Ray Road and South Ellsworth Road in the City of Mesa (the "City"). The Site is located just east of the Phoenix- Mesa Gateway Airport. As envisioned by the Phoenix- Mesa Gateway Airport Masterplan, a future terminal will be located adjacent to our Site. The adjacency of the future terminal is a critical component in the land planning of the Gateway East PAD. The intent of the PAD is to be a regulatory document with the flexibility to allow for long-term master planning based on the needs of the community, which results in private sector development growth in the critical Mesa submarket.

1B. EXISTING CONDITIONS

The Site is presently undeveloped, vacant land currently owned by the Phoenix-Mesa Gateway Airport Authority and being leased to the Boyer Company. The Site is located approximately 1,200 feet northeast of the Phoenix-Mesa Gateway Airport. The Site is also located near the Eastmark and Cadence neighborhoods and the Apple Data Center, as shown below. The surrounding zoning is as follows:

Site: The Site is presently zoned Light Industrial with Williams Gateway Airport Development Master Plan Overlay (LI PAD).

North: To the north of the Site is vacant, undeveloped land zoned Planned Employment Park (PEP), Limited Commercial (LC), and Agriculture (AG).

Northeast: To the northeast is the SR-24, zoned Light Industrial (LI).

East: To the east is undeveloped, vacant land in the jurisdiction of unincorporated Maricopa County, zoned Light Industrial (IND-2).

South: To the south is the Phoenix-Mesa Gateway airport, zoned Light Industrial with Williams Gateway Airport Development Master Plan Overlay (LI PAD).

Southwest: To the southwest is the Phoenix-Mesa Gateway airport, zoned Light Industrial with Williams Gateway Airport Development Master Plan Overlay (LI PAD).

West: To the west is the Phoenix-Mesa Gateway airport, zoned Light Industrial with Williams Gateway Airport Development Master Plan Overlay (LI PAD).

1C. HISTORICAL BACKGROUND

The Site was originally located in the jurisdiction of Maricopa County (the "County"). On February 6th, 1985, Ordinance 1907 went into effect, annexing the Site into the City of Mesa (the "City"). On June 2nd, 1986, Case Number Z86-058 was approved, rezoning the Site from the County's Light Industrial (IND-2) zoning district to the City's historical PF and M-1 (today's Light Industrial zoning) zoning district in order to establish the City's zoning designations on the Site.
On May 7, 1996, the Board of Adjustment approved a Special Use Permit under Case Number BA96-018, which instituted a Comprehensive Sign Plan for the Site. Later that year, on May 20th, 1996, City Council voted to approve zoning Case Number Z96-023 to rezone the Site from the previous PF and M-1 districts to M-1 with Williams Gateway Development Master Plan (DMP) Overlay.
Finally, on May 7, 2007, pursuant to Case Number Z07-014, City Council approved an Amendment to the Williams Gateway Airport DMP which modified the conditions of the original approval and altered the Williams Gateway Airport DMP map. The zoning under Case Number Z07-014, is the zoning on the Site today.

2. CONFORMANCE WITH THE GENERAL PLAN

The City of Mesa 2040 General Plan (the "General Plan") establishes land uses and patterns which will allow the City to grow and develop in a synergistic manner in the future. The General Plan outlines policies which will help achieve the City's long term planning goals. The Site is designated as Specialty- Airport on the City of Mesa 2040 General Plan Land Use Map.
The intent of the Specialty- Airport designation is to promote development that supports the airport use. The proposed development offers a mix of industrial, office, retail, restaurants, and hospitality uses which will further the vision of the Specialty- Airport land use classification.

3. CONFORMANCE WITH THE MESA GATEWAY STRATEGIC DEVELOPMENT PLAN

The Mesa Gateway Strategic Development Plan ("MGSDP") was adopted in 2008 to account for the rapidly developing area surrounding the Phoenix-Mesa Gateway airport. The MGSDP covers a 32 square mile footprint in order to plan expansion of the Arizona State University Polytechnic Campus to the west of the Site and support redevelopment of the previous Proving Grounds, which closed in 2009.

The Site is located within the "Airport/ Campus" District of the MGSDP. The intent of that district is:

"This district refers to the area encompassing the ASU Polytechnic/ Chandler-Gilbert Community College Campus, the Phoenix-Mesa Gateway Airport, and the area immediately outside the airport's future main terminal. It is envisioned as a mixed use district centered around educational opportunities, research and development functions, and airport related uses that support the traveling public. Uses on the airport will relate to the uses across the airport boundary. Development in this area will be high-intensity and pedestrian-oriented. Its pedestrian friendliness will distinguish this district from more typical airport-adjacent developments. The transitional area or boundary of this quadrant will predominantly be high intensity employment uses that integrate well with the on-airport uses. Uses in this area will also address the needs of travelers and visitors and provide a smooth transition from the airport into the rest of the community. High density residential uses can be integrated within a mixed-use development, when appropriate. This area will be a hub of visitor activity and create the first and last impression visitors have of the community. It must provide a very high-quality image."

Below is a summary of the goals listed within the Mesa Gateway Strategic Development Plan within the Airport/ Campus district and how our PAD furthers each goal:

Goal 1: Maximize Potential of Phoenix-Mesa Gateway Airport

The Site is located directly adjacent to the Phoenix-Mesa Gateway Airport and the future eastern terminal expansion. The proposed PAD restricts land uses that could jeopardize airport functionally. Further, this PAD promotes the development of employment land uses needed to support the airport operations.

Goal 2: Job Creation

The proposed land use mix provides opportunities for high quality employment uses. In addition to the employment uses permitted within the PAD, it is envisioned to have the supporting services needed for a thriving employment center, such as hotels and retail development.

Goal 3: Connectivity - Transportation/Transit

Connectivity and ease of vehicular and pedestrian flow is crucial for the Gateway East PAD. The proposed Vehicular Circulation Plan depicts the extension of "Gateway Boulevard", which connects

Ray Road to the north with Ellsworth Road to the east establishing two major points of entry to the Gateway East Development and future airport terminal. Future secondary local streets create network of vehicular transportation to serve all future development. In addition to vehicular connectivity, all streets will be lined with detached tree- shaded walkways to facilitate pedestrian movement throughout the master-development.
Additionally, a Multi-Use path is proposed, just outside the eastern and northern boundaries of the Site on City of Mesa property as an amenity to future employees of the Site and surrounding properties. It is our hope to work with the City of Mesa to bring this trail to fruition in this specific location. In addition to the trail, multiple open space areas with amenities are envisioned throughout the Site area to further enhance the pedestrian experience.

Goal 4: Sustainable Development

The intent of this PAD is to promote a development that is walkable with integrated open space nodes. The vision of the Site is a mixed-use development where pedestrians can safely walk between uses, without the need to drive. By providing safe sidewalks, a multi-use path and ample landscaping, this PAD is providing standards to promote a walkable development.

PAD Justification

A PAD overlay district is being requested to allow for flexibility in the development for the 273-acre Mesa Gateway East site while ensuring high-quality development. In doing so, the PAD provides:

A. *Well designed and integrated open space and/or recreational facilities held in common ownership and of a scale that is proportionate to the use;*

As shown in the Pedestrian Circulation Plan, the PAD proposes multiple open space areas evenly dispersed through the development.

B. *Options for the design and use of private or public streets;*

The PAD provides unique cross sections for both Primary and Secondary streets.

C. *Preservation of significant aspects of the natural character of the land;*
D. *Building design, site design, and amenities that create a unique and more sustainable alternative to conventional development;*

The Design Guidelines proposed ensure high quality development with unique and thoughtful site design.

E. *Sustainable property owners' associations;*
F. *Maintenance of property held in common ownership through the use of recorded covenants, conditions, and restrictions; and*

There will be a private association established.

G. *Single or multiple land use activities organized in a comprehensive manner, and designed to work together in common and in a synergistic manner to the benefit of both the project and the neighboring area.*

The proposed PAD takes into context the surrounding uses, such as the airport, and identified standards to ensure a synergistic development environment.

4. PERMITTED USES

All land uses shall comply with Chapter 7 of the Mesa Zoning Ordinance, the Light Industrial Zoning District and the Phoenix Mesa Gateway Airport Land Use Compatibility Plan, unless otherwise modified through Development Agreement. If a conflict occurs between the Zoning Ordinance, the Phoenix Mesa Gateway Airport Land Use Compatibility Plan and the Gateway East PAD, the Development Agreement shall prevail.

4A. COUNCIL USE PERMIT USES

Hotels and Motels

As described in Table 11-7-2, hotels require a Council Use Permit (CUP) if located within the AOA-2. The Site is envisioned to develop as a mixed-use development that promotes uses that support the airport and future employment uses. Given the proximity of the Gateway East PAD to the Phoenix-Mesa Gateway Airport and additional employment uses, hotels are a needed land use to ensure a vibrant and successful land use mix.

The requested CUP conforms to the following criteria found in Sections 11-70-6-D of the Mesa Zoning Ordinance:

1. **Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;**

   This area of Mesa is included within the Mesa Gateway Strategic Development Plan, which encourages development of employment uses. In addition, Mesa Gateway East is located adjacent to the Phoenix-Mesa Gateway Airport. As such, the Site is designated as Specialty-Airport of the Mesa General Plan map.

Employment uses and the airport both demand hotel development to serve patrons.

2. **The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;**

   As previously mentioned, the Site is located in an employment hub and adjacent to an airport. The allowance of hotels furthers the vision of General Plan and the Mesa Gateway Strategic Development Plan.

3. **The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area of the proposed project or improvements in the neighborhood or to the general welfare of the City; and**

   The development of hotels will not be detrimental to the surrounding properties.

4. **Adequate public services, public facilities and public infrastructure are available to serve the proposed project**

   Adequate public services, facilities and infrastructure are available to serve the proposed hotel use.

This PAD proposes a maximum of 10 hotels to be located within the Site boundaries, with the following conditions:

1. These hotels will be subject to the height limitations prescribed in the height zone, as shown on the height exhibit included within the PAD, in which they are proposed.

2. Clustering of hotels should be encouraged to promote a hotel park environment.

Large Commercial Development

As defined by the Mesa Zoning Ordinance, Large Commercial Development is any commercial development that exceeds 25,000 square feet or 4 or more buildings that exceed 25,000 square feet. It is important to note that this square footage limitation does not apply to hotels. Commercial development is an important land use to support all the surrounding employment uses and the growing airport.

The requested CUP conforms to the following criteria found in Sections 11-70-6-D of the Mesa Zoning Ordinance:

1. **Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;**

   Mesa Gateway East is envisioned as a regional hub for employment uses, hospitability, retail and restaurants. To create an all-inclusive development, allowances for retail and restaurant users needs to be established. The creation of a mixed-use development furthers both the vision of the General Plan and the Mesa Gateway Strategic Development Plan.

2. **The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;**

   The Site is over 270 acres with an estimated build out of 40 years. The granting of the Council Use Permit for large commercial development will allow for supporting retail and restaurant uses to be developed, which will further support surrounding employment uses and the airport.

3. **The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area of the proposed project or improvements in the neighborhood or to the general welfare of the City;**

   The development of large commercial development will not be detrimental to the surrounding properties.

4. **Adequate public services, public facilities and public infrastructure are available to serve the proposed project.**

   Adequate public services, facilities and infrastructure are available to serve the proposed commercial development.

4B. SPECIAL USE PERMIT USES

Service Station, with ancillary retail

Service Stations will be a needed amenity for the future employees and airport patrons within Mesa Gateway East. The maximum number of service stations will be solidified through the associated Development Agreement.

The requested SUP conforms to the following criteria found in Sections 11-70-5-E of the Mesa Zoning Ordinance. All Service Stations will comply with Section 11-31-25 of the Mesa Zoning Ordinance, unless otherwise modified by this PAD or associated Development Agreement:

1. **Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;**
   The Service Station use is consistent with the General Plan designation of Specialty- Airport.

2. **The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;**

Service stations play an important supporting role in a master plan development. The retail component serves as an amenity to patrons in the area to grab quick refreshments. The service station component adds convenience for rental car uses with a nearby refueling location.

3. **The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and**

The development of a service station will not be detrimental to the surrounding properties.

4. **Adequate public services, public facilities and public infrastructure are available to serve the proposed project.**

Adequate public services, facilities and infrastructure are available to serve any service stations.

Heliport

Given the Site's adjacency to the airport, Gateway East is a prime location for large companies, especially aviation users. It is critical to remain competitive and innovative within the entitlements so that we can respond to the changing market trends and technology. It is a possibility that a large company would like to have a heliport on their development site for efficiency.

The requested SUP conforms to the following criteria found in Sections 11-70-5-E of the Mesa Zoning Ordinance:

1. **Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;**

A heliport is consistent with the General Plan designation of Airport- Specialty.

2. **The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;**

Allowing a heliport use adjacent to the airport is consistent with the surrounding area and applicable policies.

3. **The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and**

The proposed use of a heliport will not be detrimental to adjacent to properties.

4. **Adequate public services, public facilities and public infrastructure are available to serve the proposed project.**

Adequate public services, facilities and infrastructure are available to serve helistops.

4C. OTHER USES

Outdoor Storage

Outdoor Storage may be located in any side and rear yard and shall not be visible from Gateway Boulevard. All outdoor storage shall be screened by an 8-foot CMU wall. Any outdoor storage will be located outside of the required landscape setback.

5. DEVELOPMENT STANDARDS

The following standards shall apply to all developments located within the Gateway East PAD. The development standards shall apply to development site boundaries (as defined by each individual site plan) as property will be subdivided via lease lines. If the PAD is silent on any standard, the Mesa Zoning Ordinance shall apply.

Setbacks

Since the development areas within the Gateway East PAD are being defined by lease lines, all setbacks shall be taken from lease lines as defined by each site plan. All perimeter setbacks shall comply with the setback exhibit as provided within the PAD. If there is a conflict between the setback exhibit and the setback standards table below, the setback table shall prevail.

Development Standards	MZO Required	PAD Proposed
Maximum Building Height – *MZO Table 11-7-3*	40 feet	**165 feet in Zone A and 90 feet in Zone B (As shown on the Maximum Building Height Exhibit 5.A)**
Minimum Setback along Property Lines or Building and Parking Areas – *MZO Table 11-7-3* - Front and Street-Facing Side	Arterial Street: 15 feet Major or Midsection Collector: 20 feet Industrial/Commercial Collector: 20 feet Local Street: 20 feet Freeways: 30 feet for buildings, 15 feet for parking structures	**Gateway Boulevard: 20 feet** **Secondary Street: 20 feet** **Main Entry Segments: 30 feet (as defined on Exhibit 5.B)**
-Interior Side and Rear: Adj. to AG, RS, RSL, RM, Commercial and PEP districts	1 foot of setback for each foot of building height with minimum 20 feet setback	**Minimum 15 feet**
Perimeter Landscape Yard – *MZO Table 11-7-3* -Width	Arterial Street: 15 feet Major or Midsection Collector: 20 feet Industrial/Commercial Collector: 20 feet Local Street: 20 feet Freeways: 30 feet for buildings, 15 feet for parking structures	**Gateway Boulevard: 20 feet** **Secondary Street: 20 feet** **Main Entry Segments: 30 feet**
	Street-facing setbacks shall be landscaped in accordance with Section 11-33-3(A)	**Street-facing setbacks shall be landscaped in accordance with Section 11-33-3(A)**
Minimum Landscape Yards – *MZO Section 11-33-3(B)(2)* - Non-single residence uses adjacent to non-single residence	Width. 15 feet Landscaped according to Section 11-33- 3(B)(2)(b)-(f)	**Width. 0 feet Landscaping not required**
Averaging Depth of Foundation Base – *MZO Section 11-33-5(A)(3)*	The designated depth of the foundation base may be less than the minimum required depth required by Section 11-33-5(A)(1-2) provided it adheres to all other requirements of Section 11-33- 5(A)(3)(a-c)	**The designated depth of the foundation base may be less than the minimum required depth required by Section 11-33-5(A)(1-2) and may be further reduced beyond the requirements of Section 11-33- 5(A)(3)(a-c) to meet life safety requirements if a conflict exists between Fire Code and Zoning Ordinance standards**

Outdoor Storage – *MZO Section 11-30-7* - Permitted Location (General Commercial and Light Industrial)	Not permitted in front or street-facing side yards. Permitted in interior side and rear yards, or outside of required yards, subject to the standards of this Section [Section 11-30-7]	**Not permitted in front yards. Permitted in street facing side yards interior side and rear yards, or outside of required yards, subject to Section 11-30-7(B)(1-2)**
-Screening and Setbacks	A setback shall be provided for material stored outdoors at the ratio of 1:1 from all lot lines equal to total height of stored material above required screen wall 8 feet	**No setback is required for material stored outdoors**
Truck Docks, Loading and Service Areas – *MZO Section 11-30-13* -Location on Lot	Must be located at the rear or side of buildings, rather than facing a street.	**Must be located at the rear or side of buildings, and may not be readily visible from Gateway Boulevard or Ellsworth Road**
-Screening	Docks, loading and service areas shall be screened from public view	**Docks, loading and service areas shall be screened from Gateway Boulevard or Ellsworth Road**

Screening of Mechanical Equipment – MZO Section 11-30-9(A) -Ground-Mounted Equipment	Ground-mounted equipment facing a street or not otherwise separated from the street by intervening building(s) shall be screened to a height of at least 12 inches above the equipment. Screening devices shall consist of decorative walls and/or berms (2:1 maximum slope) with supplemental plant materials including trees, shrubs, and screen walls that are 3 feet in height or lower, vegetative materials may be substituted for 50 percent of the screening devices.	**Screening of the ground mounted electrical equipment facing a street may be adjusted as necessary to comply with the utility provider's access and design requirements**
-Exterior wall equipment	Wall-mounted equipment, including but not limited to electrical meters, electrical distribution cabinets, service entry section (SES), fire sprinkler equipment and similar valves and cabinets that face a street, or public parking and are not recessed and/or separated from the street by intervening building(s) shall be screened.	**Downspouts must be internally located and screened on building facades adjacent to streets. Downspouts located on building facades not adjacent to streets may be externally located as long as they are coordinated with other façade elements and appropriately finished to compliment the façade design**

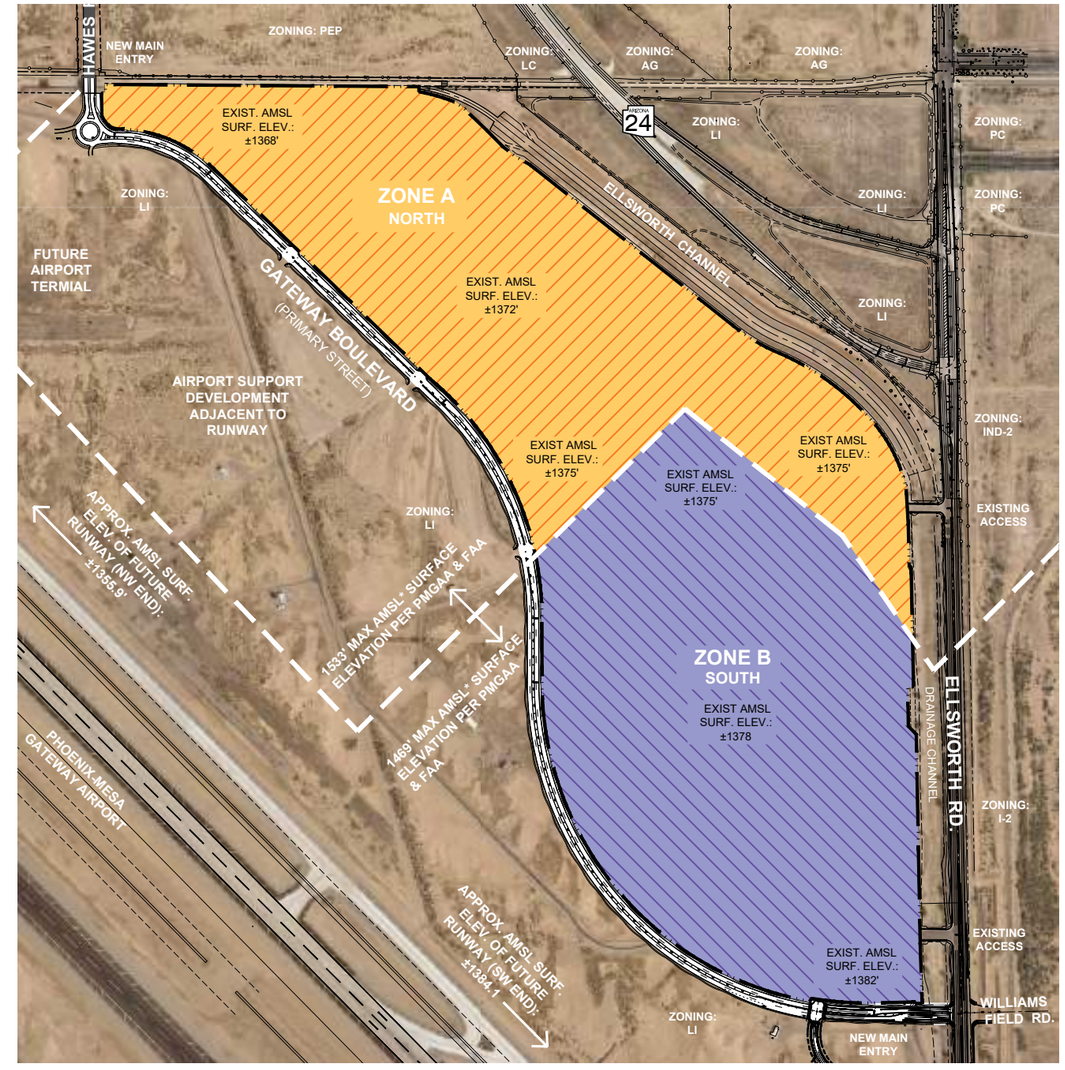
	Screening devices shall incorporate elements of the building design, e.g., shape, color, texture, and material. Vegetative materials may be substituted for up to 50 percent of the screening devices when used in conjunction with screen walls that are 3 feet in height or lower.	
Required Parking Spaces by Use – *MZO Table 11-32-3.A* - Industrial	1 space per 600 square feet of gross floor area	**Buildings less than 250,000 square feet: 1 space per 675 square feet of gross floor area** **Buildings that are 250,000 up to 500,000 square feet: 1 space per 1,000 square feet of gross floor area** **Buildings over 500,000 square feet: 1 space per 2,000 square feet of gross floor area**
Setback of Cross Drive Aisles – *MZO Section 11-32-4(A)*	Parking spaces along main drive aisles connecting directly to a street and drive aisles that cross such main drive aisles shall be set back at least 50 ft from the property line abutting the street	**Parking spaces along main drive aisles connecting directly to a street and drive aisles that cross such main drive aisles shall be set back at least 30 ft from the property line abutting the street**

Parking Lot Layout – *MZO Section 11-32-4(G)(2)*	No more than 200 parking spaces shall be allowed together in one group or cluster In office-use and industrial projects, a minimum 25 percent of the required parking spaces shall be provided within 200 feet of the building served, with the balance of the required parking within 400 feet Drive aisle intersections are to be perpendicular to each other	**No more than 300 parking spaces shall be allowed together in one group or cluster** **In office-use and industrial projects, a minimum 25 percent of the required parking spaces shall be provided within 200 feet of the building served, with the balance of the required parking within 500 feet** **Drive aisle intersections may not be perpendicular to each other**
Pedestrian Access – *MZO Section 11-32-4(G)(3)*	Where a pedestrian sidewalk crosses a vehicle lane, the pedestrian sidewalk shall be raised a minimum of 3-inches above the vehicle lane and made distinct by use of textured paving and contrasting color	**Where a pedestrian sidewalk crosses a vehicle lane, the pedestrian walkways shall be made distinct by use of textured paving and contrasting color**

Maximum Parking Spaces – *MZO Section 11-32-3(C)*	The number of parking spaces provided by any development in surface parking lots shall not exceed 125% of the minimum required spaces	**There shall be no maximum to the number of parking spaces provided by any development**
Size of Parking Spaces and Maneuvering Aisles – *MZO Section 11- 32-2(H)(1)* -Standard Parking Spaces	The minimum basic dimension for standard parking spaces is 9 feet by 18 feet	**The minimum basic dimension of a parking stall is 9 feet by 18 feet. Where applicable, the 18-foot dimension is inclusive of a 2-foot overhang over the adjacent sidewalk or landscape area**
Heliports – *MZO Table 11-7-2* Footnote 14	Heliports in Employment Districts shall be set a minimum of 2 full stories above the natural grade, unless associated with a hospital.	**Heliports may be located at the natural grade (aka ground level)**

Drive-thru Facilities – *MZO Section 11-31-18(D)*	Drive-thru lanes shall not be located parallel to arterial roadways. Where physical site conditions prevent such configuration, Provide 40-inch-high screen walls adjacent to the public right-of- way	**Drive-thru lanes shall not be located parallel to Gateway Boulevard but may be located parallel to Ellsworth Road. Where physical site conditions prevent such configuration, Provide 40-inch-high screen walls adjacent to the public right-of-way**
Site Planning and Design Standards – *MZO Section 11-7-3(B)(1)-(5)*	Per MZO Section 11-7-3(B)	**Per the Gateway East Design Guidelines**

EXHIBIT 5.A MAXIMUM BUILDING HEIGHT



LEGEND:

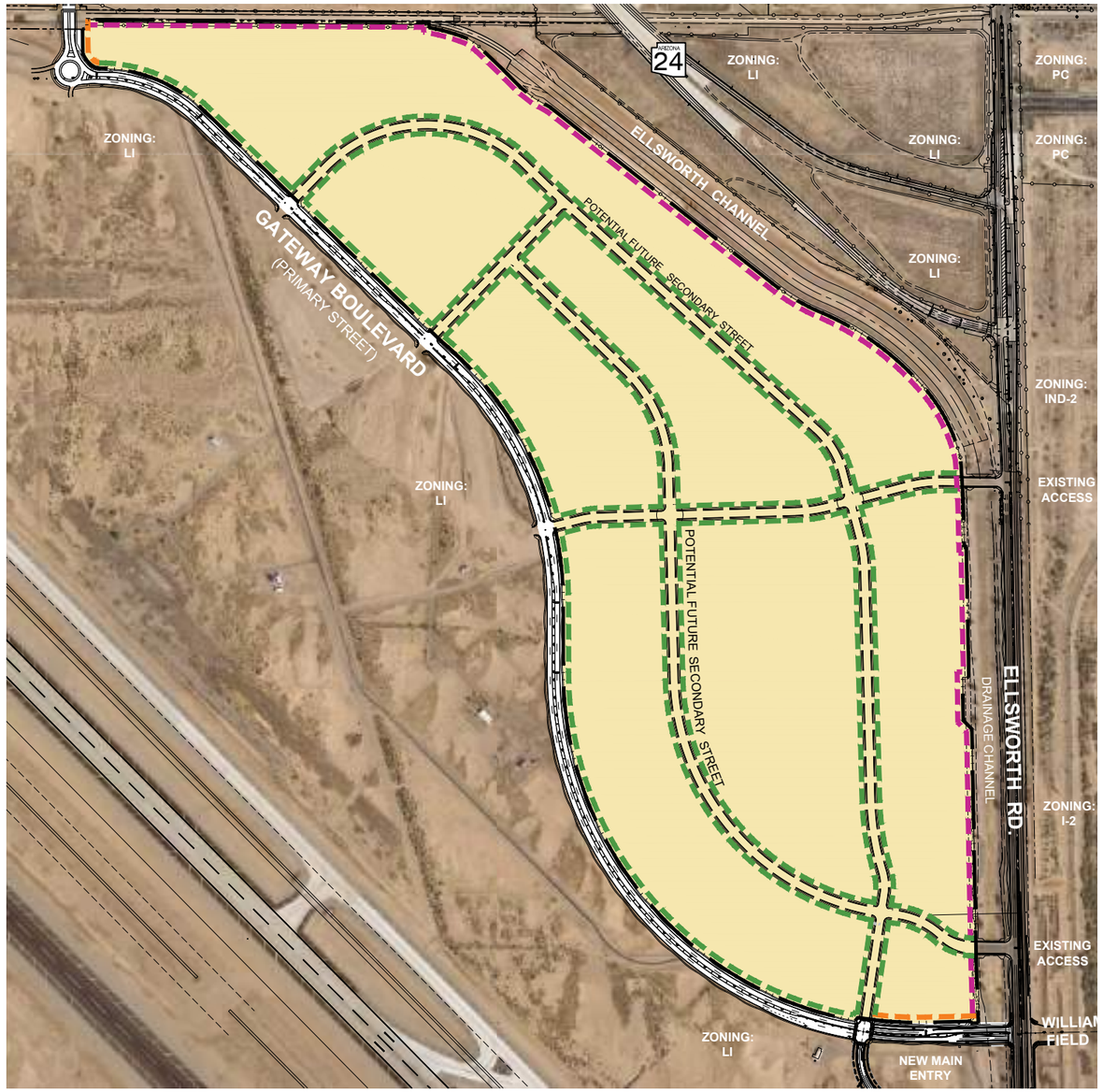
Zone A (155'-165')*

Zone B (85'-90')*

*Notes:

1. All surface elevations are referenced in feet Above Mean Sea Level (AMSL - NAVD88) and are approximate and will need to be verified by Land Surveyor
2. Max building heights include all roof-mounted equipment & appurtenances
3. Allowable height in Zone A North is 155' - 165' and in Zone B South 85' - 90'. All heights shall be measured in accordance with definitions established by the City of Mesa Zoning Ordinance. Such heights include up to 10' of height for mechanical screens or other appurtenances above the top of parapet. If no such elements rise higher that the proposed building parapets, such parapets may achieve the maximum height allowed. In no case shall the maximum height of any building element exceed that allowed by the current maximum height elevation established and approved by Phoenix-Mesa Gateway Airport. It is the responsibility of all applicants to verify current airport height limits applicable to their specific site location. The required FAA filings and approvals of height shall be approved prior to Design Review approvals and submittals of Permit Drawings. Should such maximum heights be modified by future airport studies, the allowable building heights shall be adjusted, either up or down, as required without modification to the PAD '
4. Maximum height shall not exceed 150 feet above the Airport's Field Elevation of 1384' AMSL

EXHIBIT 5.B PERIMETER & STREET SETBACKS



LEGEND:

- 15' Setback
- 20' Setback
- 30' Setback

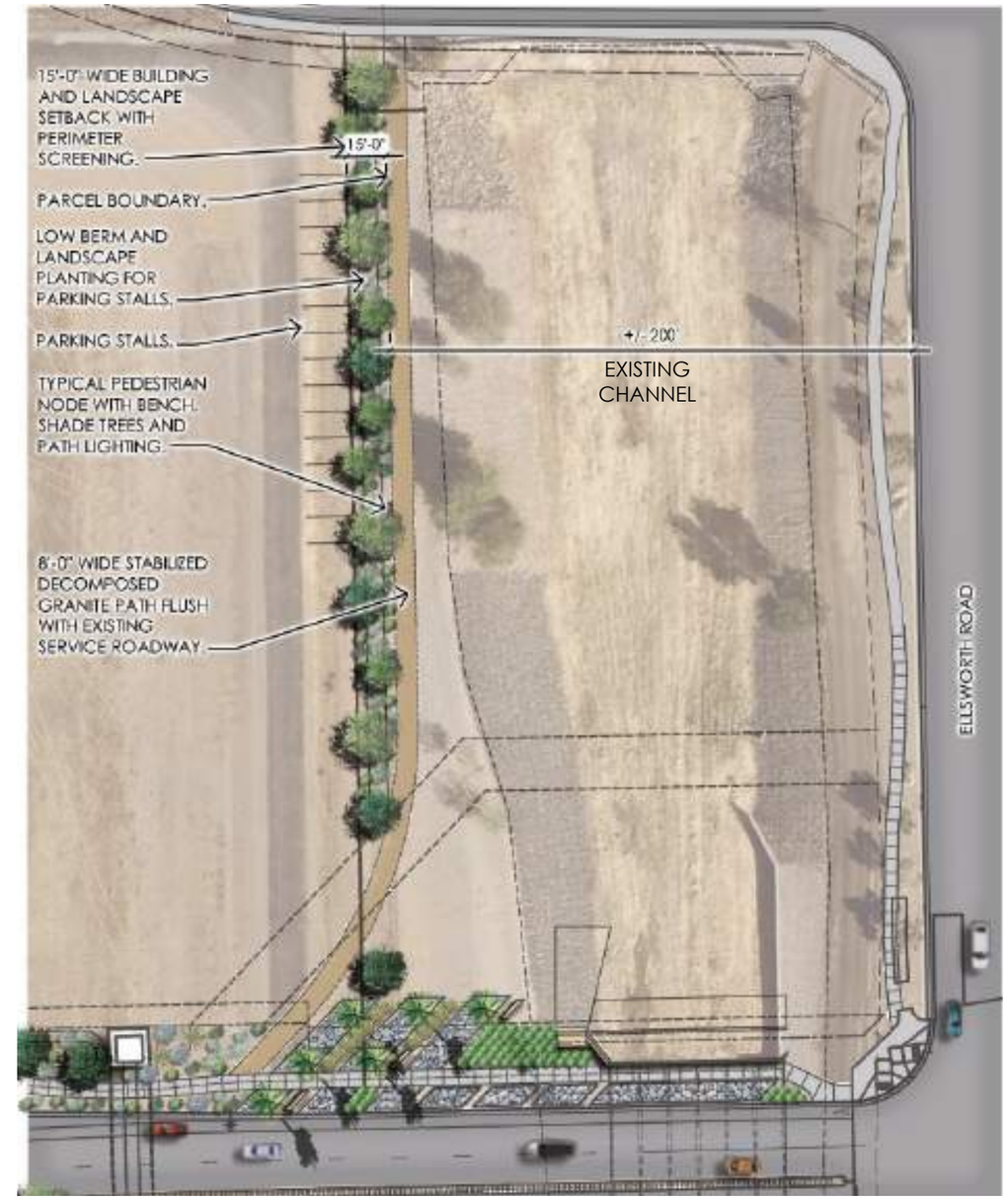
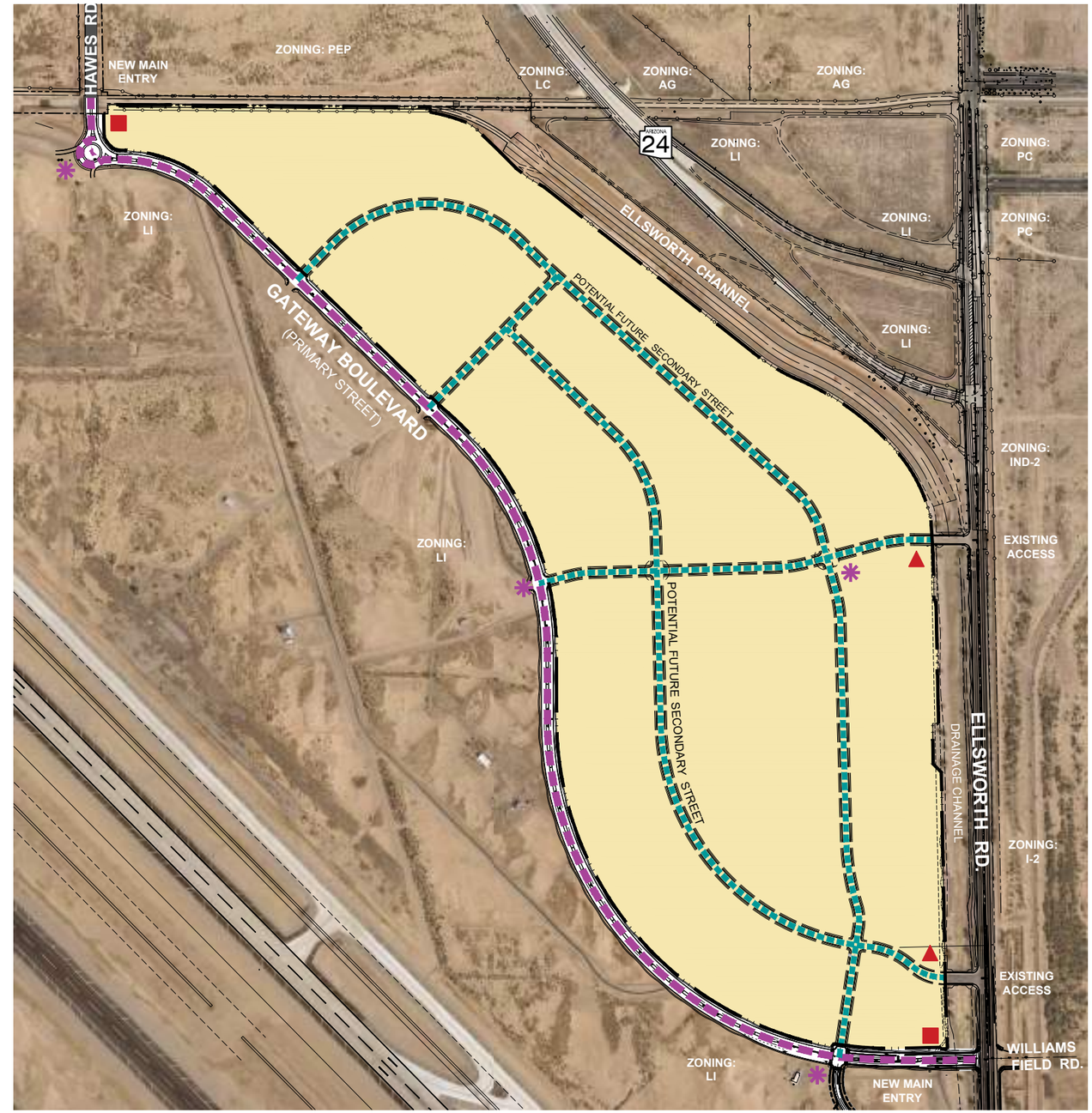


EXHIBIT 5.C VEHICULAR CIRCULATION PLAN

Vehicular pathways are an integral component of the Gateway East Development. The movement throughout the project should be comfortable, safe, and interesting. All areas for vehicular use shall be paved with a suitable base and surfaced with asphalt.

Each Lot within the development will provide adequate circulation and parking to accommodate future users.



LEGEND:

- Primary Street
- Potential Future Secondary Street
- Enhanced Intersection
- Primary Entry
- Secondary Entry

*NOTE: Secondary Street network shown on this plan is conceptual and for illustrative purposes only. Final design is subject to change. All streets will need to be reviewed and approved by the City's Transportation Department.

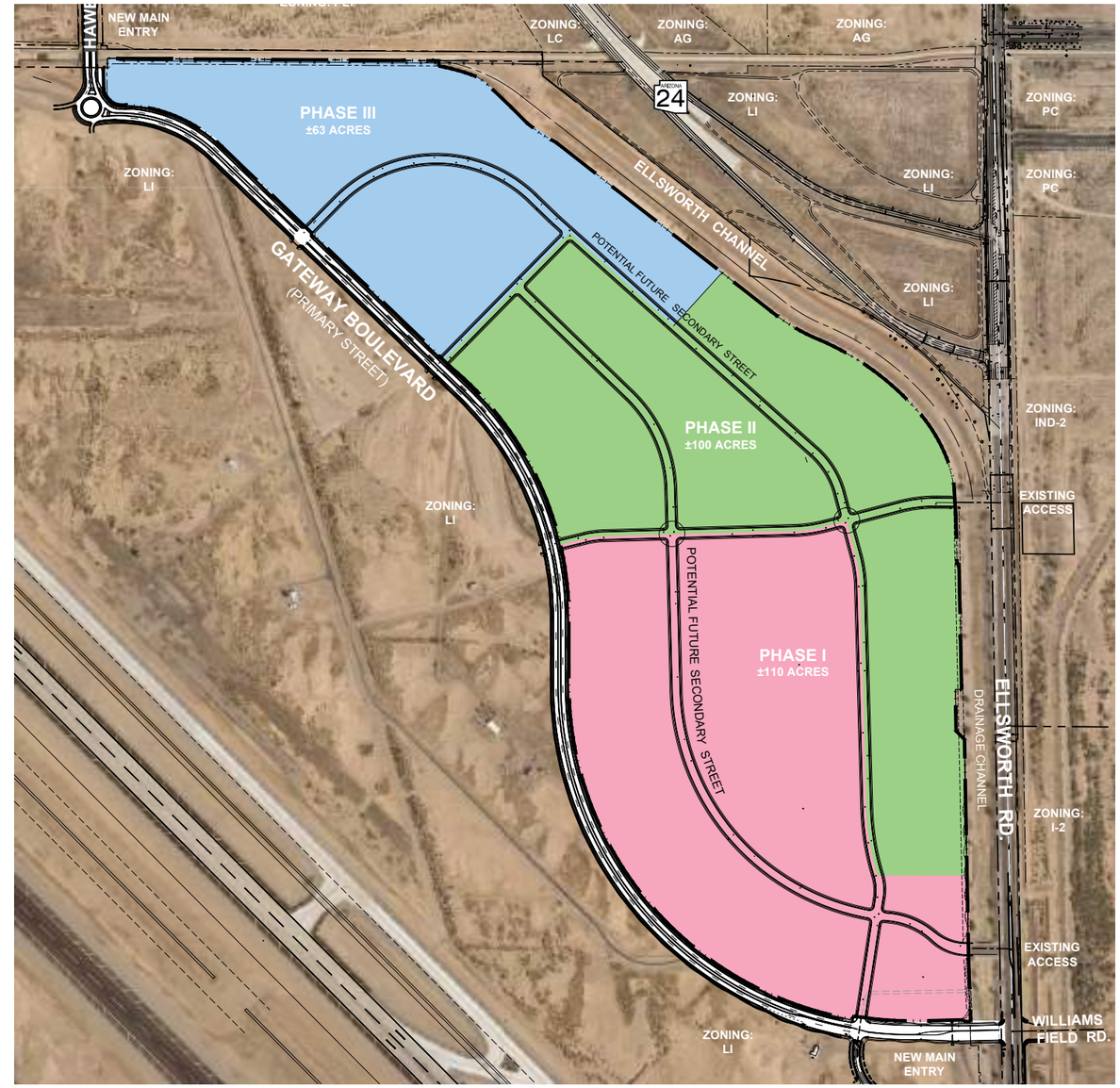
6. ALTERNATIVE COMPLIANCE

The Gateway East PAD includes Design Guidelines that will govern design and building design but are not intended to limit creative solutions. Conditions may exist where strict compliance with the Gateway East PAD & Design Guidelines are impractical or impossible, or where maximum achievement can only be obtained through Alternative Compliance. Alternative Compliance allows the development to satisfy the intent of the Design Guidelines by providing comparable standards in a creative way. Any request for Alternative Compliance shall comply with the criteria listed in Mesa Zoning Ordinance Section 11-7-3 (B)(6).

7. PHASING

Gateway East PAD is a long-term development with an estimated 40 year build out plan. The conceptual phasing plan is for illustrative purposes only and is subject to change based on development patterns and potential users.

EXHIBIT 7.A



LEGEND:

- PHASE I
- PHASE II
- PHASE III

*NOTE: Secondary Street network shown on this plan is conceptual and for illustrative purposes only. Final design is subject to change. All streets will need to be reviewed and approved by the City's Transportation Department.

8. STREET NETWORK

The conceptual Gateway East PAD street system is unique due to the underlying ownership of the property. The streets may remain private, or they may be dedicated via private easement. This is not a common circumstance; thus the street designations will be unique to this PAD. The Vehicular Circulation Plan (Exhibit 5.C) is designed to create attractive and useable development areas for future development but street alignments may change based on future development.

It is also important to note that lease line subdivided lots will not have access on a publicly dedicated street. The approval of this PAD will authorize lots to front onto and be accessed via a private street. The street network system is broken into two street classifications: Primary Streets and Secondary Streets. Final design of the street cross sections will be reviewed and approved by the Transportation Department.

Primary Streets: Primary Streets are envisioned as the streets that will carry heavier traffic loads, such as Gateway Boulevard. It is anticipated that Gateway Boulevard may be the only Primary Street.

Secondary Streets: Secondary Streets serve as internal collector roads that move traffic within the internal development. These street locations as shown on Exhibit 5.C Vehicular Circulation Plan, are likely to change with refinement of development and future leasing activity.

9. CONCLUSION

This is a request to rezone an approximate 273-acre Site located at the southwest corner of South Ellsworth Road and East Ray Road from Light Industrial with Williams Gateway Airport Development Master Plan Overlay ("LI PAD") to Light Industrial and establish the Gateway East Planned Area Development Overlay ("LI PAD") on the overall Site. This rezoning request will allow for the development of a synergistic mixed-use development with a variety of industrial, office, retail, and hospitality uses on the Site. The proposed development is consistent with both the General Plan and the Mesa Gateway Strategic Development Plan area and Sub-Area Plans. The proposed development will benefit the surrounding community by providing addition employment uses within an employment hub of the City of Mesa.

Gateway East

Exhibit C (g)

- Design Guidelines

III. ARCHITECTURAL DESIGN GUIDELINES - GENERAL

3.1 GENERAL

The following Gateway East Design Guidelines serve as a critical tool to ensure ongoing compatibility between allowable land uses and achieve a harmonious mixed-use development. These guidelines establish the overall character of the development and contribute to establishing a cohesive, attractive, long-term successful project.

The Design Guidelines are intended to replace quality enhancements and details to the adopted City of Mesa Quality Development Design Guidelines and associated Zoning Ordinance amendments. The Gateway East Design Guidelines will provide for an overall development theme through the use of complementary building materials, colors and themes, consistent and complementary landscaping and a mechanism for enhanced design and creativity.

This document governs the approximately 273-acre land contained in the Gateway East Planned Area Development (PAD). All development shall comply with the City of Mesa Zoning Ordinance unless otherwise modified through this PAD and Design Guidelines. In the event that this document conflicts with the City of Mesa Zoning Ordinance and the standards listed within this PAD, including the Mesa QDDG, this document shall prevail.

The Design Guidelines are broken into four sections:

- Site Plan Design Guidelines
- Architecture Design Guidelines
- Lighting Design Guidelines
- Landscape Design Guidelines

1. **Character and Image** - Development shall contribute to the uniqueness of the zoning district in which it is located, and/or the Mesa community with predominant materials, elements, features, color range, and activity area tailored specifically to the site and its context. This character and image shall conform to the following standards:

a. In multiple building developments, each individual building shall include predominant characteristics shared by each building so that the buildings within the development appear to be part of a cohesive, planned, area, yet are not monotonous in design. Compatibility shall be achieved through techniques such as the replication of roof lines, the use of similar proportions in the building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, or the use of building materials that have color shades and textures that are similar to or complimentary to those existing on, or in, the immediate area of the subject property.

b. No Established Theme or Stand-Alone Development. Where there is no established or consistent neighborhood or area character or unifying theme, or where the existing character is not desirable to continue because it does not reflect a design theme consistent with the development standards as described in this Chapter, the proposed development shall be designed to establish character and a sense of place through the strategic use of architectural elements, building form, materials, landscaping, lighting, etc., which create a cohesive theme or style for future developments and buildings within the area to follow.

c. Corporate Architecture. Where the proposed architecture of a building or structure is the result of a franchise style, prototypical or franchise architectural design, including materials and color, should be modified (if necessary) to meet the development design standards as set forth in the Design Guideline exhibit attached to this PAD.

d. Employee and Visitor Amenities. Development within this PAD shall provide common open space and amenities for the useful enjoyment of employees and visitors to the Site. Common open space should be arranged for functionality and shall be furnished with eating areas, site furniture (such as benches, tables, waste receptacles, or planters), or other amenities.

i. Buildings 30,000 square feet or larger shall provide common open space at a rate of one percent (1%) per building

gross floor area (GFA). A collection of smaller buildings linked by common walls is considered one building.

ii. Multiple areas of common open space are encouraged; however, the minimum size of any one (1) common open space shall be 300 square feet with a minimum dimension of 15 feet in any direction. If pocket parks or multi-use trails are provided within close proximity of the development, those improvements shall count towards the common open space requirement.

iii. At least 50 percent (50%) of common open space must be open to the sky. At least 75 percent (75%) of the open space area must be landscaped and maintain live plant material if the area is not otherwise used as active recreation facilities.

2. Massing and Scale - Architectural elements and techniques shall be utilized to reduce the apparent massing and scale of buildings.

a. Wall Articulation. Exterior building walls shall be subdivided and proportioned to human scale, using projections, overhangs, and recesses in order to add architectural interest and variety and to avoid the effect of a single, massive wall

with no relation to human size per Design Guideline exhibit attached to this PAD.

i. Publicly visible facades (viewed from streets or primary facades of adjacent property), may not have blank, uninterrupted wall lengths without including at least two (2) of the following: change in plane, change in texture or masonry pattern, windows, trellis with vines, or an equivalent element that subdivides the wall into human scale proportions. Refer to PAD Design Guidelines for conceptual examples.

ii. Side or rear walls, not publicly visible from streets: Refer to PAD Design Guidelines

b. Building Projections into Setbacks. Maintain appropriate separations between buildings on adjacent lots to allow for light, air, and circulation while recognizing the need to allow minor projections that improve the effectiveness of environmental or aesthetic features.

i. Awning, eaves, overhangs, light shelves, and basement window wells may encroach up to three (3) feet into any required setback but shall not be closer than two (2) feet to any property line. Building projections shall be no closer than 15 feet to any property line adjacent to sites located in the RS and RSL Districts.

c. Roof Articulation.

i. Provide architectural interest at the skyline. Accentuate appropriate building elements and provide a minimum of one vertical variation in parapet heights appropriate for the intended design. Parapet detailing such as cornices, moldings and trim should be used where appropriate. Refer to PAD Design Guidelines for conceptual examples.

3. Building Entrances - Primary entrances along major façades shall be clearly defined with façade variations, porticos, roof variations, recesses or projections, or other integral building forms. For conceptual examples, please refer to PAD Design Guidelines.

4. Access, Circulation, and Parking.

a. Screening and Separation of Parking Areas. Parking areas located between a building and Primary Street shall be screened with a screening wall, berms, or combination of both methods no more than 3 feet high.

i. In addition, parking areas shall be separated from on-site buildings by a distance of at least ten (10) feet. This separation shall be landscaped and may include a pedestrian walkway.

5. Materials and Colors - Buildings and structures shall be constructed of durable, high-quality materials that are appropriate for the climate and development. Exterior building walls, viewed from streets, shall be designed using various materials and design options in order to add architectural interest. Please refer to PAD Design Guidelines for conceptual examples.

IV. ARCHITECTURAL DESIGN GUIDELINES

4.1 GENERAL

The Architectural Design Guidelines are intended to ensure an attractive, high quality, mixed-use development with a consistent look and feel across the overall development master plan consistent with conceptual examples within these Design Guidelines. These standards will provide continuity throughout while incorporating a variety of architectural styles, color, and materials. Styles may and should vary to create individual identities while maintaining common threads that establish compatibility between buildings and the anticipated land uses, such as light industrial (manufacturing, flex office, technology), multi-story office, restaurant, retail, hospitality, and others. Design vocabularies should be respectful of adjacent uses, allowing architectural expressions to flow from Lot to Lot, avoiding abrupt transitions in style or character. Variation in texture, contrast, color, and materials should be utilized to create visual interest. Building designs must be compatible for airport operations.

Whereas a level of consistency and compatibility are desirable to create continuity within the master development, opportunities for corporate identity and branding must be maintained. Such branding may include the use of corporate colors, signage, specific materials or architectural elements used to communicate a company culture or theme. These elements shall not detract from the quality and compatibility of the overall master plan and adjacent developments. The extent of such branding elements may require limits of application in order to maintain the desired continuity of the development.

By the approval of these design guidelines through the PAD process and by the Design Review Board, it is understood that all buildings shall comply with these standards. In doing so, all buildings will be be exempt from the Design Review Board Work Session process and will be handled as Administrative Design Review.

The Architectural Design Guidelines are centered on Key Design Characteristics that will establish visual consistency, quality, and architectural interest across the Development.

These Key Design Characteristics from the list below include:

A. Building Form
B. Facade Treatments
C. Shade Elements
D. Entry Statements
E. Screening
F. Colors
G. Materials – (2) minimum when publicly viewed from street

A. BUILDING FORM

Building form refers to the shape and configuration of a building visible from primary and secondary streets. Care should be taken to design structures across the project that take shape, mass, scale, proportion, rhythm, articulation, texture, color, and light into consideration. Building forms should be influenced by the following guidelines:

- Consider each buildings relationship to other adjacent buildings in their architectural design.
- Building elevations and facade elements should undulate to break up building masses.
- Vary roof forms and parapet treatments appropriate for the type of project and consistent with conceptual examples within these Design Guidelines.
- Use building elements to create scale at the pedestrian level with conceptual examples within these Design Guidelines.
- Provide pedestrian protection from the sun by using building overhangs and canopies in appropriate areas, such as main building entries.
- Provide heightened level of detail at building entries.
- Accent architectural form with appropriate lighting.

B. FACADE TREATMENT

Building facades serve as a viewer's first interaction with a building and can bring a greater degree of architectural interest to a structure. Facades are also essential components of building environmental efficiency. Building facades should utilize the following principles and be consistent with conceptual examples within these Design Guidelines:

- Vary building volumes, planes, and materials to create dynamic textures and variations with light and shadow.
- Employ sun shading elements such as projecting canopies, and awnings that provide cover and shade for appropriate exposures on building facades, thereby reducing solar heat gain.

- Enhance street frontages by using refined materials and strong entry elements.
- Ground floor building façades are encouraged to utilize transparency when abutting pedestrian areas.
- Highly reflective materials and finishes that conflicts with FAA regulations or could create glare or flash blindness and impact airport operations shall not be utilized.

C. SHADE ELEMENTS

Sun protection is an essential design element to promote both pedestrian comfort and energy efficiency. Shading elements such as suspended canopies, posted canopies, awnings, building overhangs, screen walls, window eyebrows, shade sails, and pergolas should be effectively utilized on high impact areas of the buildings facades. These shading elements have the power to accent the building massing and create a functional and dynamic visual experience for patrons all while limiting solar heat gain. Shade elements are particularly important for glass openings, balcony areas, and at the sidewalk pedestrian area. Shade elements should be integrated into the storefront designs as part of the overall building design. The following shade strategies may be utilized:

- Suspended canopies, posted canopies, and awnings are to be integrated into building designs.
- Large overhangs shall be carefully utilized to accent the massing of the building and to create a functional and dynamic visual experience for patrons.
- Trees and landscaping are to be integrated as part of the overall shading.

D. ENTRY STATEMENT

Clear building entries create a sense of arrival and can elevate a building's architecture. Entries should be prominent and obvious to assist in circulation and wayfinding across the Development. Entry statements can be established in multiple ways:

- Differentiated building massing (vertical elements, building envelopes).
- Use of a special or different facade material.
- Utilization of accent lighting and/or creative signage.
- Doorway openings and hardware should address human scale and comfort.

E. SCREENING

Screening shall be utilized in a variety of applications throughout the project.

Screening should be used to conceal unsightly building/site elements from view. It should also be used per City of Mesa standards to screen parking areas and can also be used as an architectural feature to provide additional building articulation and interest. Options for screening materials may include the following: metal louvers, metal panels with attractive patterns of voids and perforations, painted and decorative integrally colored and textured CMU block and/or strategically located landscape.

- Architectural Screening: Architectural screens can be used to provide layering and depth to building planes while also protecting interiors from sun exposure.
- Mechanical Equipment: All mechanical equipment, whether at grade or on a building's roof, should be screened from view with architectural and/ or landscape materials or they shall be located so as not to be visible from any public pathways. Rooftop screening shall be monolithic and architecturally compatible by use of exterior parapets, monolithically screened "penthouse" areas and parcel use of "line sight-line studies" for structures with large foot prints such as industrial projects.
- Utility Equipment: All utility equipment and associated protective materials should be screened and painted to blend in with the roof or building.
- Service Areas: All service areas (trash, recycling, mechanical areas, storage, utility, and meter rooms) must be architecturally integrated within the body of the building or at the back of buildings screened from view.
- Parking Areas: Parking areas adjacent to roadways should utilize a combination of 3' high offsetting screen walls with 50' maximum runs, dense plantings, and/or landscape berms as screening.
- Landscape Elements: Using a variety of year- round plant species is ideal when screening equipment. Plants used for screening are to be compatible with Arizona's climate and should be regularly maintained.

F. COLORS & MATERIALS

Colors and materials should create visual harmony within the development. Recommended colors are as follows:

- Desert hues and other "earth tones".
- Muted shades of blues, greens, and reds found in the natural desert color vocabulary.
- Colors appearing in natural stone utilized in buildings.
- Bright and jewel-tone colors may be utilized as accent colors in limited areas to enhance entries, focal points, corporate branding or other prominent building features.

Buildings within this development very often include, the following or others of equal or greater quality.Provide a minimum of two materials on facades facing streets:

- WOOD: Wood is best used in areas with minimal weather exposure. Synthetic or metal systems may be used as an alternative to create a wood appearance.
- BRICK: If using "thin brick", corner pieces must be used to create the appearance of full brick and provide cap articulation at top of wainscots.
- CONCRETE: Cast-in-place, articulated tilt up concrete, reveled, board-formed and architectural precast concrete are all acceptable variations of this material constituting multiple materials when used together. Predominant use of site cast tilt up panels for industrial projects and office buildings is acceptable when provided with a minimum of two alternative materials and shall include a balanced use of reveals, varying paint colors, variations in plane and parapet heights to reduce massing and scale consistent with provided examples within these Design Guidelines.
- NATURAL STONE: Fieldstone, flagstone, or other natural stone.
- MANUFACTURED STONE: Manufactured stone of high quality may be used.
- STUCCO/EIFS: : Stucco or EIFS (exterior insulated finish systems) to be finished with smooth or sand finish with appropriately placed horizontal and vertical reveals to break up mass of large areas and coordinated with other vertical and horizontal elements found on building facades.
- TILE: Ceramic, porcelain, or similar tile.
- METAL PANELS: Architectural metal panels including standing seam, prefinished interlocking panels, perforated metal panel, perforated "B" deck and limited use of corrugated.
- GLASS: Clear, tinted (greys and blues), frosted and coated glass. Highly reflective glass conflicting with FAA regulations or airport operations is not allowed.

4.2 ARCHITECTURAL VISION : A MIX OF USES AND ARCHITECTURAL STYLES THAT COEXIST IN A HORIZONTAL MIXED-USE MASTER DEVELOPMENT

Alternative Compliance for Materials, Daylighting and Accent Lighting

Defined ENTRIES and balanced use of MATERIALS

SIGNAGE
Entry statement integrated with landscaping

SIGNAGE
Decorative Canopies for Shading and Defining Entries

Effective use of color, materials and shapes

SIGNAGE
Off setting planes with multiple materials

Corporate IDENTITY

Differing materials, offsetting planes and detailing

Defined entries, proportional vertical plane changes

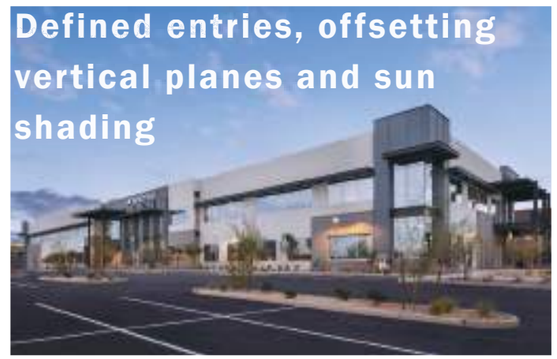
B. OFFICE

PEDESTRIAN PATHS

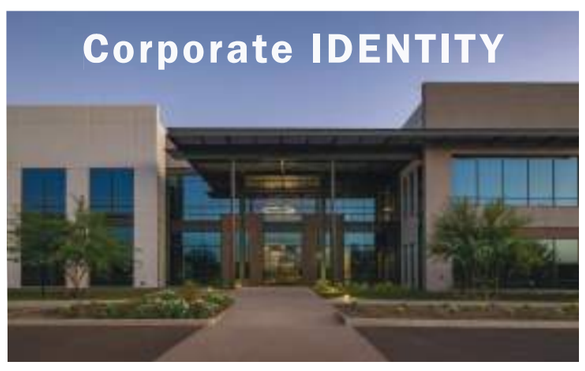
Defined ENTRIES and balanced use of MATERIALS

Street Presence, Sun Shading and Employee Outdoor Spaces

Corporate Identity, Accented Main Entry, Integrated Landscaping


Defined entries, offsetting vertical planes and sun shading

Accented main entry, integrated landscaping


Corporate IDENTITY

Corporate Identity, Shaded Parking and Solar Integration

Balanced Use of Materials Specialty
Forms and Detailing

Sense of arrival and accent lighting

Corporate Architecture with Southwest
Enhancements

STRONG FRONTAGE

Corporate
Architecture
with Southwest
Enhancements

Corporate architecture with southwest enhancements
and effective accent lighting

Entry Statement,
Shading,
Lighting

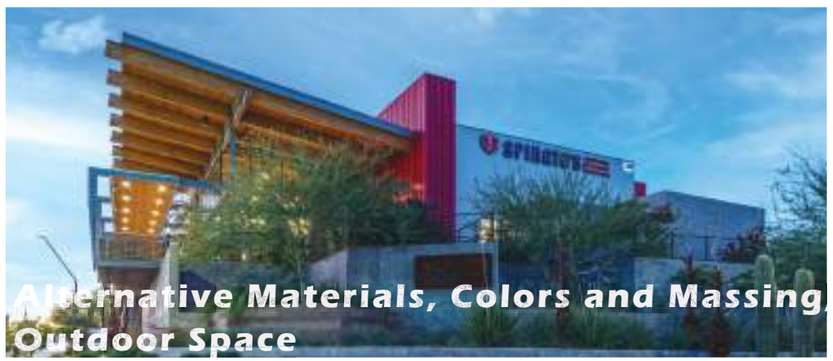
Entry statement, lighting
and detailing

D. RETAIL

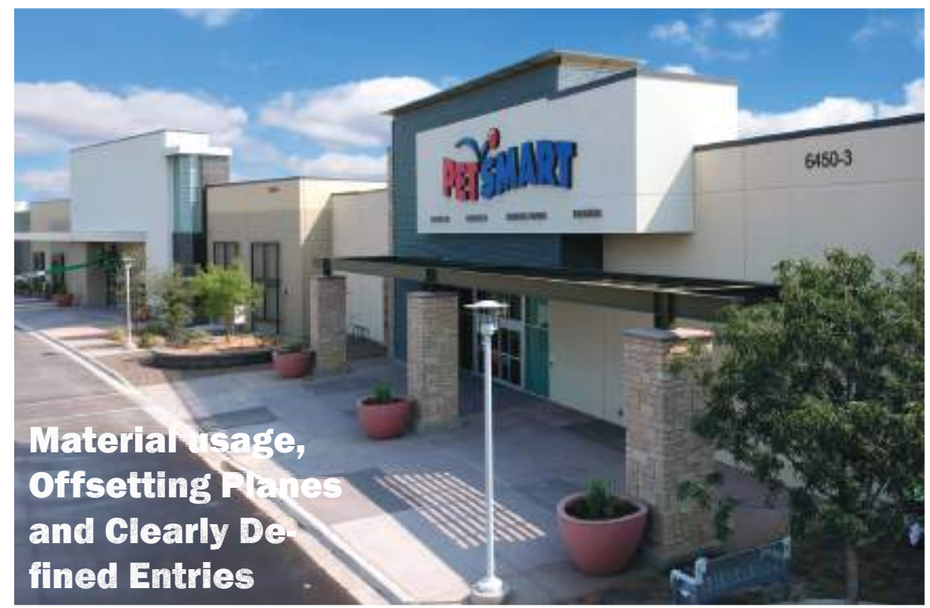
Material usage, offsetting planes

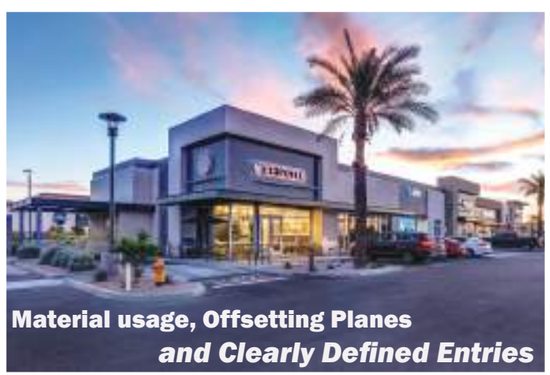
IMPACTFUL ENTRIES
HomeGoods

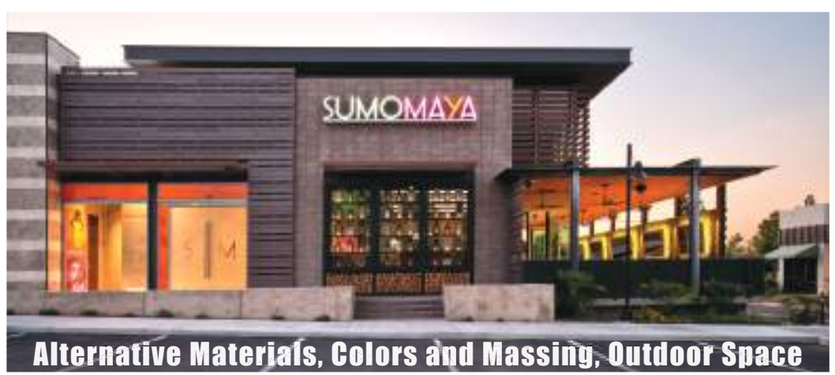
Street Presence, Sun Shading and Employee Outdoor Spaces


Alternative Materials, Colors and Massing, Outdoor Space

Large canopies to create OUTDOOR space


PETSMART
6450-3
Material usage, Offsetting Planes and Clearly Defined Entries


Material usage, Offsetting Planes
and Clearly Defined Entries


SUMOMAYA
Alternative Materials, Colors and Massing, Outdoor Space

V. LIGHTING DESIGN GUIDELINES

5.1 GENERAL

Given that this is a horizontal mixed-use project, lighting design must respond to both daytime and nighttime lighting needs. While the employment uses may be primarily functional during the day, the restaurant, retail, and hospitality uses will promote activity that extend into the evening. Architectural lighting is an essential component of building and landscape elements. The lighting strategies for this project should be designed with the goal of creating a welcoming early morning and evening environment that prioritizes safety and security as well as aesthetics. All exterior lighting design requires approval from the City of Mesa and must ensure compatibility with aiport operations. Lighting placements and systems will not direct lighting upward or in a manner that could cause confusion with airport identification or navigational lighting.

- Dramatic lighting should enhance primary architectural features.
- Lighting should emphasize dramatic elements within the landscape (Monument signs, groups of trees and shrubs).
- Accent lighting may be incorporated on secondary building elements such as blank walls to highlight their texture or on columns to reveal their cadence on a facade.
- Appropiate consideration should be given to creating an ambiance with mood lighting such as overhead string lights or up lighting/down lighting on walls.
- Lighting shall almost exclusively use warmer temperatures. Cool temperature lighting is discouraged.
- Lighting on the exterior walls adjacent to the storefront area is encouraged to help increase tenant identity and to provide an appropriate level of comfort and rhythm for the pedestrian.
- Low-level down-lighting integrated into building canopies should be provided to promote visibility and security.
- Lighting should enhance or be an extension of the design intent of the architecture.
- Utilize full cut-off or fully shielded fixtures and set mounting heights as required to effectively control glare, light trespass, and maintain dark skies.
- Fixtures and strategies are to promote energy conservation.
- Use automatic control systems to eliminate excessive light during non-active hours of site and building operation.
- Ornamental low-scale lighting shall be provided along pedestrian pathways and nodes that connect the various Lots within the Development.
- Primary and secondary streets will utilize City approved fixtures. Specific locations and heights will be approved by the appropriate City Department per City of Mesa requirements for illumination.

STANDARD PARKING LOT FIXTURE

Lighting fixture heights shall not exceed the maximum height specified in the City of Mesa Zoning Ordinance Table 11-30-5.

5.2 LIGHTING VISION

VI. LANDSCAPE DESIGN GUIDELINES

6.1 GENERAL

The following landscape design guidelines provide a framework for the overall landscape character of the Development. These guidelines shall be applied to all areas of the Development including edge treatments, entries, vehicular circulation routes, pedestrian plazas and promenades, open spaces, and parking areas.

Landscape features and tree varieties attractive to hazardous wildlife should not be used to ensure flight safety and airport operations. Vegetation shall be properly maintained to control excess canopy growth and height. Landscape shall not exceed any FAA determination for maximum building height.

While this mixed-use project encompasses a variety of uses, the landscape design guidelines will ensure that future development of the Site reflects the overall theme of the area, creating a unifying aesthetic that provides for meaningful spaces that relate to the adjacent buildings. The following three key landscape design characteristics will set a consistent landscape theme across the Development; ***Human Interaction, Open Space and Planting & Hardscape Design***

A. HUMAN INTERACTION

The landscape design for this project should center on promoting human connectivity. This can be achieved through providing dynamic open space areas that spur interaction, designing alluring pathways that connect all areas of the development, and by using planting design to create beautiful outdoor environments that inspire users to be outside and foster human connections. Landscape design should promote human interaction by incorporating the following guidelines:

- Provide connections to, from, and within Lots to support pedestrian activity and other mobility options to enhance the interconnectivity within the Development.
- Provide enhanced pedestrian plazas and promenades within the commercial Lots.
- Utilize covered or shaded walkways, passageways, courtyards, and plazas.
- Design street-spaces that support the pedestrian by incorporating safe and comfortable pedestrian amenities such as seating, lighting, shade, landscape and hardscape, crosswalk refuge areas, and curb and sidewalk extensions.
- Coordinate the design of pedestrian, auto, parking and service areas to minimize pedestrian interruption and pedestrian-vehicular conflicts.
- Provide open space for public and private outdoor activities, special events, and day-to day activities.

B. OPEN SPACE

Open space areas provide the opportunity for humans to experience the natural environment. Open space is of vital importance to the desirability of the project as a place to visit, work, or recreate. Open space areas are used for buffering adjacent land uses, establishing pedestrian circulation routes, providing gathering spaces, active and passive recreation, site beautification, and as storm water

retention areas. These areas should be treated to provide a network of green spaces throughout the Site that will provide a common aesthetic and include amenity spaces for visitors and employees. Open spaces should:

- Visually and physically connect uses and open spaces by providing walkways, gathering and activity areas, and green-ways.
- Connect open spaces of neighboring land uses through common entry courts, linked plazas and amenity areas, and coordinated landscape.
- Provide open space at intersections to promote pedestrian and visual interest.

C. PLANTING & HARDSCAPE DESIGN

Integration of development into the natural and built environments is critical to strengthening continuity and character throughout the Development. People-oriented urban design should be reinforced through landscape planting, street furniture, decorative paving, and lighting. These elements should provide an abundance of shade, color, and varied textures and forms. Planting and hardscape design should utilize the following principles:

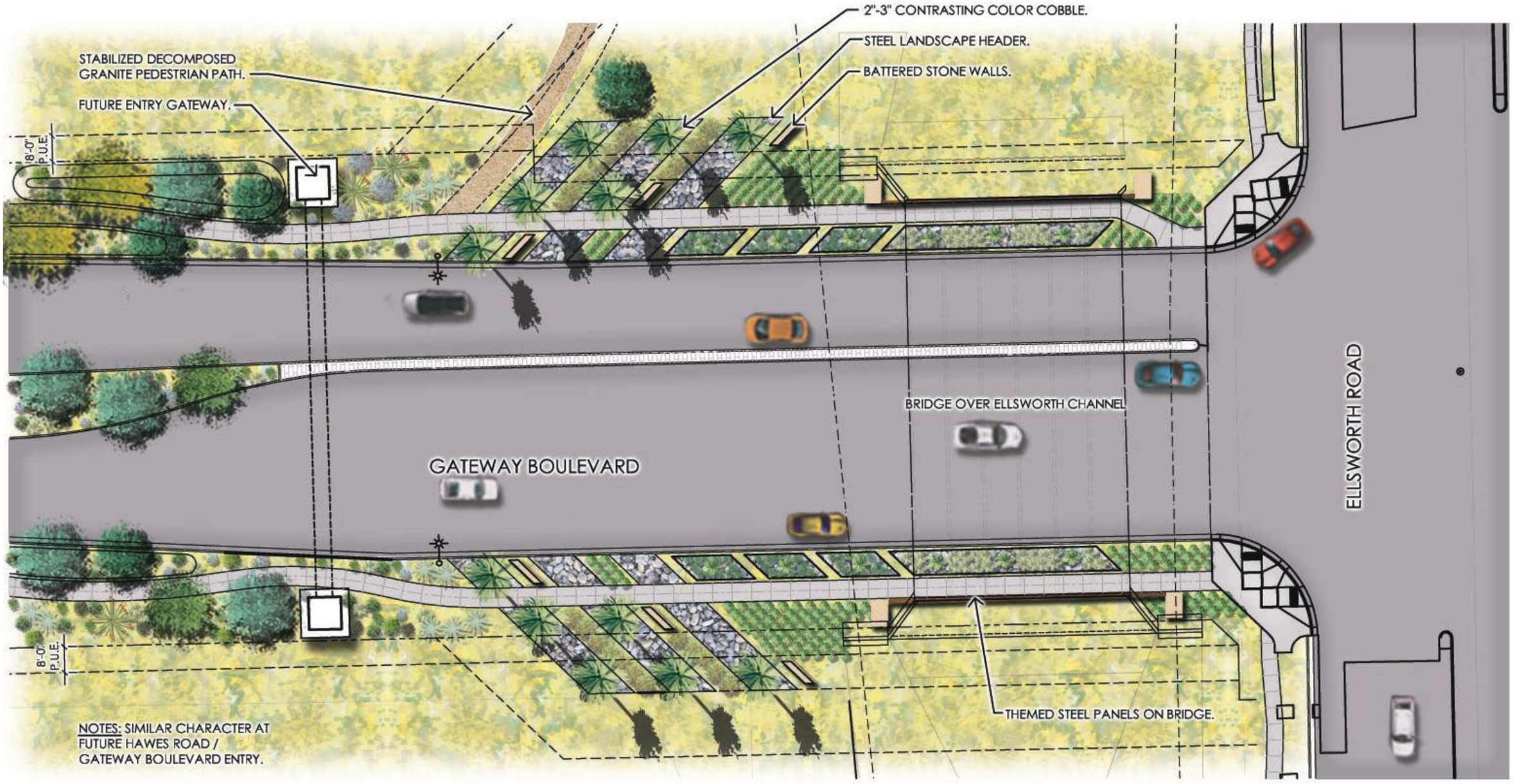
- Landscape forms should create pedestrian environments that are protected from vehicular traffic.
- Accent lighting should promote ambiance, character, and safety.
- Hardscape and special paving should be integrated into the Development at key focus areas including building entrances, pedestrian crossings, pathways, and amenity areas.
- Use masses of native plants to provide color, texture, and pattern.
- Spotlight distinctive areas with one large specimen tree.
- Use the height of date palms or other vertical landscape elements to identify entrances and prominent pedestrian areas.
- Use planting palettes to distinguish zones throughout the Development.
- Utilize native plants that promote sensitivity to the environment and allow for water conservation.

6.2 ENTRY DESIGN

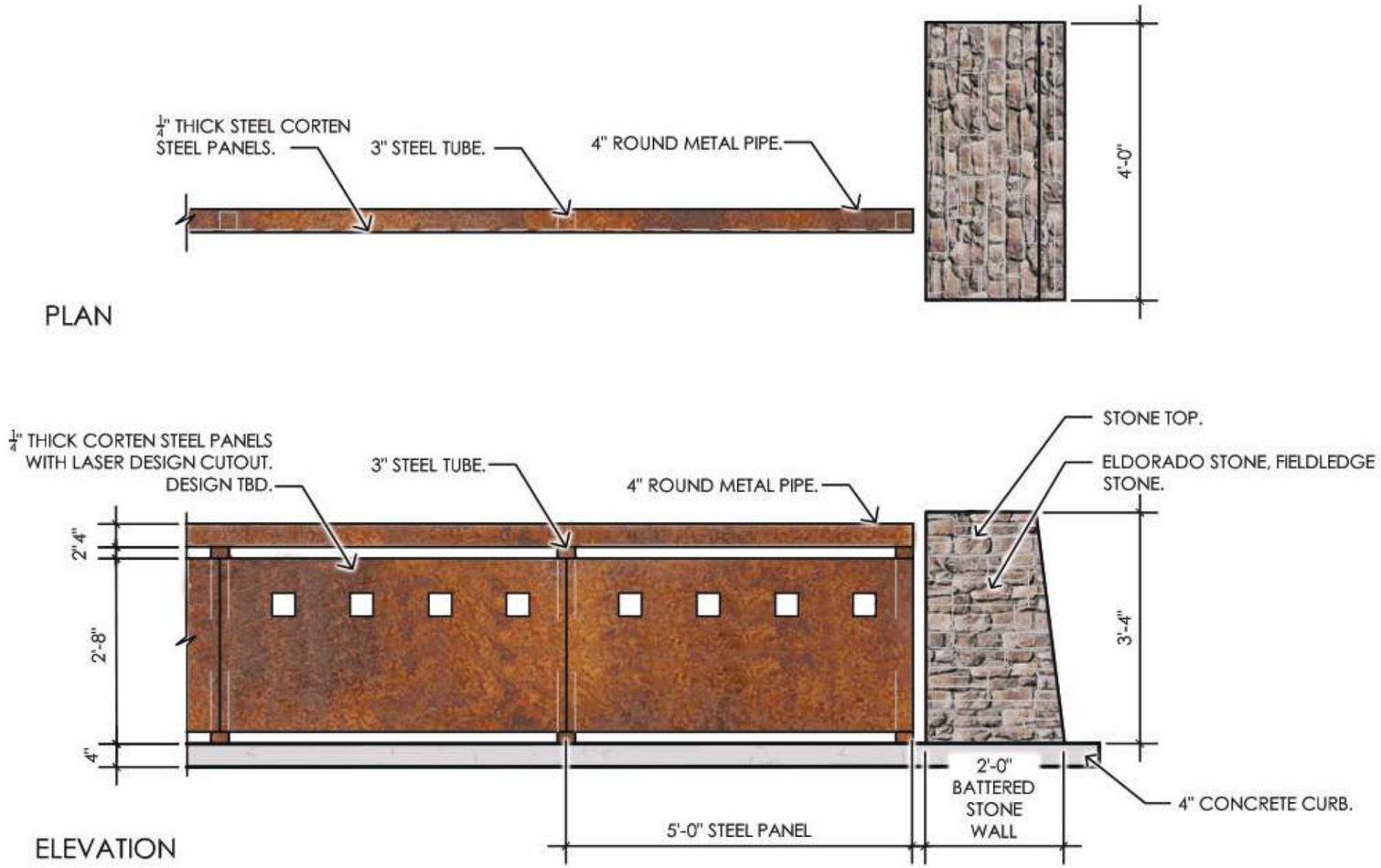
*Character image subject to future development

6.3 STREETSCAPE CHARACTER

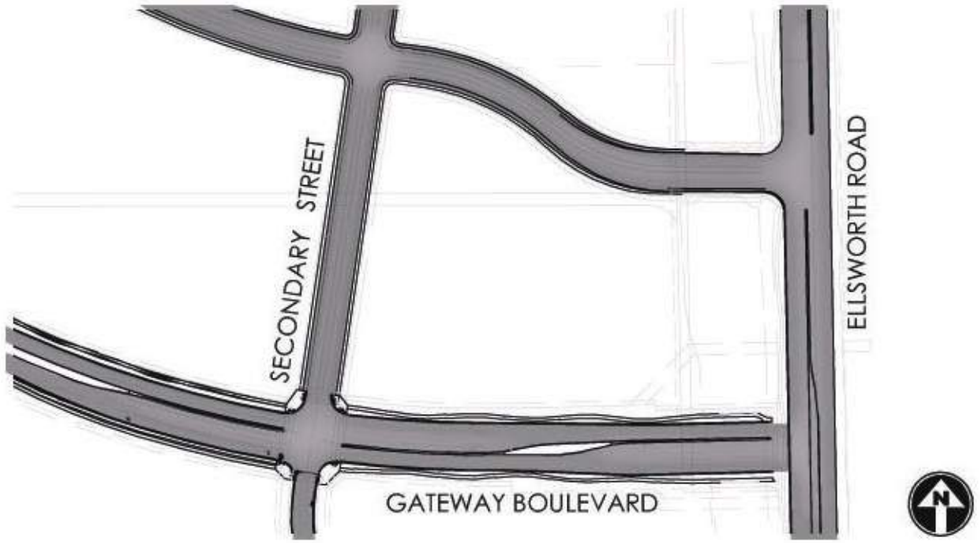
6.4 PRIMARY ENTRY PLAN

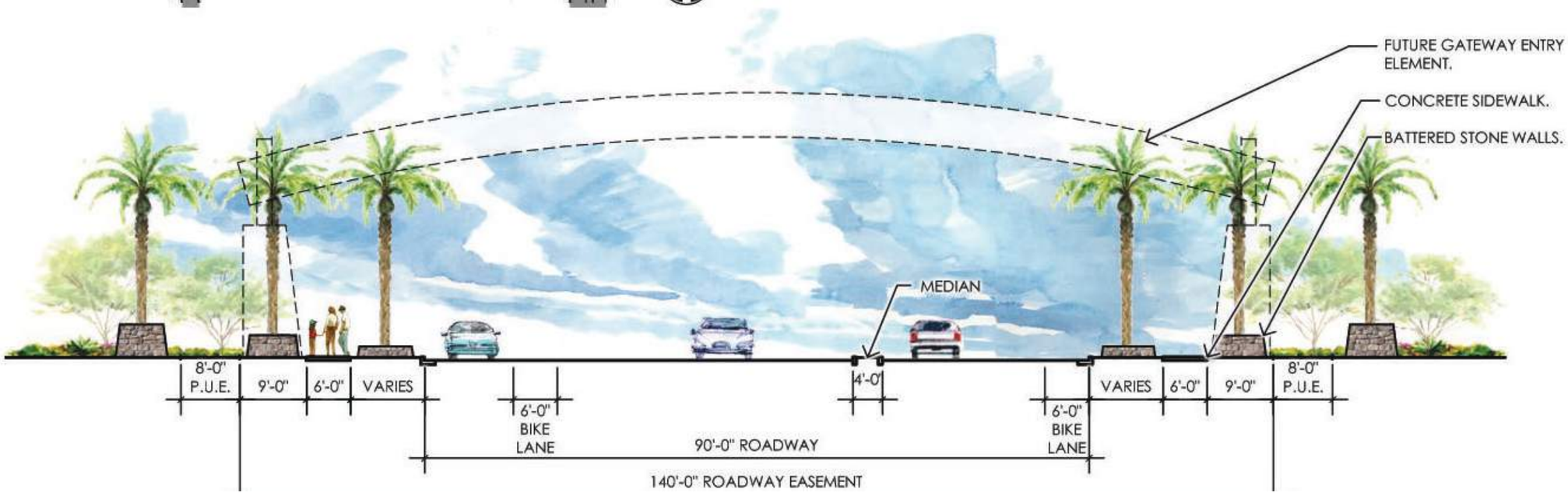


6.5 BRIDGE WALL DESIGN

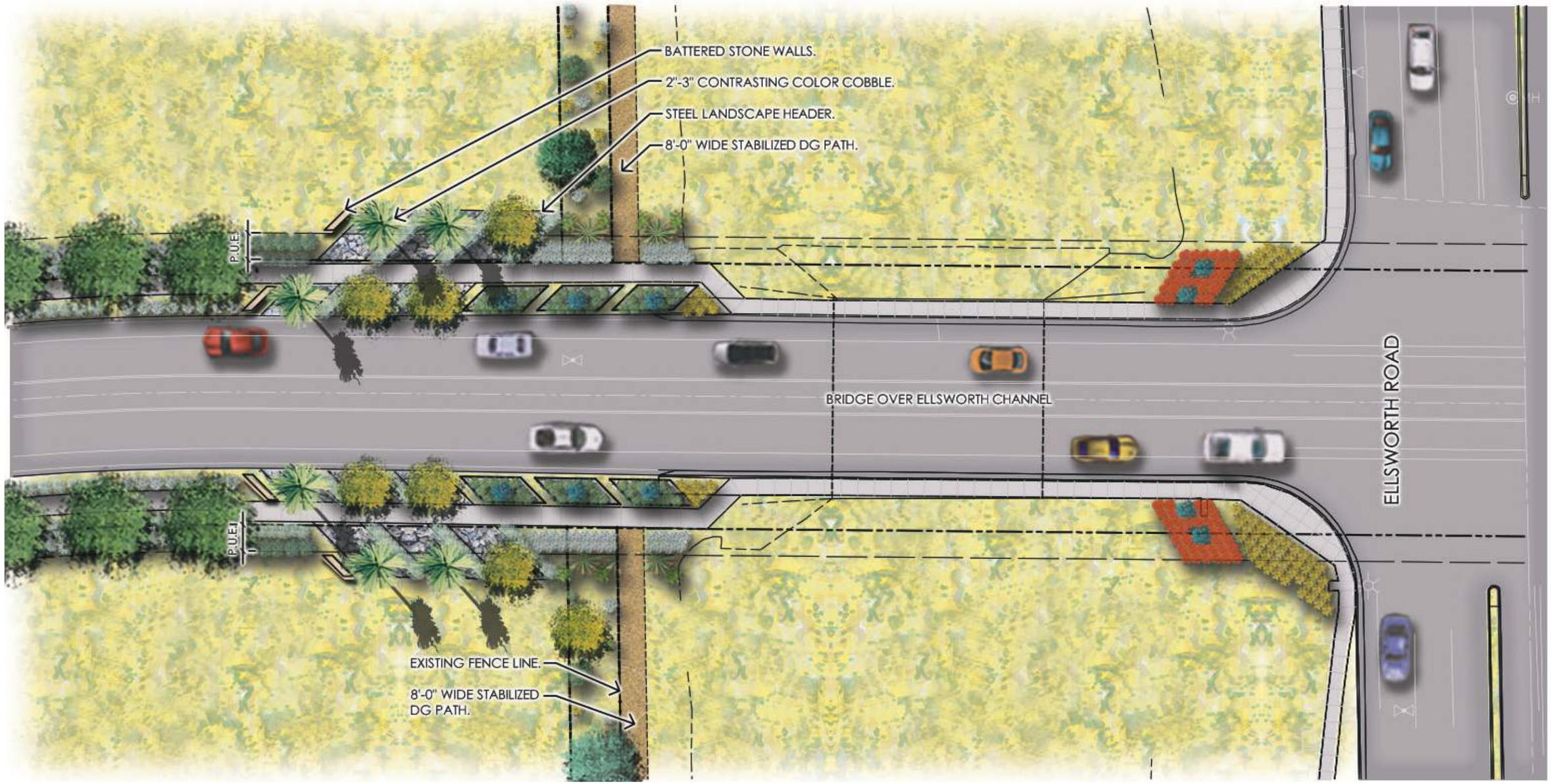


6.6 PRIMARY ENTRY SECTION



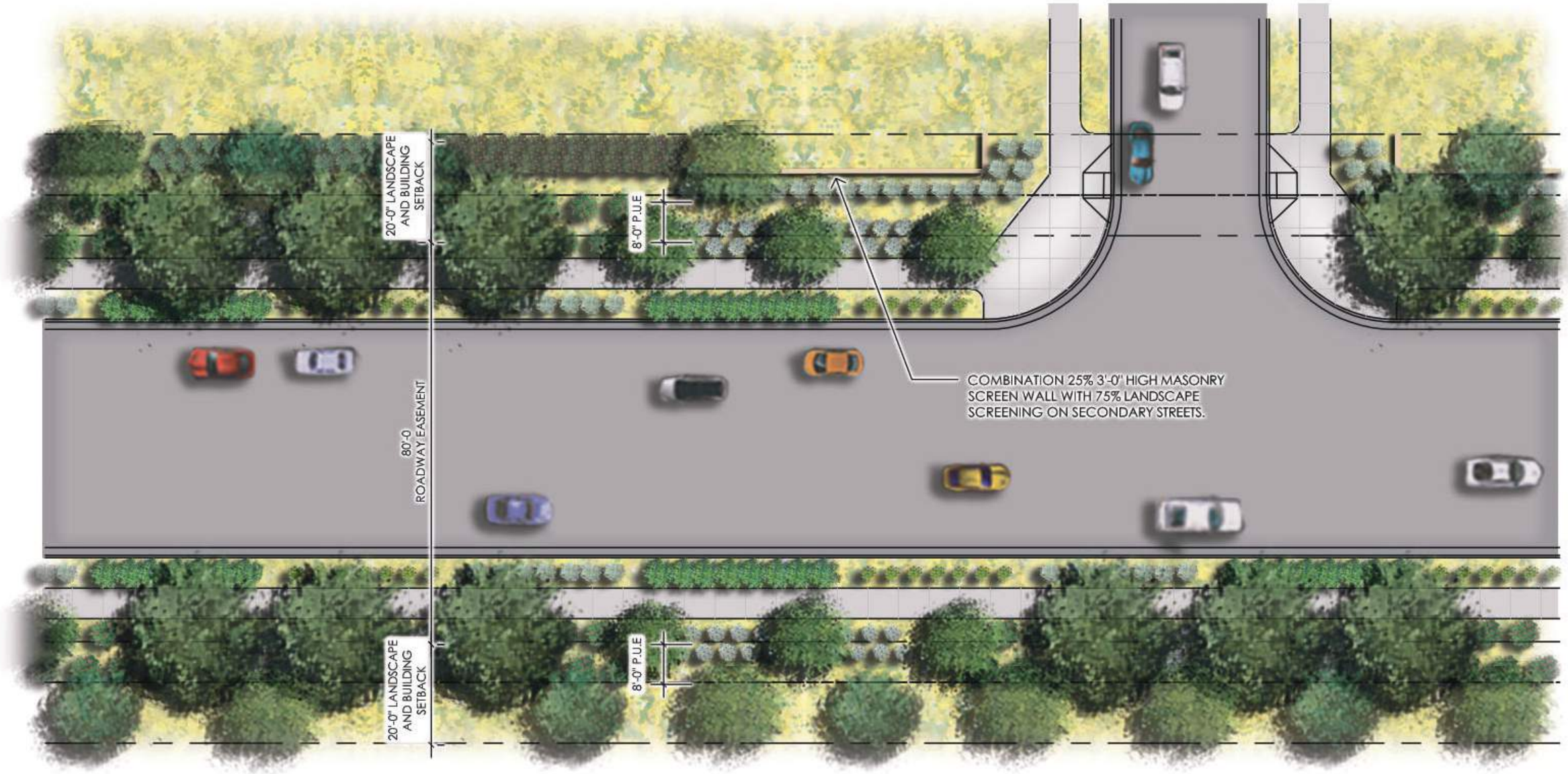


6.7 SECONDARY ENTRY PLAN

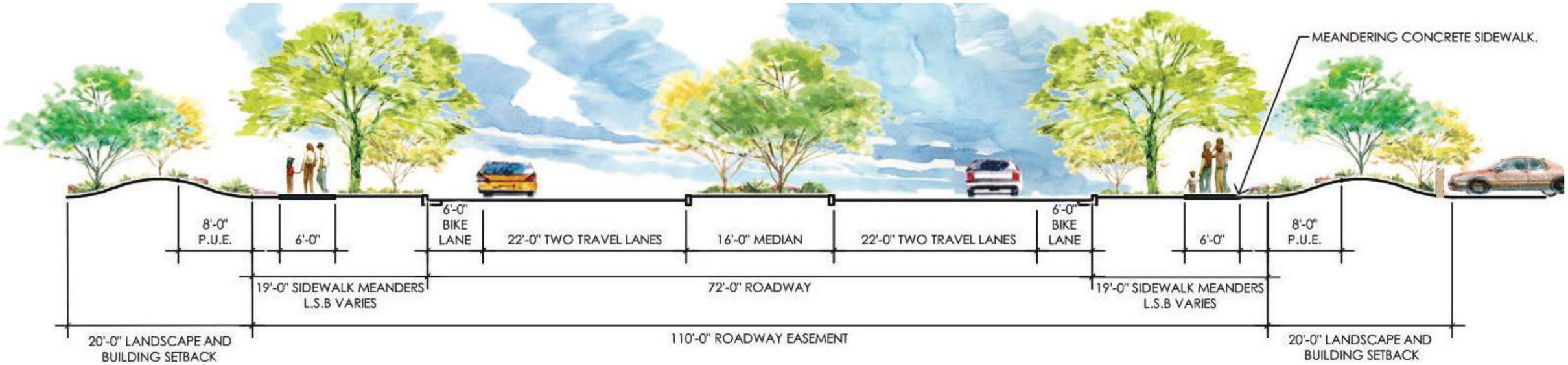


6.8 PRIMARY STREET LANDSCAPE (GATEWAY BOULEVARD)

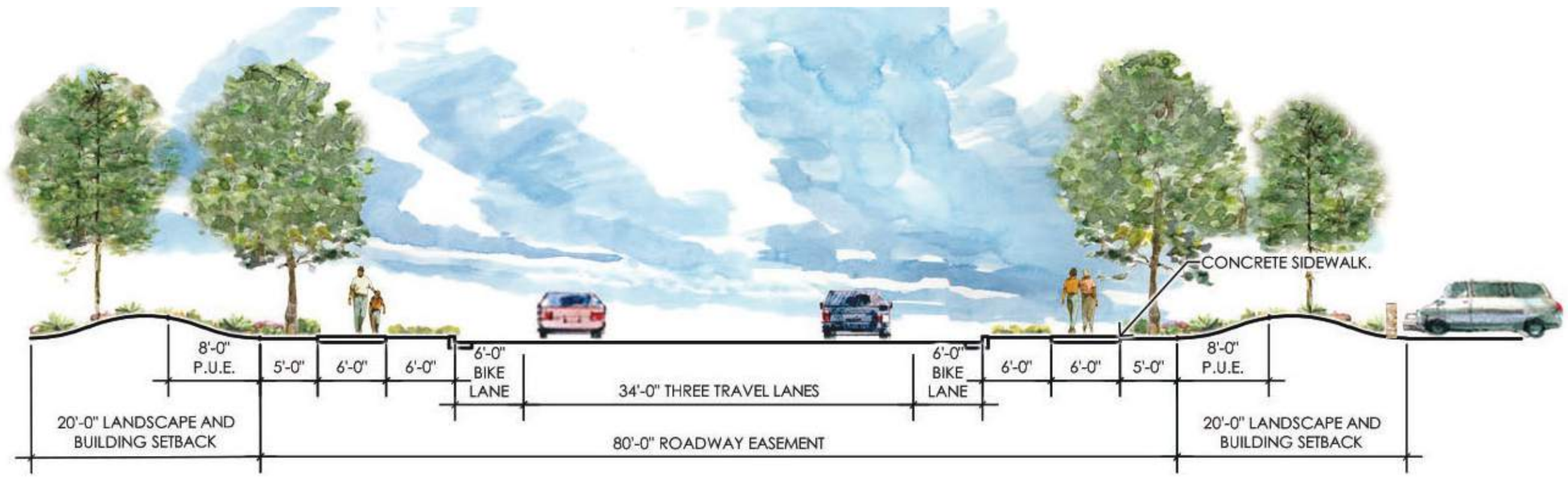
6.9 SECONDARAY STREET LANDSCAPE



6.10 TYPICAL STREET SECTIONS

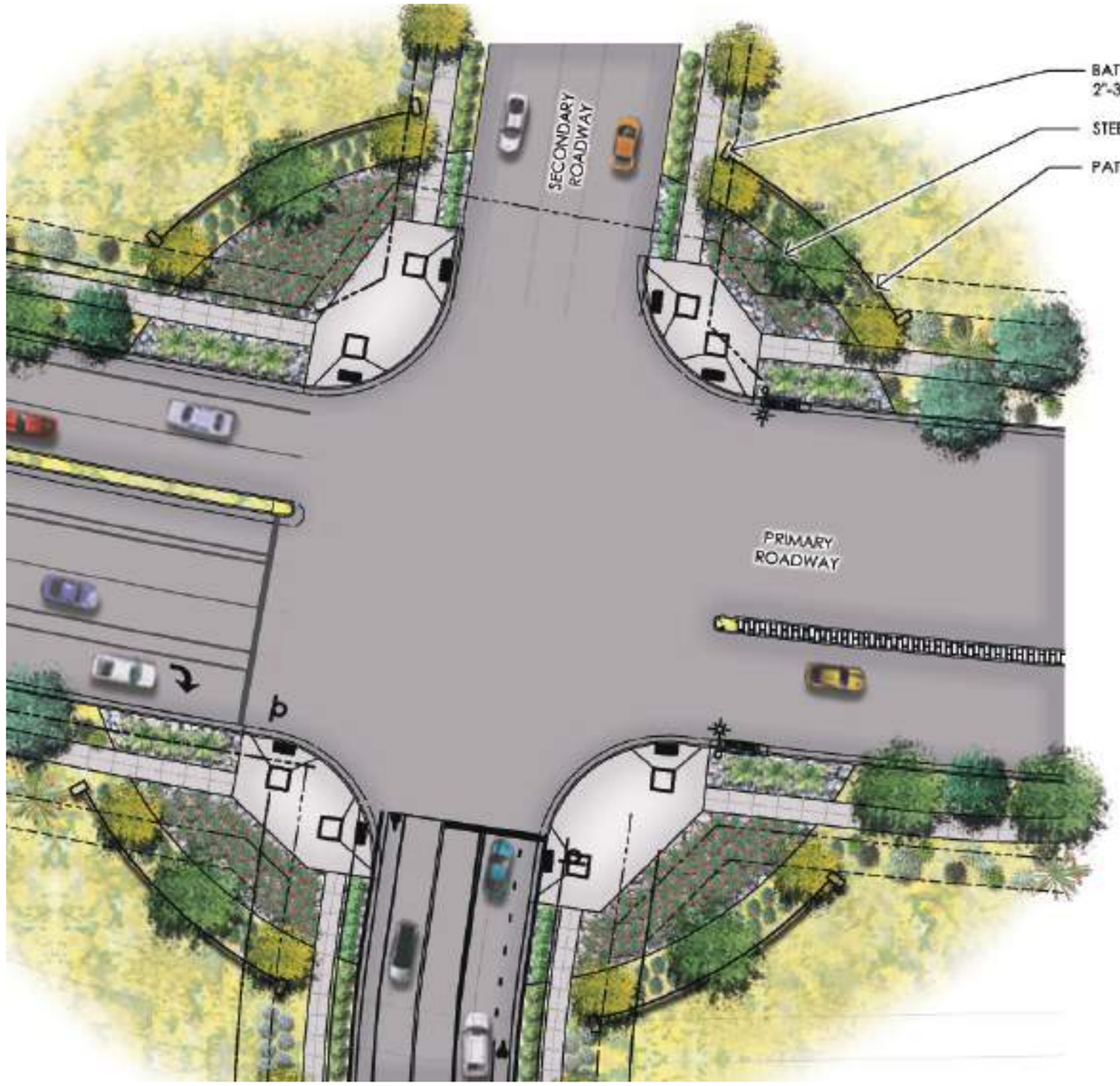


PRIMARY STREET



SECONDARY STREET

6.11 INTERSECTION DESIGN



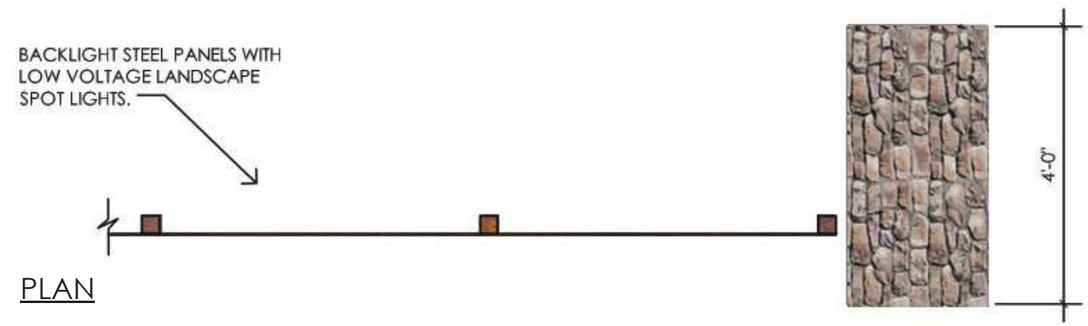
PLAN

BATTERED STONE COLUMN, 3'-0" HIGH. 2"-3" DIAMETER CONTRASTING COLOR COBBLE.

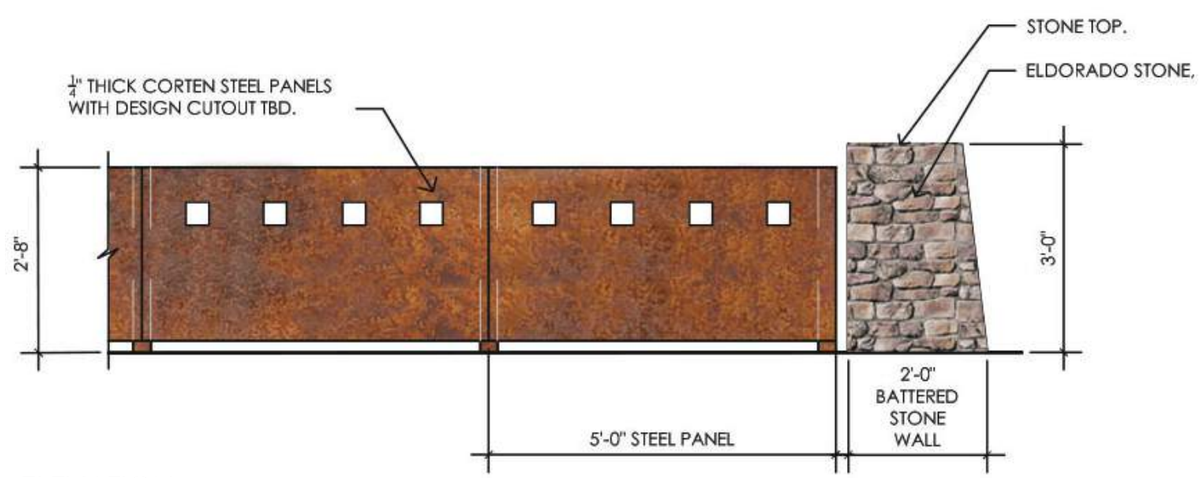
STEEL LANDSCAPE HEADER.

PATTERNED LASER CUT STEEL PANELS, 2'-0" HIGH.

DECORATIVE STEEL PANELS AT INTERSECTION



PLAN



ELEVATION

6.12 PLANT PALETTE

BOTANICAL NAME	COMMON NAME	Open Spaces	Entries	Roadway
TREES				
Acacia aneura	*Mulga Acacia*	X		X
Acacia salicina	*Willow Acacia*	X		
Acacia saligna	*Blue Leaf Wattle*	X		
Acacia stenophylla	*Shoestring Acacia*	X		
Acacia willardiana	*Palo Blanco*	X		
Bauhinia blakeana	*Hong Kong Orchid*	X		
Bismarckia nobilis	*Bismark Palm*	X		
Brahea armata	*Mexican Blue Palm*	X		
Caesalpinia cacalaco	*Cascalote*	X		
Caesalpinia cacalaco 'Smoothie'	*Thornless cascalote*			X
Caesalpinia mexicana	*Mexican Bird of Paradise*	X		
Chillopsis linearis 'Bubba'	*Bubba Desert Willow*	X		X
Chitalpa tashkentensis	*Chitalpa*	X		
Citrus reticulata	*Mandarin Orange*	X		
Ebanopsis ebano	*Texas Ebony*	X		
Jacaranda mimosifolia	*Jacaranda*	X		
Neriuim oleander	*White Oleander*	X		
Olea europa 'Swan Hill'	*Swann Hill Olive*	X		
Olneya tesota	*ironwood*	X	X	X
Parkinsonia florida	*Blue Palo verde*	X	X	X
Parkinsonia microphylla	*Foothills Palo Verde*	X	X	X
Parkinsonia praecox	*Palo Brea*	X		
Phoenix dactylifera 'medjool'	*Medjool Date Palm*	X	X	X
Pistacia lentiscus	*Mastic Tree*	X		
Platanus mexicana	*Mexican Sycamore*	X		
Prosopis alba 'cooperi'	*Copper's Mesquite*	X		
Prosopis hybrid 'Phoenix'	*Thornless Mesquite*	X		X
Prosopis veluntia	*Native Mesquite*	X	X	X
Prunus cerasifera 'Atropupurea'	*Purple-Leaf Plum*	X		
Pyrus calleryana	*Bradford Pear*	X		
Tabebuia Tree	*Tabebuia ssp.*	X		
Quercus shumardii	*Shumard Oak*	X		
Quercus virginiana	*Southern Live Oak*	X		X
Ulmus parviflora 'True Green'	*True Green Elm*	X		
SHRUBS				
Acacia craspedocarpa	*Leatherleaf Acacia*	X		
Alyogyne hueglii	*Blue Hibiscus*	X		X
Ambrosia deltoidea	*Triangle Leaf Bursage*		X	X
Asparagus densiflorus 'Myers'	*Foxtail Fern*	X		
Bougainvillea 'Barbara Karst'	Barbara Karst Bougainvillea	X		X
Bougainvillea 'Rosenka'	*Bougainvillea*	X	X	X
Bougainvillea 'Royal Purple'	*Bougainvillea*		X	X
Bougainvillea 'San Diego Red'	*Bougainvillea*	X		X
Bougainvillea 'Superstition Gold'	*Superstition Gold Bougainvillea*	X		
Bougainvillea 'white'	*White Bougainvillea*		X	X
Boutteloua gracilis 'Blonde Ambition'	*Blonde Ambition Blue Grama*			X
Buddleia davidii	*Wooly Butterfly Bush*			X
Caesalpinia mexicana	*Mexican Bird of Paradise*	X		
Caesalpinia gillesii	*Yellow Bird of Paradise*	X		
Calliandra californica	*Red Fairy Duster*	X	X	X
Calliandra eriophylla 'Maricopa Red'	*Prostrate Fairy Duster*			X
Calliandra eriophylla	*Pink Fairy Duster*	X	X	X
Calliandra 'Sierra Star'	*Sierra Star*			X
Callistemon viminalis 'Little John'	*Botttle Bush*	X		
Carissa grandiflora	*Natal Palm*	X		
Carissa macrocarpa 'Boxwood Beauty'	*Compact Natal Palm*	X		
Celtis Pallida	*Desert Hackberry*			X

BOTANICAL NAME	COMMON NAME	Open Spaces	Entries	Roadway
Chrysactinia mexicana	*Damianita*			X
Citrus aurantium	*Sour Orange Hedge*	X		
Cordia boissieri	*Mexican Olive*	X	X	
Cordia parviflora	*Little Leaf Cordia*	X	X	X
Dalea capitata	*Golden Dalea*	X		X
Dalea frutescens	*Black Dalea*	X	X	X
Dodonaea viscosa	*Hop Bush*	X		
Encilia farinosa	*Brittle Bush*	X	X	X
Eremophila galabra ssp. Carnosa Winter Blaze	*Winter Blaze*	X	X	X
Eremophila hygophana Blue Bells	*Blue Bells*	X		X
Eremophila maculata 'Valentine'	*Valentine' Shrub*	X		X
Ericameria larcifolia	*Turpentine Bush*	X	X	X
Erigonum fasciculatum	*Flat Top Buck Wheat*			X
Euonymus japonicus 'Green Spire'	*Green Spire Euonymus*	X		
Hamelia patens	*Firecracker Bush*	X		
Hibiscus rosa-sinensis 'Red'	*Red Hibiscus*	X		
Ilex vomitoria nana	*Dwarf Youpon Holly*	X		
Jasminum sambac	*Arabian Jasmine*	X		
Justicia californica	*Chuparosa*	X	X	X
Justicia californica 'Yellow'	*Yellow Chuparosa*		X	X
Justicia spicigera	*Mexican Honeysuckle*	X		
Lantana camara 'Dallas Red'	*Dallas Red Lantana*	X		
Larrea tridentada	*Creosote*	X	X	X
Leucophyllum candidum 'Thunder Cloud'	*Thunder Cloud Sage*	X	X	X
Leucophyllum frutescens 'Compacta'	*Compact Texas Sage*			X
Leucophyllum frutescens 'White Cloud'	*White Cloud Sage*			X
Leucophyllum hybrid 'Rain Cloud'	*Rain Cloud Texas Ranger*	X		
Leucopyllum langamaniae 'Lynns Legacy'	*Lynn's Legacy Sage*	X		X
Leucophyllum laevigatum 'summer Snow'	*Summer Snow Sage*	X	X	X
Leucophyllum laevigatum	*Chihuahuan Sage*		X	X
Leucophyllum langamaniae 'Rio Bravo'	*Rio Bravo Sage*	X		X
Leucophyllum pruinosm 'Sierra Bouquet'	*Sierra Bouquette' TM*	X		X
Leucophyllum revolutum 'Sierra Magic'	*Sierra Magic Sage*			X
Leucophyllum zygophyllum	*Blue Ranger*	X		
Leucophyllum zygophyllum 'Cimarron'	*Cinnamon Sage*	X		
Leucophyllum x 'Convent'	*Convent Texas Ranger*	X	X	X
Myrtus communis 'Boetica'	*Twisted Myrtle*	X		
Nerium oleander 'Petite Pink'	*Petite Pink Oleander*	X		
Olea europaea 'Montra'	*Little Dwarf Ollie*	X		
Perovskia atriplicifolia	*Russian Sage*	X		X
Pittosporum tobira 'Dwarf Variegata'	*Dwarf Variegated Mock Orange*	X		
Pittosporum tobira 'variegata'	*Variegated Mock Orange*	X		
Photinia x fraseri	*Fraser photinia*	X		
Portulacaria macrophylla	*Large Leaf Elephant Plant*	X		
Raphiolepis indica 'White Clara'	*Indian Hawthorne*	X		
Rhus trilobata	*Skunkbush Sumac*	X		
Rosmarinus officinalis 'Tuscan Blue'	*Upright Rosemarry*	X		
Ruellia brittonia 'Purple Flower'	*Ruellia Purple*	X		X
Ruellia brittonia 'White Flower'	*Ruellia White*	X		
Ruellia peninsularis	*Desert Ruellia*	X	X	X
Russelia equisetiformis	*Coral Fountain*	X	X	X
Salvia clevlandii	*Chaparral Sage*	X	X	X
Salvia greggii	*Autumn Sage*	X		X
Senna wislizenii	*Shrubby Senna*			X
Sophora secundiflora	*Texas Mountain Floral*	X		
Simmondsia chinensis	*Jojoba*		X	X
Sphaeralcea ambigua	*Globe Mallow*	X	X	X
tecoma alata 'Orange Jubilee'	*Orange Jubilee*	X		
Tecoma Stans	*Yellow Bells*	X	X	X
Viguiera deltoidea	*Goldeneye*			X

6.12 PLANT PALETTE (continued)

BOTANICAL NAME	COMMON NAME	Open Spaces	Entries	Roadway
GROUNDCOVERS				
Dalea capitata	*Golden Dalea*	X	X	X
Dyssodia pentachaeta	*Golden dyssodia*	X	X	X
Eremophila galabra	*Minginew Gold*	X	X	X
Gaura lindheimeri	*Pink Gaura*	X		X
Glandularia gooddingii	*Goodding Verbena*		X	X
Lantana camara 'Dallas Red'	*Dallas Red Lantana*	X		X
Lantana camara 'Gold Mound'	*Gold Mound Lantana*	X	X	X
Lantana montevidensis	*Purple Trailing Lantana*	X	X	X
Lantana montevidensis 'white'	*White Trailing Lantana*	X		X
Lantana 'New Gold'	*New Gold Lantana*			X
Liriope muscari	*Lily Turf*	X		
Malephora lutea	*Rocky Point Ice Plant*	X		
Melampodium leucqanthum	*Blackfoot Daisy*	X		
Rosmarinus officinalis ' Prostratus'	*Dwarf Rosemarry*	X		
Setcreasea pallida	*Purple Trailing Heart*	X		
Trachelospermum asiaticum	*Asiatic Jasmine*	X		
Vinca major	*Bigleaf Perrywinkle*	X		
CACTUS				
Agave americana	Century Plant	X		X
Agave americana var. marginata	*Variegated Century Plant*	X		X
Agave 'AZ Smiles'	*AZ Simles Agave*	X		
Agave deserti	*Desert Agave*	X	X	X
Agave ferdinand-regis	*Ferdinand Agave*	X		
Agave macdougalii	*MacDougall's Century Plant*		X	X
Agave ovatifolia	*Whale's Toungue Agave*	X		
Agave Parryi	*Parry's Agave*	X		X
Agave 'Sharkskin'	*Sharkskin Agave*			X
Agave scabra	*Rough Agave*	X		
Agave tequilana	*Weber Blue Agave*		X	X
Agave weberi	*Blue Agave*		X	X
Aloe barbadensis	*Medicinal Aloe*	X	X	X
Aloe daweii	*Dawe's Aloe*	X		
Aloe ferox	*Aloe Hercules*	X		
Aloe 'Hercules'	*Hercules Aloe*	X		
Aloe 'Rooikappie'	*Little Red Riding Hood Aloe*	X		X
Aloe rudikoppe	*Little Red Riding Hood Aloe*			X
Aloe x 'Blue Elf'	*Blue Elf Aloe*	X		
Alluaudia procera	*Madagascar Ocotillo*	X		
Anigozanthos flavidus	*Kangaroo Paw*	X		
Asclepias subulata	*Desert Milkweed*	X	X	X
Bouteloua gracilis 'Blonde Ambition'	*White Trailing Lantana*	X		
Bulbine frutescens 'Yellow'	*Yellow Bulbine*			X
Carnehiea gigantea	*Suguaro Spear*	X		
Carnegiea gigantea	*Suguaro*	X		X
Cilyndropuntia versicolor	*Staghorn cholla*			X
Chamaerops humilis	*Med. Fan Palm*	X		
Cycas revoluta	*Sago Palm*	X		
Dasylirion longissimum	*Mexican Grass Tree*	X	X	
Dasylirion wheeleri	*Desert Spoon*	X	X	X
Dioon edule	*Cycad*	X		

BOTANICAL NAME	COMMON NAME	Open Spaces	Entries	Roadway
Echinocactus grusonii	*Golden Barrel Cactus*	X		
Echinopsis candicans	*Argentine Giant*			X
Echinopsis pachanoi	*San Pedro Cactus*	X		
Euphorbia antisyphilitica	*Candelilla*	X		X
Euphorbia biglandulosa	*Gopher Plant*	X		X
Euphorbia ingens	*Chocolate Drop Cactus*	X		
Euphorbia resinifera	*Moroccan Mound*	X		X
Euphorbia royleana	*Churee*	X		
Euphorbia tirucalli	*Fire Sticks*	X		
Ferocactus acanthodes	*Compass Barrel*	X		
Ferocactus cylindraecus	*Compass Barrel*			X
Ferocactus gracilis	*Fire Barrel Cactus*	X		X
Ferocactus ssp.	*Barrel Cactus*			X
Fouquieria macdougalii	*Mexican Tree Ocotillo*	X		
Fouquieria splendens	*Ocotillo*	X	X	X
Guara lindheimeri	*Pink Gaura*			X
Hesperaloe funifera	*Giant Hesperaloe*		X	X
Hesperaloe parviflora 'Perpa' Brakelights	*Brake Lights Red Yucca*	X	X	X
Hesperaloe parviflora 'Sandia Glow'	*Sandia Glow Red Yucca*	X		
Hesperaloe parviflora -Red	*Red Hesperaloe*			X
Hesperaloe parviflora -yellow	*Yellow Hesperaloe*	X	X	X
Kalanchoe beharensis 'Blue Stick'	*Blue Sticks*	X		
Lopherocereus schottii 'Monstrosus'	*Senita*	X		
Muhlenbergia capallaris 'Regal Mist'	*Regal Mist*	X	X	X
Muhlenbergia lindheimeri 'Autumn Glow'	*Autumn Glow*		X	X
Muhlenbergia rigens	*Deer Grass*	X		
Opuntia basilaris 'Baby Rita'	*Beavertail Prickly Pear*	X		
Opuntia basilaris	*Beavertail Prickly Prear*	X		X
Opuntia engelmannii	*Engelmann's Prickley Pear*	X	X	X
Opuntia gomei	*Old Mexico Prickly Pear*	X		
Opuntia violacea santa-rita	*Purple Prickly Pear*	X		X
Pachycereus schottii f.' monstrosus'	*TotemPole Cactus Single Arm*	X		
Pachycereus schotti	*Senita Cactus*			X
Pedilanthus bracteatus	*Tail slipper Plant*	X		
Pedilanthus macrocarpus	*Lady's Slipper*	X		
Penstemon superbus	*Superb Penstemon*	X		
Rosa hybrid	*White Hybrid tea Rose*	X		
Stenocereus thurberi	*Organ Pipe*	X		X
Yucca baccata	*Banana Yucca*	X	X	X
Yucca elata	*Soap Tree Yucca*	X	X	X
Yucca filifera	*St. Peter's Yucca*			X
Yucca rostrata	*Beaked Yucca*	X		
Yucca rigida	*Blue Yucca*	X	X	X
VINES				
Bougainvillea 'Barbra Karst'	*Bougainvillea*	X		
Bougainvillea 'La Jolla'	*Bougainvillea*	X		
Bougainvillea 'San Diego Red'	*Bougainvillea*	X	X	
Ficus pumila	*Creeping Fig*	X		
Parthenocissus sp. 'Hacienda'	*Hacienda Creeper*	X		

6.13 SITE MATERIALS / AMENITY PALETTE

Eldorado Stone, Fieldledge Stone
at accent walls and columns

Eldorado Stone, Hillstone Stone
at entry gateway.

Rock Pros USA, Mahogany crushed
rock, $\frac{1}{2}$" screened, overall site.

Rock Pros USA, Painted Desert rip
rap, 3"-4" diameter.

*Representative amenity character & quality. Final selection may vary.

Gateway East

Exhibit C (h)

- Financial analysis of overall project
  - General proforma
  - Conceptual ground lease value
  - Cash flow model

GATEWAY EAST - GENERIC PROJECT 1 BUILDING
MESA AIRPORT, AZ
CASH FLOW MODEL

Period	0	1	2	3	4	5	6	7	8	9	10
Income											
Base Rent		$2,250,000	$2,295,000	$2,340,900	$2,387,718	$2,435,472	$2,484,182	$2,533,865	$2,584,543	$2,636,234	$2,688,958
Less: Lender Reserves for Vacancy and Credit Loss		($56,250)	($57,375)	($58,523)	($59,693)	($60,887)	($62,105)	($63,347)	($64,614)	($65,906)	($67,224)
Effective Gross Income		$2,193,750	$2,237,625	$2,282,378	$2,328,025	$2,374,586	$2,422,077	$2,470,519	$2,519,929	$2,570,328	$2,621,734
Expenses											
Less Ground Lease		($143,748)	($147,342)	($151,025)	($154,801)	($158,671)	($162,638)	($166,704)	($170,871)	($175,143)	($179,522)
Net Operating Income		**$2,050,002**	**$2,090,283**	**$2,131,352**	**$2,173,224**	**$2,215,915**	**$2,259,440**	**$2,303,815**	**$2,349,058**	**$2,395,185**	**$2,442,213**
Annual Debt Service		($1,640,002)	($1,640,002)	($1,640,002)	($1,640,002)	($1,640,002)	($1,640,002)	($1,640,002)	($1,640,002)	($1,640,002)	($1,640,002)
Before Tax Cash Flow		***$410,000***	***$450,282***	***$491,351***	***$533,223***	***$575,913***	***$619,438***	***$663,814***	***$709,056***	***$755,183***	***$802,211***
Residual Value											
Sale Value		$0	$0	$0	$0	$0	$0	$0	$0	$0	$31,126,993
Prepayment Penalty		$0	$0	$0	$0	$0	$0	$0	$0	$0	($329,155)
Less: Cost of Sale		$0	$0	$0	$0	$0	$0	$0	$0	$0	($311,270)
Adjusted Gross Sale Proceeds		$0	$0	$0	$0	$0	$0	$0	$0	$0	$30,486,568
Less: Mortgage Balance		$0	$0	$0	$0	$0	$0	$0	$0	$0	($16,457,748)
Net Proceeds of Sale		$0	$0	$0	$0	$0	$0	$0	$0	$0	$14,028,820
	0	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Project Before Tax Cash Flow	***($2,794,335)***	***$410,000***	***$450,282***	***$491,351***	***$533,223***	***$575,913***	***$619,438***	***$663,814***	***$709,056***	***$755,183***	***$14,831,031***
Equity Loan Interest/Principal Payment											
Beginning Equity Loan Balance		$2,794,335	$2,565,966	$2,282,473	$1,939,483	$1,532,326	$1,056,015	$505,218	$0	$0	$0
Equity Loan Interest Payment		($181,632)	($166,788)	($148,361)	($126,066)	($99,601)	($68,641)	($32,839)	$0	$0	$0
Return of Equity Loan Principal		($228,369)	($283,494)	($342,990)	($407,156)	($476,312)	($550,797)	($505,218)	$0	$0	$0
Ending Equity Loan Balance		**$2,565,966**	**$2,282,473**	**$1,939,483**	**$1,532,326**	**$1,056,015**	**$505,218**	**$0**	**$0**	**$0**	**$0**
Cash Flow Available for Residual Distribution		***$0***	***$0***	***$0***	***$0***	***$0***	***$0***	***$125,757***	***$709,056***	***$755,183***	***$14,831,031***
Gateway Mesa Cash Flow Participation @ 10.00%		***$0***	***$0***	***$0***	***$0***	***$0***	***$0***	***$12,576***	***$70,906***	***$75,518***	***$1,483,103***

GATEWAY EAST MULTI-PHASE RECEIPTS
MESA AIRPORT, AZ

Period	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Gateway East Receipts																				
Ground Lease - Project 1	$143,748	$147,342	$151,025	$154,800	$158,671	$162,638	$166,704	$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 1	$0	$0	$0	$0	$0	$0	$12,576	$70,906	$75,518	$1,483,103	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Ground Lease - Project 2		$147,342	$151,025	$154,800	$158,671	$162,638	$166,704	$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 2		$0	$0	$0	$0	$0	$0	$12,827	$72,324	$77,029	$1,512,765	$0	$0	$0	$0	$0	$0	$0	$0	$0
Ground Lease - Project 3			$151,025	$154,800	$158,671	$162,638	$166,704	$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 3			$0	$0	$0	$0	$0	$0	$13,084	$73,770	$78,569	$1,543,020	$0	$0	$0	$0	$0	$0	$0	$0
Ground Lease - Project 4				$154,800	$158,671	$162,638	$166,704	$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 4				$0	$0	$0	$0	$0	$0	$13,345	$75,246	$80,141	$1,573,881	$0	$0	$0	$0	$0	$0	$0
Ground Lease - Project 5					$158,671	$162,638	$166,704	$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 5					$0	$0	$0	$0	$0	$0	$13,612	$76,751	$81,743	$1,605,358	$0	$0	$0	$0	$0	$0
Ground Lease - Project 6						$162,638	$166,704	$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 6						$0	$0	$0	$0	$0	$0	$13,885	$78,296	$83,378	$1,637,466	$0	$0	$0	$0	$0
Ground Lease - Project 7							$166,704	$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 7							$0	$0	$0	$0	$0	$0	$14,162	$79,851	$85,046	$1,670,215	$0	$0	$0	$0
Ground Lease - Project 8								$170,871	$175,143	$179,522	$184,010	$188,610	$193,325	$198,158	$203,112	$208,190	$213,395	$218,730	$224,198	$229,803
Gateway Mesa Cash Flow Participation - Project 8								$0	$0	$0	$0	$0	$0	$14,446	$81,448	$86,747	$1,703,619	$0	$0	$0
TOTAL	**$143,748**	**$294,683**	**$453,076**	**$619,203**	**$793,354**	**$975,826**	**$1,179,501**	**$1,450,702**	**$1,562,070**	**$3,083,420**	**$3,152,269**	**$3,222,675**	**$3,294,673**	**$3,368,299**	**$3,428,857**	**$3,422,481**	**$3,410,777**	**$1,749,837**	**$1,793,583**	**$1,838,422**

GATEWAY EAST - GENERIC PROJECT 1 BUILDING
MESA AIRPORT, AZ
STATIC PROFORMA

PROJECT COSTS						
Development Period	12	months				
Building Size	150,000	square feet				
Building Efficiency	100.00%	efficiency				
Site Area	261,360	square feet				
Land Purchase Area	261,360	square feet				
Land	261,360	sq. ft. @	$0.00		$0	
Building Shell	150,000	sq. ft. @	$85.00		$12,750,000	
Site Work	261,360	sq. ft. @	$15.00		$3,920,400	
Tenant Improvements	150,000	sq. ft. @	$20.00		$3,000,000	
Architect & Engineer	5.00%	shell and site			$833,520	
Hard Cost Contingency	2.50%	of other hard costs			$512,598	
TOTAL HARD COST						**$21,016,518**
Legal/Miscellaneous	1.00%	of total hard costs			$210,165	
Broker Commissions	6.00%	of NNN rents (3% - 1.5% thereafter)			$1,063,119	
Municipal Permits and Fees	$250,000	lump sum			$250,000	
Project Set Up	1.00%	of permanent loan			$217,240	
Construction Management	1.33%	$1,000,000			$13,333	
	0.33%	$15,670,400			$52,229	
Construction Loan Points	0.50%	of construction loan			$104,203	
Construction Debt Interest	6.50%				$572,751	
Construction Equity Interest	7.50%				$276,103	
Rent Abatement Concessions Interest Carry	4	months of free rent			$525,391	
Permanent Loan Points	0.50%	of permanent loan			$108,620	
Permanent Loan Closing Costs	0.50%	of permanent loan			$108,620	
TOTAL SOFT COST						**$3,501,773**
TOTAL PROJECT COST (developcost)						**$24,518,291**
PROJECT REVENUES						
Base Rent	150,000	sq. ft. @	$15.00	*$1.25*		$2,250,000
Lender Reserves for Vacancy and Credit Loss	2.50%	percent of PGI				($56,250)
Ground Lease	$143,748	lump sum				($143,748)
NET OPERATING INCOME (noi)						**$2,050,002**
RETURN ON COSTS			***After Reserves -***		**$2,050,002**	**8.36%**
Maximum Supportable Permanent Loan	25	Amort	5.75%		$21,723,956	($1,640,002)
			Coverage		1.25	
BEFORE TAX CASH FLOW						**$410,000**
Development Cost						$24,518,291
Construction Loan Amount						($20,840,548)
TOTAL CONSTRUCTION EQUITY REQUIRED						**$3,677,744**
Development Cost						$24,518,291
Permanent Loan Amount						($21,723,956)
TOTAL PERMANENT EQUITY REQUIRED						**$2,794,335**

Gateway East

Exhibit C (i)

- Marketing plan
- Brokerage materials
  - Retail/hospitality
  - Industrial/office/manufacturing

The marketing of Phase 1 of Gateway East started as soon as The Boyer Company was selected as the developer. Using our long-established relationships with the brokerage community, we began letting the various brokers who are active in the area know about the project and what they could expect. Eventually, we settled on initially listing the project with the following firms:

- Lee & Associates – Industrial, manufacturing and office
- Phoenix Commercial Advisors – Retail and hospitality

These firms have a history of doing deals in the Southeast Valley, have a positive working relationship with the City of Mesa Economic Development Office, are currently active in the market and have a positive reputation for being good to work with.

The marketing of the project has our team focusing on a wide variety of different elements which make up our overall comprehensive marketing plan. Initial efforts have been made in multiple areas while we have also been waiting for final City of Mesa development approvals. With the required approvals, we are now in a better position to fully market the site and be able to respond to interested parties with realistic plans and time frames.

The marketing plan has included and will include the following efforts:

- **Pre-marketing**
  - ◊ Email campaign to announce the project
  - ◊ Build upon relationships with GPEC, ACA, Mesa Economic Development
  - ◊ Coordination with Phoenix Mesa Gateway Airport Business Development
  - ◊ Feature articles in local and national publications
  - ◊ Listing of the project on key real estate websites

- **Direct Marketing**
  - ◊ Market directly to Brokerage Firms and Agents
  - ◊ Market directly to companies that meet the profile of the Business Park
  - ◊ Market directly to Vendors and supply chain of area businesses. (Meta, Gulf Stream, XNRGY, LG, Apple, Lucid, Intel, etc.)

- ◊ Market directly to restaurants, retailers and hotel operators that are active in the area or that currently lack a presence in the submarket
- ◊ Creation of a project specific website with current, up-to-date site plans and project information (in process now that site layout is final)

- **Daily Marketing**
  - ◊ Daily interactions with brokers and agents working in the area or working with companies that could be a good fit for the park
  - ◊ Daily interactions with business owners and prospects
  - ◊ Daily interactions with local economic development agencies
  - ◊ Regular email campaign to the brokerage community detailing specific project facts

- **Ongoing Marketing**
  - ◊ Continued work with brokerage community
  - ◊ Continued presence with local and national businesses which help companies locate new locations
  - ◊ Continued presence with Arizona focused agencies
  - ◊ Regular website updates
  - ◊ Bi-weekly calls between brokers and Boyer to discuss how things are going and what is needed to keep things moving forward
  - ◊ Regular communication with Phoenix Mesa Gateway Airport Authority to discuss interest the airport is seeing from possible companies

The marketing of the project can include all types of efforts. However, nothing is as successful as actually getting the project going. As a result, our initial efforts have been focused on finding our first large tenant which will result in the development of a nice building and will also help facilitate the design and construction of the initial infrastructure improvements. These efforts will attract additional interest in the site and will begin to convey to the market that the project is real and that they can have confidence in committing to the site.

Finally having the City of Mesa entitlement approvals will also allow us to begin really pushing for retail and hospitality tenants. These tenants are often looking for sites with a specific opening date in mind. Having a firm site plan and project approval process in place is key to taking these types of tenants to the next level.

Working with our brokerage partners, we have established an initial marketing budget of $25,000.00. These funds have been used to purchase and put signage on the box trailer along Ellsworth. They are also being used to create project renderings used in the marketing of the project, maintain on-line listings and put together additional marketing materials that are in both hard copy and digital formats. These initial funds will be supplemented as needed once the project is up and going.

MIXED USE DEVELOPMENT

HOTEL | RETAIL
RESTAURANT

southwest corner

ELLSWORTH RD & SR-24

developed by **BOYER**

PCA PHOENIX COMMERCIAL ADVISORS

PhoenixCommercialAdvisors.com

OVERVIEW

HIGHLIGHTS

Strong visibility to over 44,759 vehicles per day and growing at the intersection and easy accessibility from both Ellsworth Rd and SR-24 roads to Loop 202.

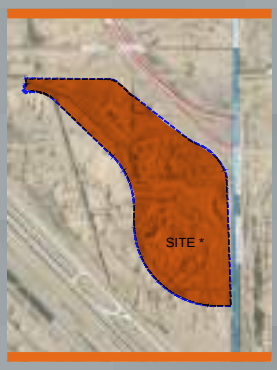
Located in one of the highest growth areas in AZ, **Queen Creek has seen their population grow 2,084% since 2000**

One mile south of the **Facebook campus will encompass nearly 1 million square feet of data** center and admin space. *Under Construction*

Phoenix-Mesa Gateway Airport Future plans include to develop the ±400-acres which will have a new terminal with gates along which will include mixed-use of retail, office and other forms of real estate in efforts to expand the profile of airliners flying in and out of Gateway and to ease traffic at Sky-Harbor.

Down from Eastmark, a new housing development with over 12,000 homes at full buildout.

Located just west of Bell Bank Park is privately owned 320-acre multi-use family sports and entertainment complex is being built in Mesa, at the border of Queen Creek, and will create more than 1,500 jobs and generate hundreds of millions of dollars in direct economic impact back to the surrounding community. The park is expected to attract over three million visitors annually.



TRAFFIC COUNTS

SR-24

E/W ±44,759 VPD (EB & WB)

Ellsworth Rd

N ±34,351 VPD (NB & SB)

S ±36,801 VPD (NB & SB)

ADOT 2021

PCA PHOENIX COMMERCIAL ADVISORS

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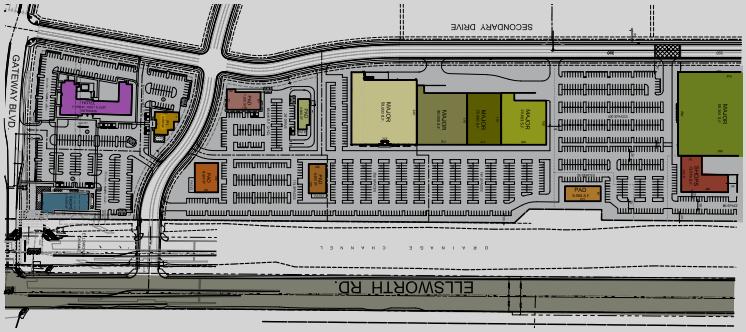
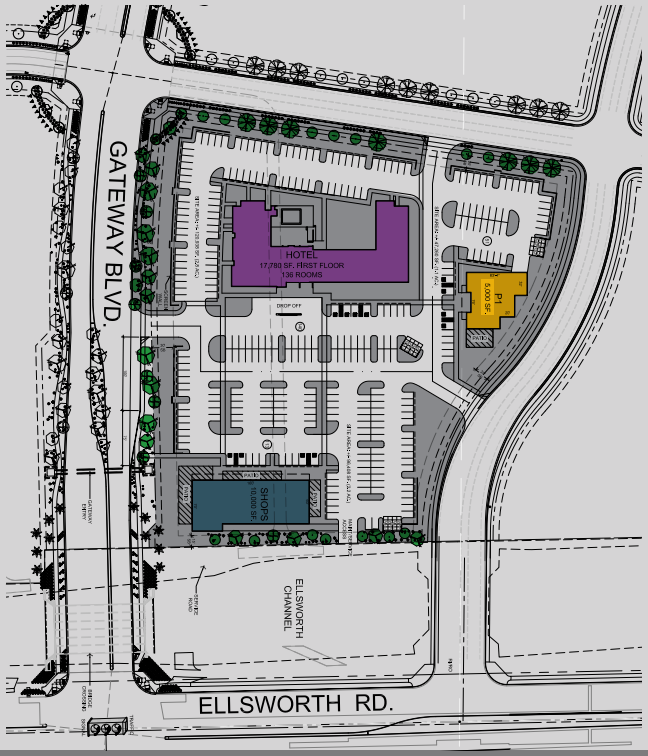
SITE PLANS



MASTER SITE PLAN

	MAJOR	50,000 SF
	MAJOR	30,000 SF
	MAJOR	20,000 SF
	MAJOR	23,583 SF
	MAJOR	88,301 SF
	SHOPS	13,570 SF
	SHOPS	8,400 SF
	PAD	6,000 SF
	PAD	6,000 SF
	PAD	7,000 SF
	P1	5,000 SF
	SHOPS	10,000 SF
	HOTEL	136 ROOMS

SITE PLANS



MASTER SITE PLAN

	P1	5,000
	SHOPS	10,000
	HOTEL	136 ROOMS

ELLSWORTH ROAD & SR-24

RENDERINGS

UPCLOSE

NORTH RETAIL

PhoenixCommercialAdvisors.com

SOUTH RETAIL

PhoenixCommercialAdvisors.com

DEMOGRAPHICS

2021 POPULATION

1-Mile	3-Miles	5-Miles
2,477	35,919	174,315

2021 DAYTIME POPULATION

1-Mile	3-Miles	5-Miles
500	30,451	150,045

2021 AVERAGE MEDIAN HOUSEHOLD INCOME

1-Mile	3-Miles	5-Miles
$127,532	$106,329	$90,316

2021 AVERAGE HOUSEHOLD INCOMES

1-Mile	3-Miles	5-Miles
$144,969	$122,778	$108,073

HOUSEHOLD SUMMARY

1-Mile	3-Miles	5-Miles
774	10,725	57,101

FOOD AWAY FROM HOME OVER

$256M

WITHIN 5-MILES

18% higher than the national average

exclusively listed by

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ZACHARY PACE
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DILLON YOUNG
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PCA
PHOENIX COMMERCIAL ADVISORS
MEMBER OF CHAIN-LINKS RETAIL ADVISORS

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May 26, 2023 11:30 AM

3131 East Camelback Road, Suite 340
Phoenix, Arizona 85016
P. (602) 957-9800 F. (602) 957-0889
phoenixcommercialadvisors.com

GATEWAY EAST

LOCATED S OF SEC OF SR-24 AND ELLSWORTH, MESA, AZ

a development of

BOYER

LEE & ASSOCIATES
COMMERCIAL REAL ESTATE SERVICES

An exceptional opportunity *to lease or develop a Flex/ Industrial Class A building with outstanding visibility and freeway access, at the epicenter of the coveted Phoenix/Mesa Gateway airport submarket.*

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GATEWAY EAST

Gateway East is a masterplanned business park situated at the intersection of the Loop 202 and State Route 24 freeways. This development is a partnership between Boyer and Phoenix-Mesa Gateway Airport (PMGAA) that will offer an attractive park setting for corporate office and industrial users.

With over 270 acres available for development, Gateway East will offer expansion capabilities that are unique to this site. Located in the heart of the Mesa Gateway submarket, the project benefits from unparalleled freeway connectivity and proximity to skilled labor and area amenities.

The Boyer Company was selected by the Phoenix-Mesa Gateway Airport Authority to be their development partner for over 270 acres located on the east side of the airport. The area is currently unimproved acreage.

Boyer is working with the Airport and the City of Mesa to establish design guidelines, a masterplan, utility plans, and overall infrastructure requirements so that the development of the first phase, consisting of approximately 100 acres can be started. The project will include restaurants, hotels, office, manufacturing and smaller industrial buildings. The project will be ground leased from the Airport Authority using long-term ground leases.

lti-Use Industrial
ark - ±270 Acres

Less than 2 minutes to AZ-24 and Loop 202

Located within Phx-Mesa Gateway airport boundaries

2 minutes from Eastmark - AZ's fastest growing community

20 Restaurants within 10 minutes of property

BUILDING A
200,000 SF

BUILDING B
175,000 SF

BUILDING C
150,000 SF

BUILDING D
120,000 SF

BUILDING E
60,000 SF

BUILDING G
56,000 SF

BUILDING H
45,000 SF

BUILDING I
82,000 SF

BUILDING J
82,000 SF

BUILDING K
38,000 SF

BUILDING L
35,000 SF

BUILDING M
53,000 SF

BUILDING N
48,000 SF

RETAIL

P1
7,000 SF

P2
14,500 SF

P3
4,500 SF

P4
5,000 SF

P5
4,000 SF

OFFICE

BUILDING F
150,000 SF

Bell Bank Ballpark

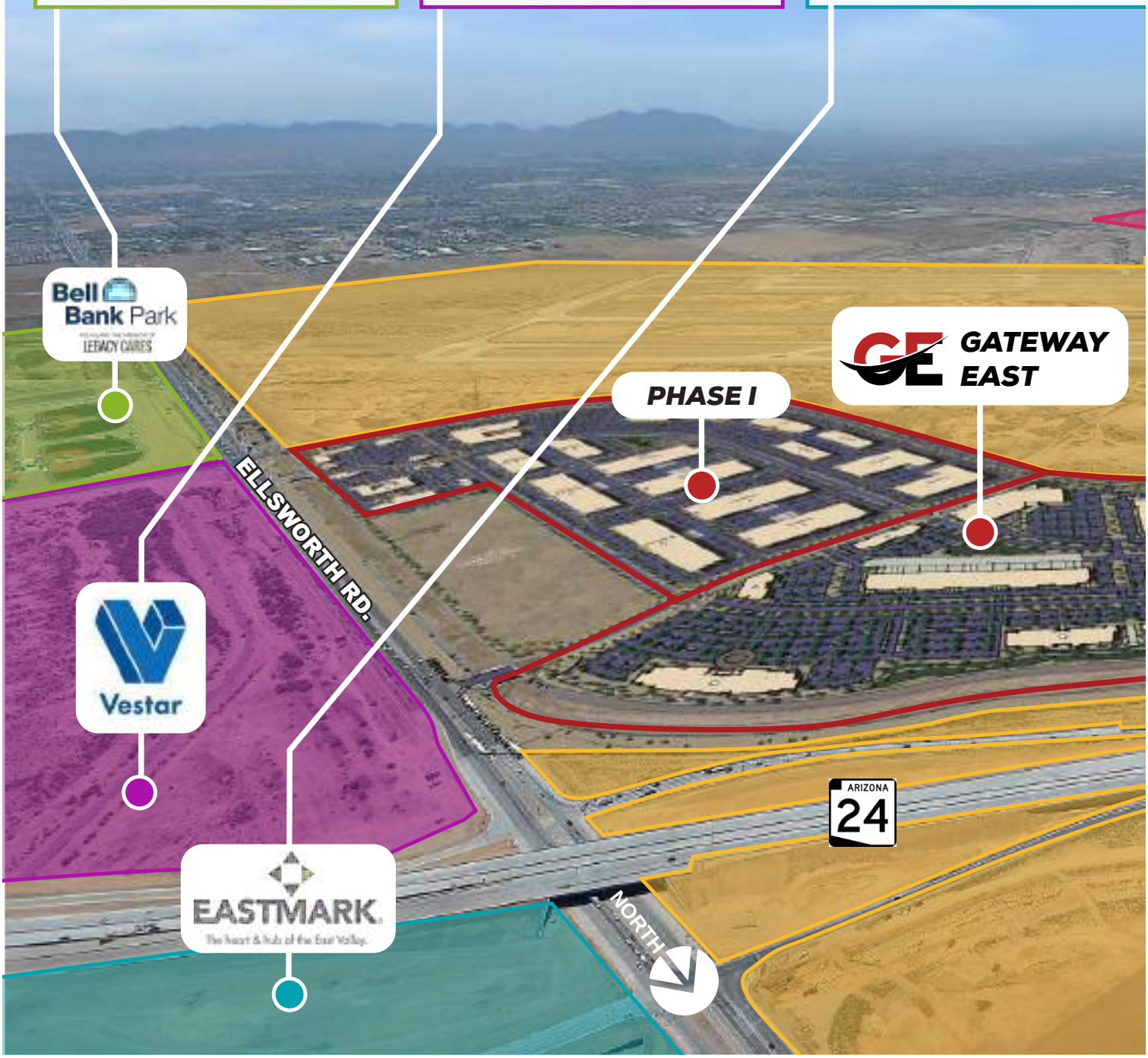
Bell Bank Ballpark is a 320-acre facility hosts Legacy Sports USA's youth, adult, and amateur sports teams, and serves as a venue for events, concerts, yout sports tournaments, and fitness opportunities.

Vestar

Vestar is a nationally recognized leader in the acquisition, management and development of retail real estate. Their current portfolio totals 30 million square feet in 68 properties hroughout eight southwestern states.

Eastmark

Eastmark is a best-selling master-planned community located in Mesa, Arizona. It is home to beautifu neighborhoods, award-winning schools, and innovative amenities.

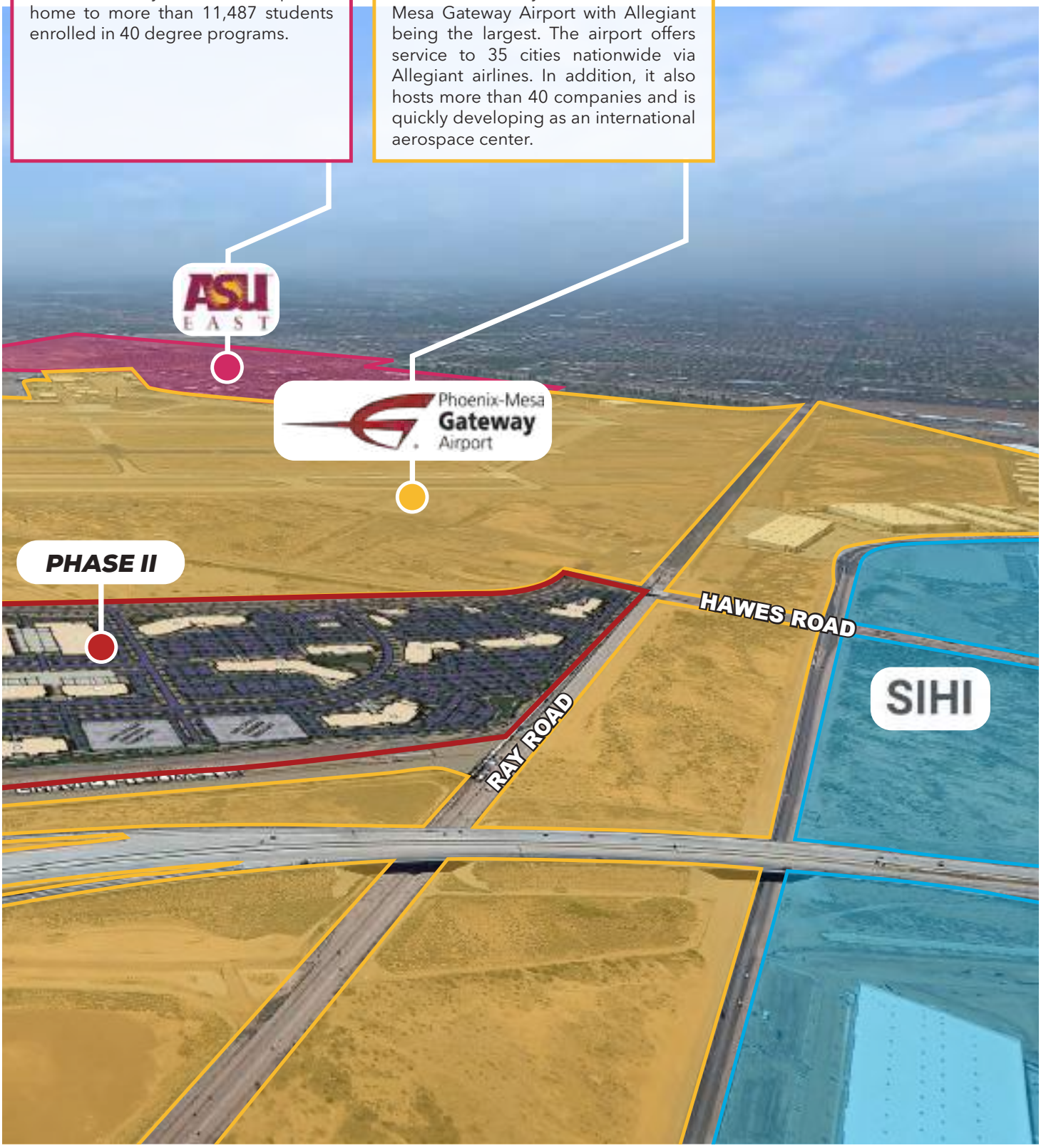


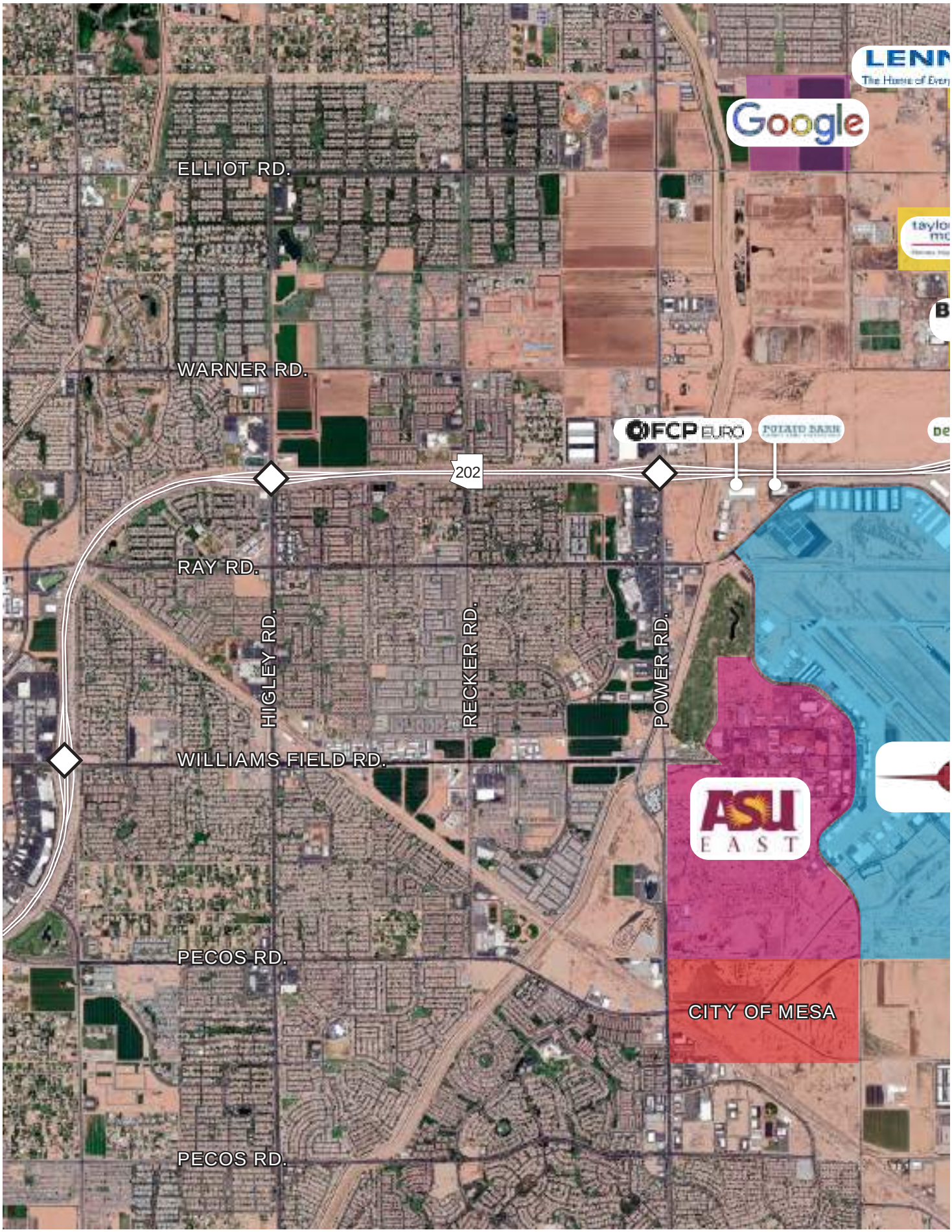
ASU Polytechnic

ASU Polytechnic This 600-acre Arizona State University satellite campus is home to more than 11,487 students enrolled in 40 degree programs.

Phoenix-Mesa Gateway Airport

Phoenix-Mesa Gateway Airport Five airlines currently serve Phoenix-Mesa Gateway Airport with Allegiant being the largest. The airport offers service to 35 cities nationwide via Allegiant airlines. In addition, it also hosts more than 40 companies and is quickly developing as an international aerospace center.




ELLIOT RD.
WARNER RD.
RAY RD.
HIGLEY RD.
RECKER RD.
POWER RD.
WILLIAMS FIELD RD.
PECOS RD.
PECOS RD.
202
Google
FCP EURO
ASU
EAST
CITY OF MESA

202
SIHI
amazon
niagara
Dynalectric
NORTH
Apple
NASH
facebook
amazon
LANDFORD HOMES
ELLSWORTH RD.
SIGNAL BUTTE RD.
OVER 20 RESTARUAUNTS WITHIN 10 MINUTES OF THE PROPERTY, INCLUDING:
Sysco
HYUNDAI TRANSYS
ARIZONA 24
SIHI
EASTMARK
The heart & hub of the East Valley.
McDonald's
jack in the box
CALDWELL COUNTY BBQ
BURGER KING
TACO BELL
POPEYES
COLD STONE CREAMERY
Vestar
Phoenix-Mesa Gateway Airport
Gulfstream
Bell Bank Park
LEGACY CARES
amazon
FUJIFILM
SIHI
SIHI
STATE LAND
TE TRW

mesa·az

504,258
Mesa Population

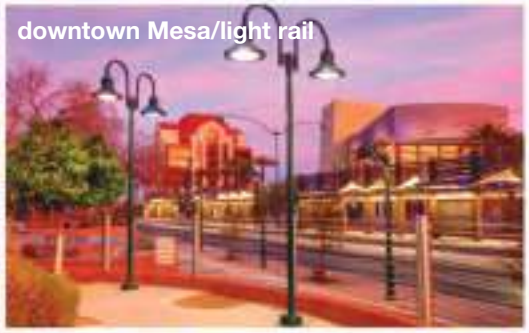
551,155
2026 Projected Population

36.6 Mesa
Median Age

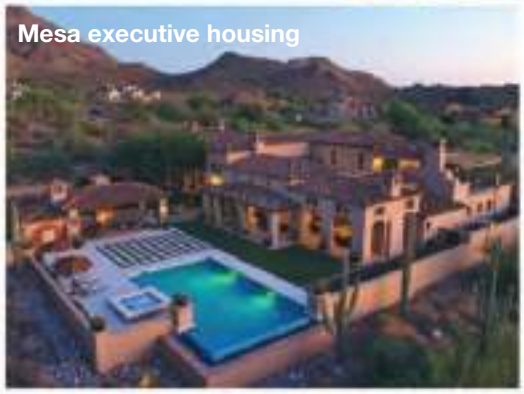
41% Phoenix-Mesa Associates Degree+

2,595,681
Phoenix-Mesa labor force

Aerospace, Healthcare and Technology


downtown Mesa/light rail

Mesa performing arts center


Mesa executive housing

a development of
BOYER

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LEE & ASSOCIATES
COMMERCIAL REAL ESTATE SERVICES

Gateway East

Exhibit C (j)

- Traffic Study

Gateway Phase I

Traffic Impact Study

Registered Professional Engineer (Civil)
CERTIFICATE NO.
40961
JAMIE ANN K.
BLAKEMAN
Date Signed: 06/30/23
ARIZONA, U.S.A.

Prepared for:

The Boyer Company
2850 E. Camelback Road, Suite 270
Phoenix, AZ 85251

Prepared by:

Lōkahi, LLC
10555 N. 114th Street, Suite 105
Scottsdale, AZ 85259

Project Number: 23.5476
June 30, 2023

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1. INTRODUCTION AND EXECUTIVE SUMMARY

1.1. PURPOSE OF REPORT AND STUDY OBJECTIVES

Lōkahi, LLC (Lōkahi) was retained by The Boyer Company to complete a Traffic Impact Study (TIS) for the proposed Gateway Phase I development, located on the northwest corner of Ellsworth Road and Gateway Boulevard/Williams Field Road in the City of Mesa, Arizona.

The proposed Gateway Phase I development will include the following land uses:

- **Industrial Park** 1,275,000 square feet
- **Hotel** 150 rooms
- **Retail** 10,000 square feet
- **Restaurant** 5,000 square feet

The objective of this Traffic Impact Study is to analyze the traffic related impacts of the proposed development to the adjacent roadway network. See **Figure 1** for the vicinity map.

This Traffic Impact Study includes:

- Level of service analysis of existing conditions for the weekday AM and PM peak hours
- Trip generation for the proposed development
- Level of service analysis for the opening year (2026) weekday AM and PM peak hours
- Level of service analysis for 5 years after the opening year (2031) weekday AM and PM peak hours

The following are the intersections included in this study:

- Ellsworth Road and SR-24 Westbound Ramp (1) - *existing*
- Ellsworth Road and SR-24 Eastbound Ramps (2) - *existing*
- Ellsworth Road and Tesla Drive (3) - *proposed*
- Ellsworth Road and Texas Avenue (4) - *existing*
- Ellsworth Road and Gateway Boulevard/Williams Field Road (5) - *existing*
- Ellsworth Road and Legacy Avenue (6) - *existing*
- Ellsworth Road and Pecos Road North (7) - *existing*
- Williams Field Road and Legacy Drive (8) – *existing*
- Williams Field Road and Legacy Park Driveway (9) - existing
- Williams Field Road and SR-24 Southbound Ramps (10) - *existing*
- Williams Field Road and SR-24 Northbound Ramps (11) – *existing*

1.2. EXECUTIVE SUMMARY

This report presents the analyses and results of a Traffic Impact Study prepared for the proposed Gateway Phase I development, located on the northwest corner of Ellsworth Road and Gateway Boulevard/Williams Field Road in the City of Mesa, Arizona. The proposed Gateway Phase I development will include the following land uses:

- **Industrial Park** 1,275,000 square feet
- **Hotel** 150 rooms
- **Retail** 10,000 square feet
- **Restaurant** 5,000 square feet

The proposed Gateway Phase I development is anticipated to be completed and open in the year 2026.

Existing Capacity Analysis

The AM and PM peak hour existing conditions capacity analyses were completed for the existing study intersections. The results of the capacity analyses reveal that all movements operate at a LOS D or better with the exception of the following:

Ellsworth Road and SR-24 Westbound Ramps (1)

- Southbound through PM peak hour operates at LOS E

Ellsworth Road and SR-24 Eastbound Ramps (2)

- Eastbound left PM peak hour operates at LOS E
- Eastbound shared left-through PM peak hour operates at LOS E
- Southbound left AM and PM peak hours operate at LOS E

Ellsworth Road and Legacy Drive (6)

- Northbound through AM peak hour operates at LOS E

Ellsworth Road and Pecos Road North (7)

- Southbound left PM peak hour operates at LOS E

Williams Field Road and SR-24 Southbound Ramps (10)

- Overall intersection PM peak hour operates at LOS F
- Southbound shared left-through and through-right PM peak hour operates at LOS F

At the time of this report the main line for the SR-24 was not open. Therefore, once the SR-24 main line is open, the movements noted above will likely operate at an acceptable LOS.

Williams Field Road and SR-24 Northbound Ramps (11)

- Overall intersection AM peak hour operates at LOS F
- Westbound right AM peak hour operates at LOS F
- Northbound through and shared through-right AM PM peak hour operates at LOS F

At the time of this report the main line for the SR-24 was not open. Therefore, once the SR-24 main line is open, the movements noted above will likely operate at an acceptable LOS.

Trip Generation

The proposed Gateway Phase I development is anticipated to generate a total of 6,580 new weekday trips, with 574 trips occurring during the AM peak hour and 629 trips occurring during the PM peak hour.

Trip Generation

Land Use	ITE Code	Qty	Unit	Weekday	AM Peak Hour			PM Peak Hour		
				Total	Total	In	Out	Total	In	Out
Industrial Park	130	1,275.0	1000 Sq. Ft. GFA	4,297	434	352	82	434	95	339
Hotel	310	150	Rooms	1,202	68	38	30	84	42	42
Strip Retail Plaza (<40k)	822	10.0	1000 SF GLA	545	24	15	9	66	32	34
High-Turnover (Sit-Down) Restaurant	932	5.0	1000 SF GFA	536	48	26	22	45	27	18
			Total	6,580	574	431	143	629	196	433

Future Conditions

Future capacity analyses were completed without and with the build out of the proposed Gateway Phase I development for the opening year and 5 years after the opening year. The year 2026 and 2031 background traffic volumes include a 1.5% annual growth rate based on Maricopa Association of Governments (MAG) socioeconomic projections.

Future Roadway Network

The following roadway network improvements are assumed to be built out by the year 2026:

Ellsworth Road and Tesla Drive (3) – *Future Signalized Intersection*

- It is assumed the eastbound approach will provide one (1) dedicated left turn lane, one (1) through lane, and one (1) dedicated right turn lane. Additionally, there will be one (1) westbound receiving lane.

Ellsworth Road and Texas Avenue (4) – *Future Stop-Controlled Intersection*

- It is assumed the eastbound approach will provide one ((1) dedicated right turn lane. Additionally, there will be one (1) westbound receiving lane.

Ellsworth Road and Williams Field Road (5) – *Existing Signalized Intersection*

- It is assumed the eastbound and westbound approaches will provide two (2) dedicated left turn lanes, two (2) through lanes, and one (1) dedicated right turn lane. The northbound approach will provide two (2) dedicated left turn lanes, two (2) through lanes, and one (1) dedicated right turn lane. The southbound approach will provide two (2) dedicated left turn lanes, three (3) through lanes, and one (1) dedicated right turn lane.

Ellsworth Road

- According to the *City of Mesa 2040 Transportation Master Plan,* Ellsworth Road will ultimately be a 6-lane cross-section. Currently Ellsworth Road operates with two (2) northbound through lanes and three (3) southbound through lanes. As a conservative approach, this roadway cross-section was assumed for the year 2026 analysis.

Williams Field Road

- According to the *City of Mesa 2040 Transportation Master Plan,* Williams Field Road will ultimately be a 6-lane cross-section. Currently Williams Field Road provides one (1) through lane in each direction of travel. As a conservative approach, this roadway cross-section was assumed for the year 2026 analysis.

Tesla Drive

- It is assumed Tesla Drive will operate with one (1) through lane in each direction of travel, with a center two-way left turn lane. These improvements will extend from Gateway Boulevard to Ellsworth Road.

SR-24 between Ellsworth Road and Ironwood Road

- At the time of this report, the completion date of the SR-24 main line was unknown. Therefore, as a conservative approach, SR-24 was assumed to operate as it does today.

Year 2026 – Opening Year

A capacity analysis was completed for both the AM and PM peak hours for the year 2026, <u>without</u> and <u>with</u> the build out of the proposed Gateway Phase I development. The year 2026 build capacity analysis resulted in all movements operating at a LOS D or better or is maintained at the existing LOS.

Year 2031 – 5 Years After Opening Year

A capacity analysis was completed for both the AM and PM peak hours for the year 2031, without and with the build out of the proposed Gateway Phase I development. The year 2031 build capacity analysis resulted in all movements operating at a LOS D or better or is maintained at the year 2031 no build LOS.

Recommendations

The following are the recommendations with the build out of the proposed Gateway Phase I development:

- **Ellsworth Road and Tesla Drive (3)**
  Build out of a full-access signalized intersection. The eastbound approach will provide one (1) dedicated left turn lane, one (1) through lane, and one (1) dedicated right turn lane. Additionally, there will be one (1) westbound receiving lane.

- **Ellsworth Road and Texas Avenue (4)**
  Build out of a right-in and right-out only stop-controlled driveway.

- **Tesla Drive**
  It is assumed Tesla Drive will operate with one (1) through lane in each direction of travel, with a center two-way left turn lane. These improvements will extend from Gateway Boulevard to Ellsworth Road.

As with any new development and potential change in traffic patterns, the following is recommended:

- **Monitor and Adjust Signal Timing**
  - Monitor traffic patterns in the area and if necessary, adjust nearby signal timing.

2. PROPOSED DEVELOPMENT

The proposed Gateway Phase I development is located on the northwest corner of Ellsworth Road and Gateway Boulevard/Williams Field Road in the City of Mesa, Arizona. See **Figure 1** for a vicinity map.

The proposed Gateway Phase I development will include the following land uses:

- **Industrial Park** 1,275,000 square feet
- **Hotel** 150 rooms
- **Retail** 10,000 square feet
- **Restaurant** 5,000 square feet

There will be a total of two (2) access points along Ellsworth Road to serve Phase I of the proposed development.

Ellsworth Road and Tesla Drive (3) is located approximately 1,320 feet south of SR-24 Eastbound Ramp. This signalized intersection will provide full access and allow all movements into and out of the development.

Ellsworth Road and Texas Avenue (4) is located approximately 500 feet north of Gateway Boulevard/Williams Field Road. This driveway will utilize the existing bridge and will provide for right-in and right-out only movements only.

See **Figure 2** and **Appendix A** for the proposed site plan.

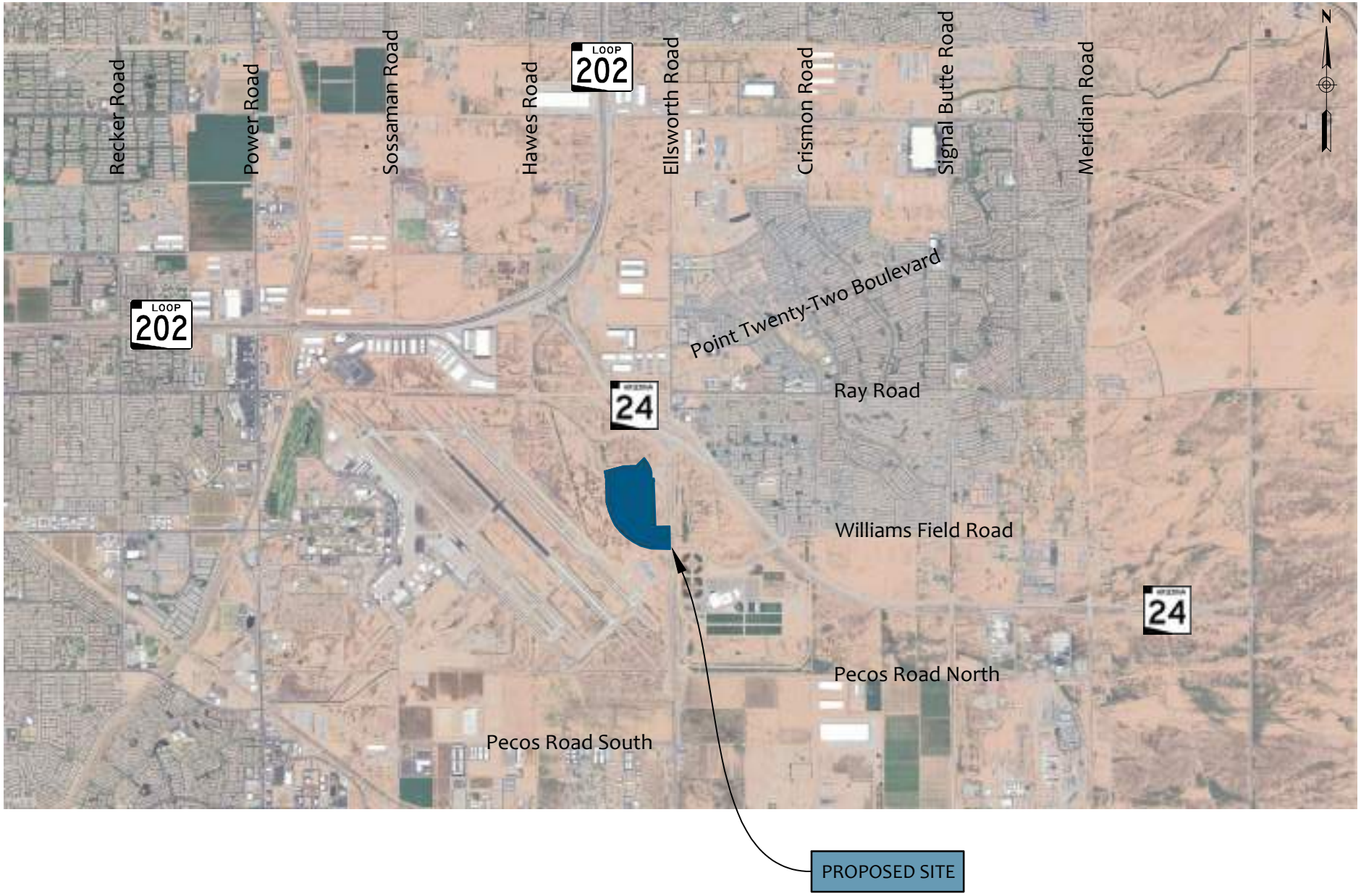


FIGURE 1 | VICINITY MAP

FIGURE 2 | SITE PLAN

3. AREA CONDITIONS

The proposed site is located within the City of Mesa, Arizona. **Sections 3.1** and **3.2** provide detailed descriptions of the study roadway segments and intersections. See **Figure 3** for the study area.

3.1. STUDY ROADWAY SEGMENTS

Ellsworth Road is a north-south roadway. Between SR-24 and Legacy Avenue, provides two (2) through lanes in the northbound and three (3) through lanes in the southbound direction of travel, with a raised median. Ellsworth Road south of Legacy Avenue provides two (2) lanes in each direction of travel, with a raised median. According to the *City of Mesa 2040 Transportation Plan*, Ellsworth Road is classified as an arterial. According to the *City of Mesa 2022 Traffic Volume Map*, Ellsworth Road, between SR-24 and Williams Field Road, has an Average Daily Traffic (ADT) of 50,500 vehicles per day (vpd). There is a posted speed limit of 50 miles per hour (mph).

Williams Field Road is an east-west roadway and provides one (1) lane in each direction of travel with a center two-way left turn lane, between SR-24 and Ellsworth Road. According to *City of Mesa 2040 Transportation Plan,* Williams Field Road is classified as an arterial. According to the *City of Mesa 2022 Traffic Volume Map*, Williams Field Road, between Ellsworth Road and SR-24, has an ADT of 3,200 vpd. There is a posted speed limit of 45 mph.

Pecos Road North is an east-west roadway and provides one (1) lane in each direction of travel. According to the *City of Mesa 2022 Traffic Volume Map*, Pecos Road, between Ellsworth Road and Crismon Road, has an ADT of 2,500 vpd. There is a posted speed limit of 45 mph.

3.2. STUDY INTERSECTIONS

Ellsworth Road and SR-24 Westbound Ramp (1) currently operates as a signalized intersection. The northbound approach provides two (2) dedicated left turn lanes and two (2) through lanes. The southbound approach provides four (4) through lanes and two (2) dedicated right turn lanes. The westbound approach provides one (1) dedicated left turn lane, one (1) shared left-through lane, one (1) shared through-right turn lane, and one (1) dedicated right turn lane.

Ellsworth Road and SR-24 Eastbound Ramps (2) currently operates as a signalized intersection. The northbound approach provides four (4) through lanes and one (1) dedicated right turn lane. The southbound approach provides two (2) dedicated left turn lanes and three (3) through lanes. The eastbound approach provides one (1) dedicated left turn lane, one (1) shared left-through lane, and two (2) dedicated left turn lanes.

Ellsworth Road and Gateway Boulevard/Williams Field Road (5) currently operates as a signalized intersection. The northbound approach provides one (1) dedicated left turn lane, two (2) through lanes, and one (1) dedicated right turn lane. The southbound approach provides two (2) dedicated

left turn lanes and three (3) through lanes. The westbound approach provides two (2) dedicated left turn lanes and two (2) dedicated right turn lanes.

Ellsworth Road and Legacy Avenue (6) currently operates as a signalized intersection. The northbound approach provides two (2) through lanes and one (1) dedicated right turn lane. The southbound approach provides two (2) dedicated left turn lanes and two (2) through lanes. The westbound approach provides one (1) dedicated left turn lane, one (1) shared left-right turn lane, and one (1) dedicated right turn lane.

Ellsworth Road and Pecos Road North (7) currently operates as a signalized intersection. The northbound approach provides one (1) through lane and one (1) shared through-right turn lane. The southbound approach provides one (1) dedicated left turn lane and two (2) through lanes. The westbound approach provides one (1) dedicated left turn lane and one (1) dedicated right turn lane.

Williams Field Road and Legacy Drive (8) currently operates as a signalized intersection. The northbound approach provides one (1) dedicated left turn lane and one (1) dedicated right turn lane. The eastbound approach provides one (1) through lane and one (1) dedicated right turn lane. The westbound approach provides one (1) dedicated left turn lane and one (1) through lane.

Williams Field Road and Legacy Park Driveway (9) currently operates as a one-way stop-controlled T-intersection with stop control on the northbound approach. The northbound approach provides one (1) dedicated right turn lane. The eastbound approach provides one (1) through lane and one (1) dedicated right turn lane. The westbound approach provides one (1) through lane.

Williams Field Road and SR-24 Southbound Ramps (10) currently operates as a signalized intersection. The southbound approach provides one (1) dedicated left turn lane, one (1) shared left-through lane, and one (1) shared through-right turn lane. The eastbound approach provides four (4) through lanes and one (1) dedicated right turn lane. The westbound approach provides two (2) dedicated left turn lanes and two (2) through lanes.

Williams Field Road and SR-24 Northbound Ramps (11) currently operates as a signalized intersection. The northbound approach provides one (1) dedicated left turn lane, one (1) through lane, and one (1) shared through-right turn lane. The eastbound approach provides two (2) dedicated left turn lanes, one (1) through lane, and one (1) shared through-right turn lane. The westbound approach provides four (4) through lanes and one (1) dedicated right turn lane.

3.3. STUDY AREA LAND USE

The proposed site is located on the northwest corner of Ellsworth Road and Gateway Boulevard/Williams Field Road in the City of Mesa, Arizona. The proposed development is bordered by Phoenix-Mesa Gateway Airport borders to the west, Ellsworth Road to the east and primarily vacant land to the north and south. Additionally, Legacy Sports complex is located on the southeast corner of Ellsworth Road and Gateway Boulevard/Williams Field Road.

3.4. SITE ACCESSIBILITY

Roadway System

The study area is located in the City of Mesa, Arizona. State Route 24 (SR-24) is located approximately one-half (0.50) mile to the north and east and can be accessed by both Ellsworth Road and Williams Field Road. Similarly, Arizona State Route 202 Loop (SR 202L) is located approximately one and one-half (1.50) miles northwest of the proposed development, which can be accessed via SR-24. These routes provide regionals access to the Phoenix metropolitan area.

Pedestrian Facilities

Ellsworth Road provides sidewalk on the west side of the road between SR-24 and Williams Field Road. Additionally, south of Williams Field Road, Ellsworth Road provides sidewalk on the east and west side of the road. Williams Field Road provides sidewalks on the south side of the roadway between Ells Worth Road and SR-24.

Bicycle Facilities

Bicycle facilities are not currently provided within the immediate study area.

Transit Facilities

There are currently no available transit services within the immediate study area.

Legend

X Intersection

FIGURE 3 | STUDY AREA

4. EXISTING CONDITIONS

4.1. EXISTING LAND USE

According to the Maricopa County Assessor, the proposed site will occupy a portion of Assessor Parcel Numbers (APN) 304-35-017B and APN 304-35-025A. The proposed site is currently zoned Light Industrial (LI). See **Appendix B** for detailed parcel information.

4.2. EXISTING TRAFFIC COUNTS

A local data collection firm, All Traffic Data Services, LLC, was utilized to collect traffic counts. On Wednesday, May 17th, 2023, four hours of typical weekday turning movement counts were obtained during the AM (7:00 to 9:00 am) and PM (4:00 to 6:00 pm) peak hours at the following intersection:

- Ellsworth Road and SR-24 Westbound Ramp (1)
- Ellsworth Road and SR-24 Eastbound Ramps (2) -
- Ellsworth Road and Gateway Boulevard/Williams Field Road (5)
- Ellsworth Road and Legacy Avenue (6)
- Ellsworth Road and Pecos Road North (7)
- Williams Field Road and Legacy Drive (8)
- Williams Field Road and Legacy Park Driveway (9)
- Williams Field Road and SR-24 Southbound Ramps (10)
- Williams Field Road and SR-24 Northbound Ramps (11)

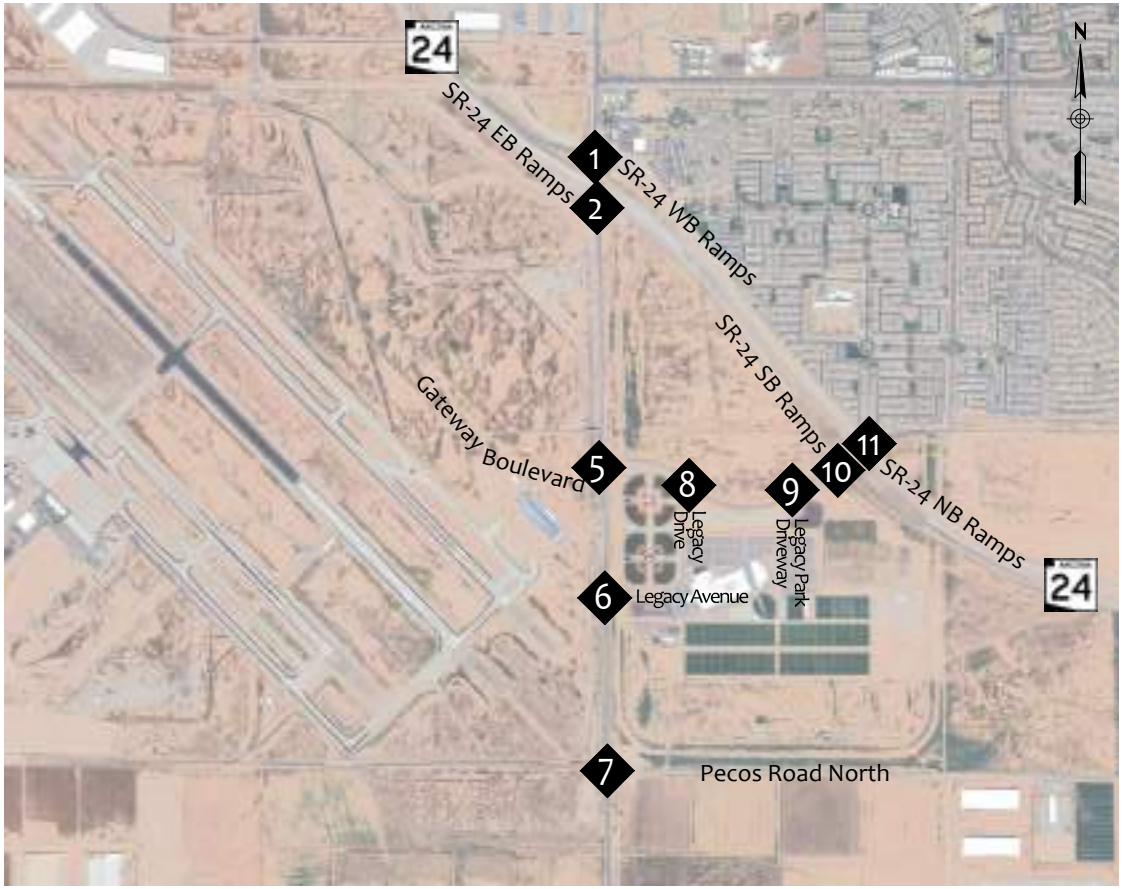
Additionally, on Wednesday, May 10th, 2023, bi-directional tube counts for 24-hours in 15-minute intervals were collected along the following roadway segments:

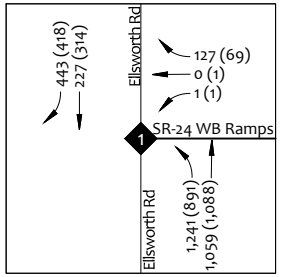
- Ellsworth Road, south of SR-24
- Ellsworth Road, north of Pecos Road

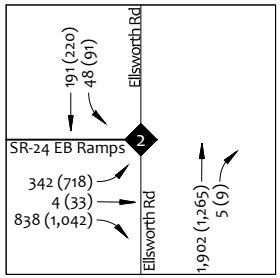
The turning movement counts were then analyzed for the highest 1-hour within each time period. The following peak hours were analyzed throughout this study.

AM Peak Hour	7:00 am – 8:00 am
PM Peak Hour	5:00 pm – 6:00 pm

See **Appendix C** for detailed traffic count data. See **Figure 4** for the existing AM and PM peak hour traffic volumes.



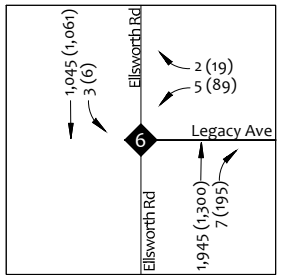


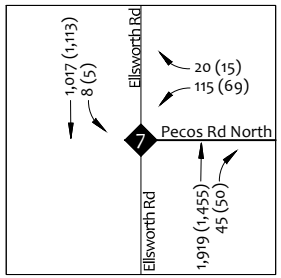


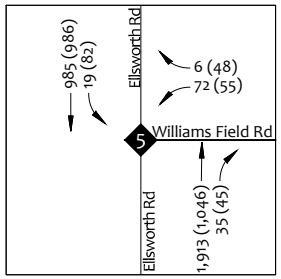
Legend

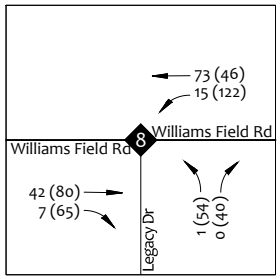
AM (PM) Peak Hour Traffic Volumes

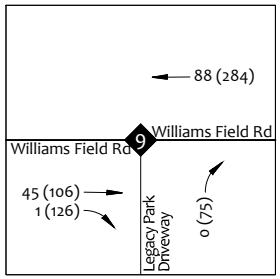
X Intersection

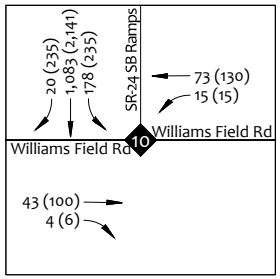












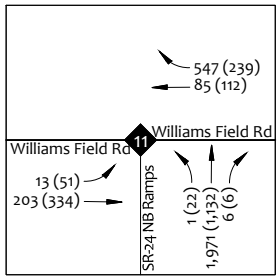


FIGURE 4 | EXISTING TRAFFIC VOLUMES

4.3.EXISTING CAPACITY ANALYSIS

The existing conditions capacity analysis was completed for the existing study intersections. The capacity and level of service for the study area intersections were evaluated using the methodology presented in the 6th *Edition of the Highway Capacity Manual (HCM)*. Traffic analysis software, Synchro Version 11, was used to perform the analyses using the existing peak hour factor (PHF) obtained from the traffic counts. See **Appendix D** for the existing signal timing.

Table 1 is from the 6th *Edition of the Highway Capacity Manual* Exhibit 19-8 and 20-2, which lists the Level of Service (LOS) thresholds for signalized and unsignalized intersections.

Table 1 – Level of Service Criteria

Level of Service (LOS)	Control Delay per Vehicle (s/veh)	
	Signalized Intersection	Unsignalized Intersection
A	≤ 10	≤ 10
B	> 10-20	> 10-15
C	> 20-35	> 15-25
D	> 35-55	> 25-35
E	> 55-80	> 35-50
F	> 80	> 50

The results of the capacity analyses reveal that all movements operate at a LOS D or better with the exception of the following:

Ellsworth Road and SR-24 Westbound Ramps (1)

- Southbound through PM peak hour operates at LOS E

Ellsworth Road and SR-24 Eastbound Ramps (2)

- Eastbound left PM peak hour operates at LOS E
- Eastbound shared left-through PM peak hour operates at LOS E
- Southbound left AM and PM peak hours operate at LOS E

Ellsworth Road and Legacy Drive (6)

- Northbound through AM peak hour operates at LOS E

Ellsworth Road and Pecos Road North (7)

- Southbound left PM peak hour operates at LOS E

Williams Field Road and SR-24 Southbound Ramps (10)

- Overall intersection PM peak hour operates at LOS F
- Southbound shared left-through and through-right PM peak hour operates at LOS F

At the time of this report the main line for the SR-24 was not open. Therefore, once the SR-24 main line is open, the movements noted above will likely operate at an acceptable LOS.

Williams Field Road and SR-24 Northbound Ramps (11)

- Overall intersection AM peak hour operates at LOS F
- Westbound right AM peak hour operates at LOS F
- Northbound through and shared through-right AM PM peak hour operates at LOS F

At the time of this report the main line for the SR-24 was not open. Therefore, once the SR-24 main line is open, the movements noted above will likely operate at an acceptable LOS.

The existing AM and PM peak hour level of service and delay for signalized and unsignalized intersections are shown in **Table 2**.

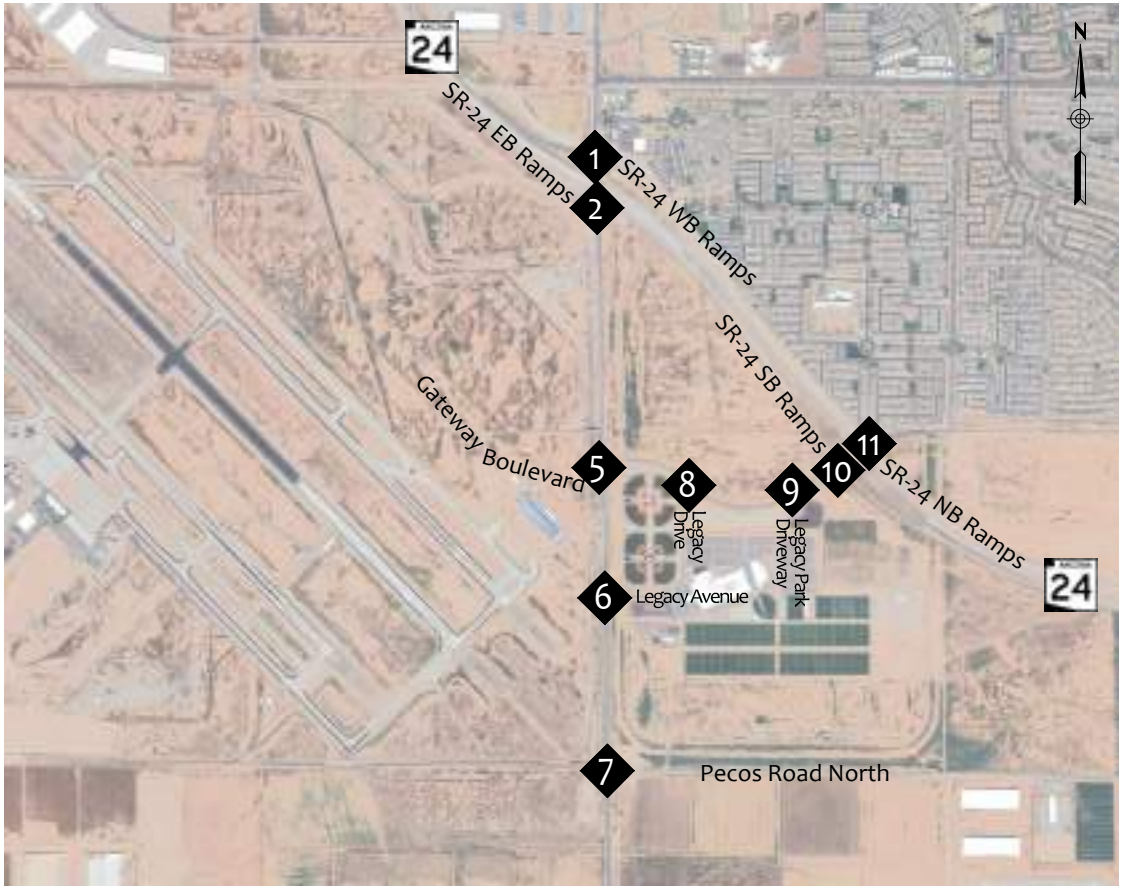
See **Figure 5** for the existing AM and PM peak hour capacity analysis. The detailed capacity analysis sheets can be found in **Appendix E**.

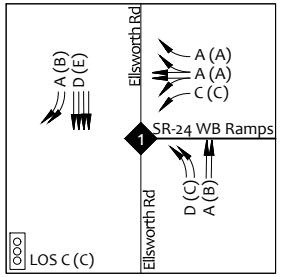
Table 2 - Existing Level of Service and Delay

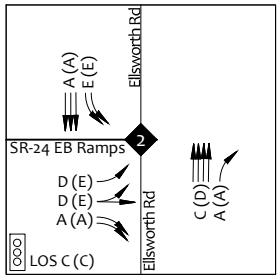
Intersection	Existing Conditions			
	AM PEAK		PM PEAK	
Signalized Intersections	LOS	DELAY	LOS	DELAY
Ellsworth Road and SR-24 Westbound Ramps (1) - Signalized				
Overall Intersection	C	24	C	22.8
Westbound Left	C	23.0	C	22.0
Westbound Shared Left-Through & Through-Right	A	0.2	A	5.0
Westbound Right	A	0.5	A	0.2
Northbound Left	D	43.9	C	25.5
Northbound Through	A	6.5	B	16.2
Southbound Through	D	42.5	E	57.6
Southbound Right	A	7.4	B	11.6
Ellsworth Road and SR-24 Westbound Ramps (2) - Signalized				
Overall Intersection	C	26.5	C	32.5
Eastbound Left	D	52.5	E	70.4
Eastbound Shrared Left-Through	D	51.8	E	70.8
Eastbound Right	A	1.7	A	1.7
Northbound Through	C	34.2	D	37.8
Northbound Right	A	0.0	A	0.0
Southbound Left	E	74.4	E	76.8
Southbound Through	A	0.3	A	0.1
Ellsworth Road and Williams Field Road (5) - Signalized				
Overall Intersection	B	13.3	A	8.8
Westbound Left	D	35.4	C	20.2
Westbound Right	C	26.5	A	4.5
Northbound Through	B	15.3	A	6.4
Northbound Right	A	4.1	A	3.6
Southbound Left	D	41.7	D	46.6
Southbound Through	A	7.5	A	8.0

Table 2 - Existing Level of Service and Delay – Continued

Intersection	Existing Conditions			
	AM PEAK		PM PEAK	
Signalized Intersections	LOS	DELAY	LOS	DELAY
Ellsworth Road and Legacy Drive (6) - Signalized				
Overall Intersection	D	45.6	B	15.6
Westbound Left & Shared Left-Right	C	22.2	C	22.6
Westbound Right	B	16	B	10.1
Northbound Through	E	63.5	B	18.8
Northbound Right	A	4.6	A	4.2
Southbound Left	D	42.0	D	45.3
Southbound Through	B	12.8	B	13.1
Ellsworth Road and Pecos Road North (7) - Signalized				
Overall Intersection	B	16.2	B	15.2
Westbound Left	D	40.8	C	30.5
Westbound Right	B	17.1	B	15.3
Northbound Through & Through Right	C	21.1	C	20.4
Southbound Left	D	53.4	E	55.4
Southbound Through	A	3.7	A	7.0
Williams Field Road and Legacy Avenue (8) - Signalized				
Overall Intersection	A	2.3	A	9.3
Eastbound Through	A	3.6	A	5.7
Eastbound Right	A	3.3	A	1.0
Westbound Left	A	1.2	A	2.8
Westbound Through	A	1.2	A	3.3
Northbound Left	D	36.0	D	41.1
Northbound Right	A	0.0	B	13.3
Williams Field Road and Legacy Park Driveway (9) - Unsignalized				
Northbound Right	A	0.0	A	9.7
Williams Field Road and SR-24 Southbound Ramps (10) - Signalized				
Overall Intersection	C	24.4	F	211.8
Eastbound Through	C	34.4	D	37.3
Eastbound Right	A	0.0	A	0.0
Wesbound Left	A	9.9	B	18.1
Westbound Through	A	1.2	A	8.9
Southbound Left	B	18.4	B	17.4
Southbound Shared Left-Through & Through-Right	C	26.6	F	248.9
Williams Field Road and SR-24 Northbound Ramps (11) - Signalized				
Overall Intersection	F	127.9	C	27.5
Eastbound Left	D	37.9	D	43.1
Eastbound Through	C	22.7	B	19.2
Wesbound Through	C	34.7	D	37.4
Westbound Right	F	89.5	B	12.2
Northbound Left	B	16.0	B	15.8
Northbound Through & Shared Through-Right	F	154.1	C	31.7

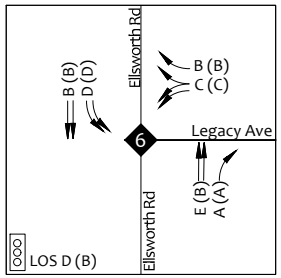


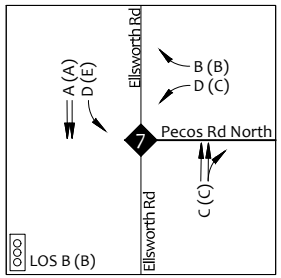


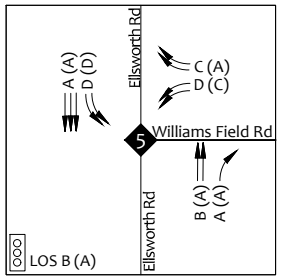


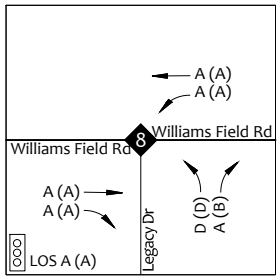
Legend

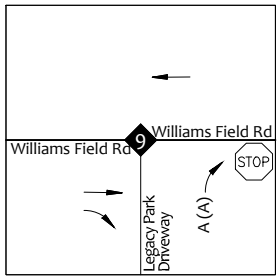
AM(PM)	Peak Hour Capacity Analysis
	Intersection
	Lane Configuration

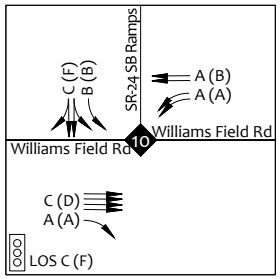












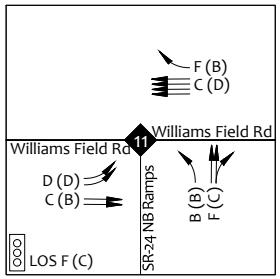


FIGURE 5 | EXISTING CAPACITY ANALYSIS

5. PROJECTED TRAFFIC

5.1. TRIP GENERATION

The trip generation for the proposed Gateway Phase I development was calculated utilizing the Institute of Transportation Engineers (ITE) publication entitled *Trip Generation, 11th Edition.* The ITE rates are based on studies that measured the trip generation characteristics for various types of land uses. The rates are expressed in terms of trips per unit land use type. This publication is considered to be the standard for the transportation engineering profession.

The proposed Gateway Phase I development will include the following land uses:

- **Industrial Park** 1,275,000 square feet
- **Hotel** 150 rooms
- **Retail** 10,000 square feet
- **Restaurant** 5,000 square feet

Therefore, the trip generation for the proposed Gateway Phase I development was calculated utilizing the following ITE Land Uses:

- ITE Land Use 130 – Industrial Park
- ITE Land Use 310 – Hotel
- ITE Land Use 822 – Strip Retail Plaza (<40k)
- ITE Land Use 932 – High-Turnover (Sit-Down) Restaurant

The total trip generation for the proposed development is shown in **Table 3**. Detailed trip generation calculations can be found in **Appendix F**.

Table 3 – Trip Generation – Proposed Development

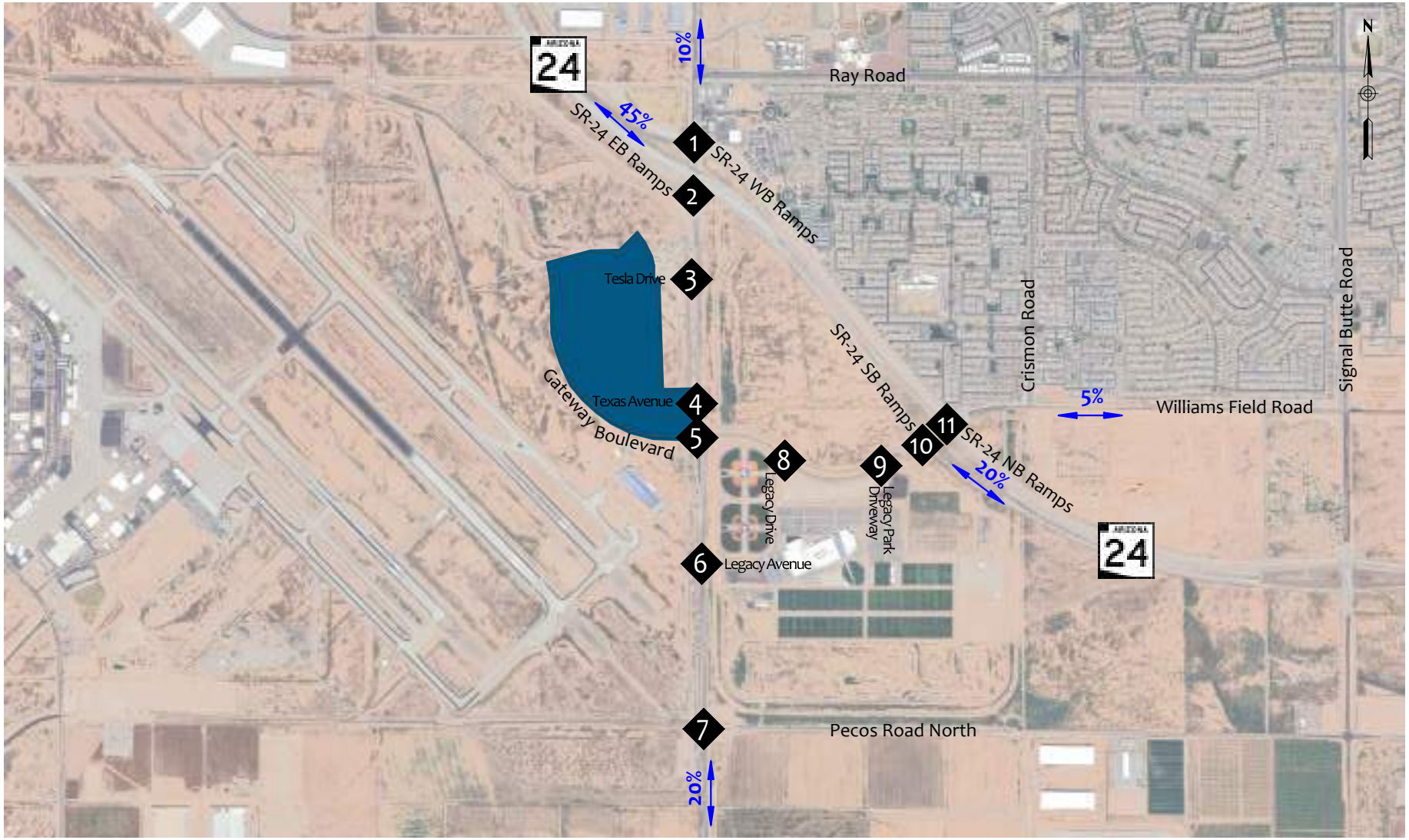
Land Use	ITE Code	Qty	Unit	Weekday	AM Peak Hour			PM Peak Hour		
				Total	Total	In	Out	Total	In	Out
Industrial Park	130	1,275.0	1000 Sq. Ft. GFA	4,297	434	352	82	434	95	339
Hotel	310	150	Rooms	1,202	68	38	30	84	42	42
Strip Retail Plaza (<40k)	822	10.0	1000 SF GLA	545	24	15	9	66	32	34
High-Turnover (Sit-Down) Restaurant	932	5.0	1000 SF GFA	536	48	26	22	45	27	18
			Total	6,580	574	431	143	629	196	433

The proposed Gateway Phase I development is anticipated to generate a total of 6,580 new weekday trips, with 574 trips occurring during the AM peak hour and 629 trips occurring during the PM peak hour.

5.2. TRIP DISTRIBUTION AND ASSIGNMENT

The trip distribution procedure determines the general pattern of travel for vehicles entering and exiting the proposed development. The trip distribution for the proposed development is largely based on the distribution of the existing traffic with adjustments to account for the anticipated changes in traffic patterns along the surrounding roadway network. The trip distribution is shown in **Figure 6**.

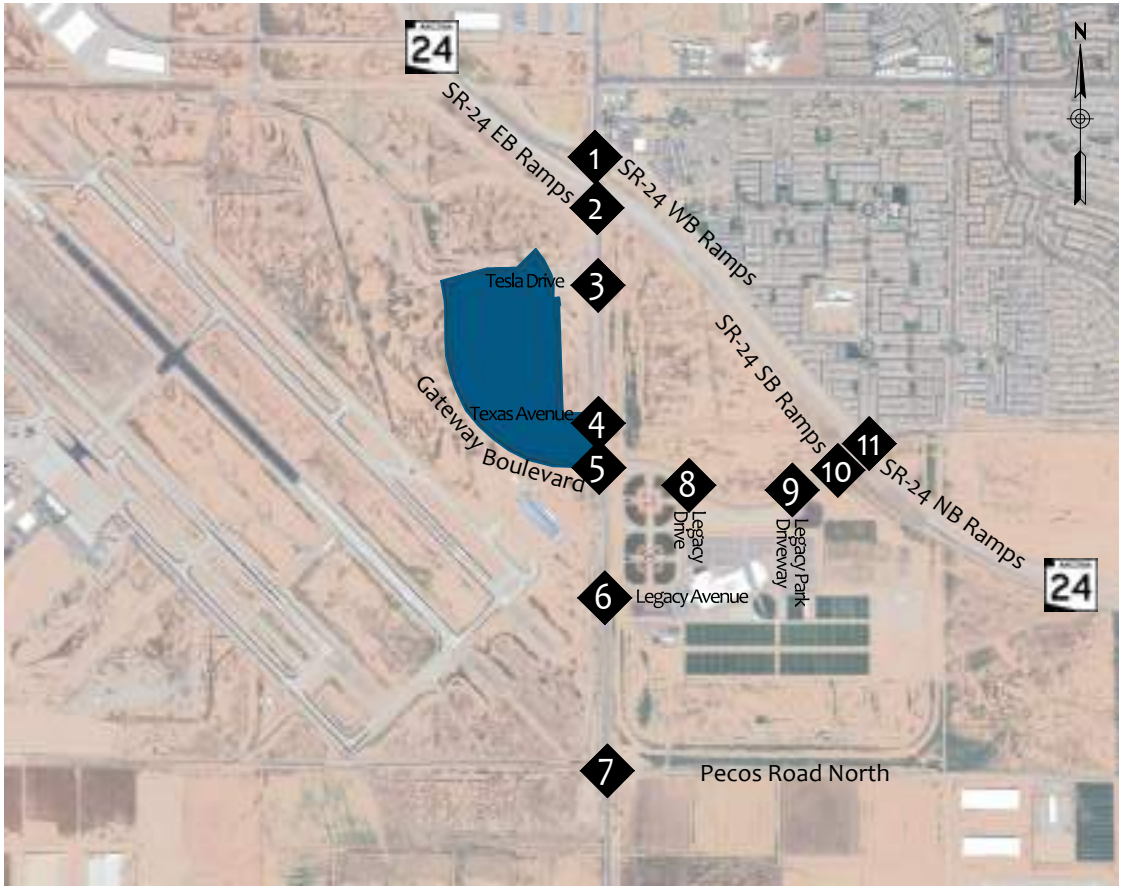
The trip assignment was generally based on proximity of the driveways, permitted turn movements, as well as ease and probability of use respective to each land use within the mixed-use site. The site generated traffic volumes are shown in **Figure 7**.



Legend

XX%	Trip Distribution Percentages
X	Intersection

FIGURE 6 | TRIP DISTRIBUTION



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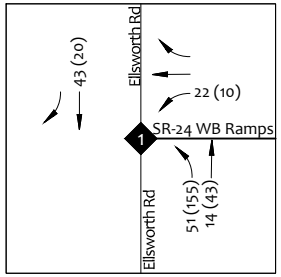
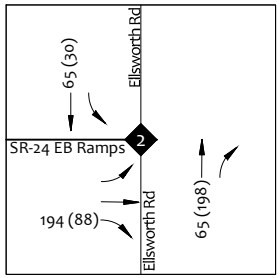
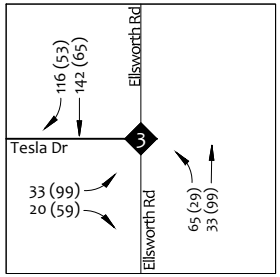
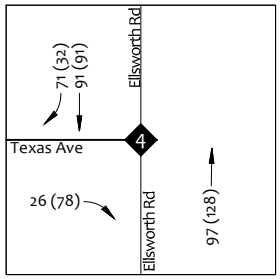
AM (PM) Peak Hour Traffic Volumes

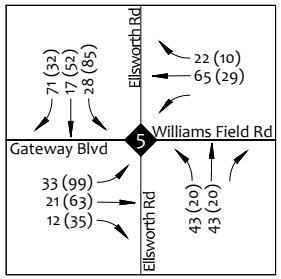
X Intersection

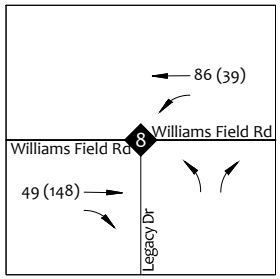


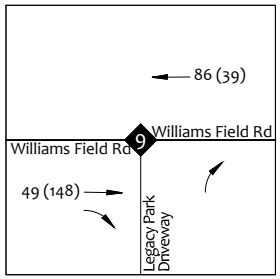


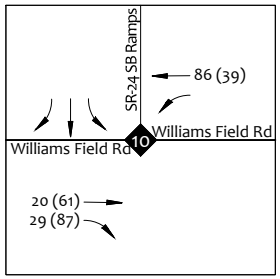


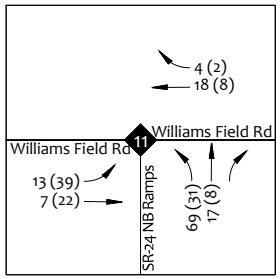


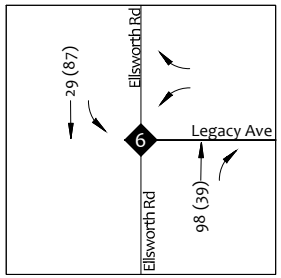












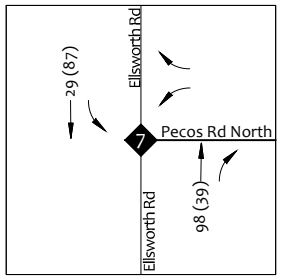


FIGURE 7 | SITE TRAFFIC VOLUMES

6. FUTURE CONDITIONS (YEAR 2026 – OPENING YEAR)

The proposed Gateway Phase I development is anticipated to be to be opened and completed as a single phase during the year 2026. This section analyzes the effects the proposed development will have on the surrounding roadway network during the opening year (year 2026).

6.1. YEAR 2026 FUTURE ROADWAY NETWORK

The following roadway network improvements are assumed to be built out by the year 2026:

Ellsworth Road and Tesla Drive (3) – *Future Signalized Intersection*

- It is assumed the eastbound approach will provide one (1) dedicated left turn lane, one (1) through lane, and one (1) dedicated right turn lane. Additionally, there will be one (1) westbound receiving lane.

Ellsworth Road and Texas Avenue (4) – *Future Stop-Controlled Intersection*

- It is assumed the eastbound approach will provide one ((1) dedicated right turn lane. Additionally, there will be one (1) westbound receiving lane.

Ellsworth Road and Williams Field Road (5) – *Existing Signalized Intersection*

- It is assumed the eastbound and westbound approaches will provide two (2) dedicated left turn lanes, two (2) through lanes, and one (1) dedicated right turn lane. The northbound approach will provide two (2) dedicated left turn lanes, two (2) through lanes, and one (1) dedicated right turn lane. The southbound approach will provide two (2) dedicated left turn lanes, three (3) through lanes, and one (1) dedicated right turn lane.

Ellsworth Road

- According to the *City of Mesa 2040 Transportation Master Plan,* Ellsworth Road will ultimately be a 6-lane cross-section. Currently Ellsworth Road operates with two (2) northbound through lanes and three (3) southbound through lanes. As a conservative approach, this roadway cross-section was assumed for the year 2026 analysis.

Williams Field Road

- According to the *City of Mesa 2040 Transportation Master Plan,* Williams Field Road will ultimately be a 6-lane cross-section. Currently Williams Field Road provides one (1) through lane in each direction of travel. As a conservative approach, this roadway cross-section was assumed for the year 2026 analysis.

Tesla Drive

- It is assumed Tesla Drive will operate with one (1) through lane in each direction of travel, with a center two-way left turn lane. These improvements will extend from Gateway Boulevard to Ellsworth Road.

SR-24 between Ellsworth Road and Ironwood Road

- At the time of this report, the completion date of the SR-24 main line was unknown. Therefore, as a conservative approach, SR-24 was assumed to operate as it does today.

6.2.YEAR 2026 BACKGROUND TRAFFIC VOLUMES

According to the 2019 Maricopa Association of Governments (MAG) socioeconomic projections within the study area of Regional Analysis Zone 320 (RAZ 320), it is estimated that in the year 2018 the population of the study area was approximately 1,349. MAG estimates that the 2030 population of the surrounding area will be approximately 1,613. This results in an approximate annual growth rate of 1.5%. Therefore, a 1.5% annual growth rate was utilized. See **Appendix G** for the MAG socioeconomic projections.

The year 2026 background traffic volumes are shown in **Figure 8**, which includes the 1.5% annual growth rate.

6.3.YEAR 2026 BUILD TRAFFIC VOLUMES

To determine the year 2026 build traffic volumes, the total site traffic (**Figure 7**) is added to the year 2026 background traffic (**Figure 8**). This represents the year 2026 traffic volumes with the build out of the proposed Gateway Phase I development. The year 2026 build traffic volumes are shown in **Figure 9**.

6.4. YEAR 2026 NO BUILD CAPACITY ANALYSIS

The capacity and level of service for the study area intersections were evaluated for the year 2026 no build scenario. The corresponding traffic volumes are shown in **Figure 8**. Signal timing splits were optilized and adjusted for future traffic volumes. A Peak Hour Factor (PHF) of 0.92 was utilized.

The year 2026 no build AM and PM peak hour level of service and delay for signalized and unsignalized intersections are shown in **Table 4**. The year 2026 no build capacity analysis sheets can be found in **Appendix H**.

The results of the 2026 no build capacity analysis level of service is shown in **Figure 10**. The results of the capacity analyses reveal that all movements operate at a LOS D or better or are maintained at the existing LOS.

6.5. YEAR 2026 BUILD CAPACITY ANALYSIS

The year 2026 build capacity analysis was completed for the study intersections and driveways during the AM and PM peak hour. The analysis for the study area intersections were evaluated using the methodology described in **Section 4.2**. Signal timing splits were optimized for the future traffic volumes, and a peak hour factor (PHF) of 0.92 was used for future conditions.

The capacity and level of service for the study area intersections were evaluated for the year 2026 build traffic volumes (**Figure 9**).

The year 2026 build AM and PM peak hour level of service and delay for signalized and unsignalized intersections are shown in **Table 4**. The year 2026 build capacity analysis sheets can be found in **Appendix I**.

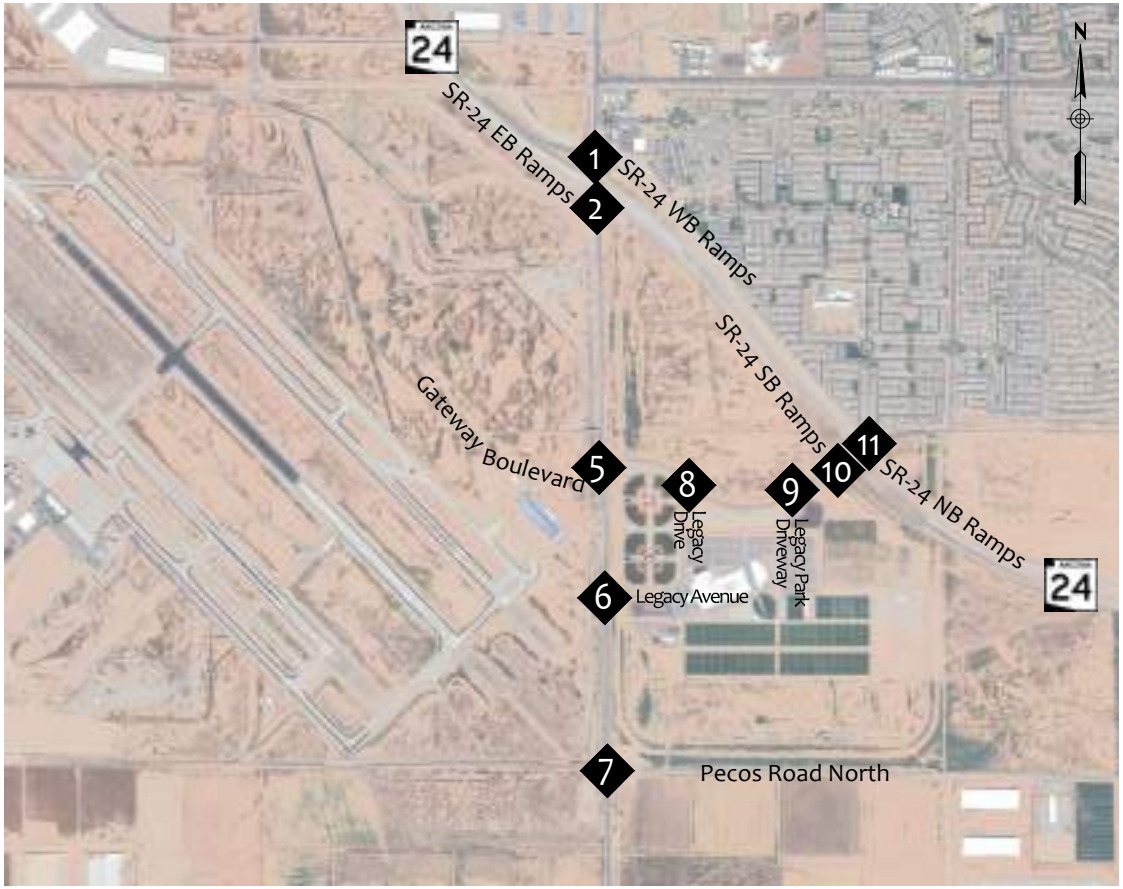
The results of the 2026 build capacity analysis level of are shown in **Figure 11**. The results of the capacity analyses reveal that all movements operate at a LOS D or better or are maintained at the existing LOS.

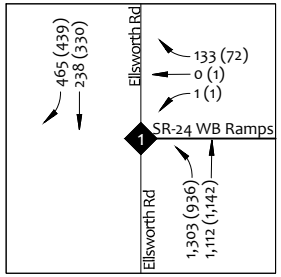
Table 4 - Year 2026 Level of Service

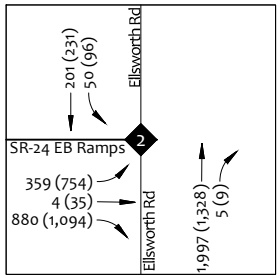
Intersection	2026 No Build Conditions				2026 Build Conditions			
	AM PEAK		PM PEAK		AM PEAK		PM PEAK	
Signalized Intersections	LOS	DELAY	LOS	DELAY	LOS	DELAY	LOS	DELAY
Ellsworth Road and SR-24 Westbound Ramps (1) - Signalized								
Overall Intersection	B	15.4	C	23.8	B	17.2	C	28.3
Westbound Left	C	35.0	C	22.0	C	34.5	C	21.7
Westbound Shared Left-Through & Through-Right	A	0.2	A	6.2	A	0.2	A	8.4
Westbound Right	A	0.6	A	0.2	A	0.6	A	0.2
Northbound Left	C	23.3	C	30.9	C	25.6	D	43.8
Northbound Through	A	5.3	B	16.6	A	5.3	B	15.1
Southbound Through	D	43.5	D	52.0	D	45.9	D	52.7
Southbound Right	A	7.6	A	9.9	A	8.3	A	9.9
Ellsworth Road and SR-24 Westbound Ramps (2) - Signalized								
Overall Intersection	C	30.0	C	30.9	C	33.4	C	33.8
Eastbound Left	D	51.1	E	63.5	D	48.5	E	66.7
Eastbound Shrared Left-Through	D	51.7	E	64.6	D	48.9	E	67.9
Eastbound Right	A	1.6	A	2.1	A	3.6	A	3.7
Northbound Through	D	40.4	D	37.1	D	49.5	D	43.2
Northbound Right	A	0.0	A	0.0	A	0.0	A	0.0
Southbound Left	E	79.4	E	78.2	E	74.2	E	75.3
Southbound Through	A	0.4	A	0.1	A	0.7	A	0.4
Ellsworth Road and Tesla Drive (3) - Signalized								
Overall Intersection	-	-	-	-	B	11.4	B	10.3
Eastbound Left	-	-	-	-	D	42.3	D	44.8
Eastbound Right	-	-	-	-	A	0.1	B	16.5
Northbound Left	-	-	-	-	C	33.6	B	11.7
Northbound Through	-	-	-	-	B	14.0	B	15.4
Southbound Through	-	-	-	-	A	6.2	A	3.4
Southbound Right	-	-	-	-	A	1.6	A	1.0
Ellsworth Road and Texas Avenue (4) - Unsignalized								
Eastbound Right	-	-	-	-	B	10.8	B	12.2
Ellsworth Road and Williams Field Road (5) - Signalized								
Overall Intersection	C	20.8	B	10.4	C	33.3	C	24.9
Eastbound Left	-	-	-	-	D	43.1	D	47.7
Eastbound Through	-	-	-	-	D	37.8	C	29.4
Eastbound Right	-	-	-	-	A	0.2	A	0.3
Westbound Left	D	35.1	B	18.8	D	41.3	D	54.5
Westbound Through	-	-	-	-	D	41.8	C	27.0
Westbound Right	C	25.0	A	4.3	A	0.7	A	1.5
Northbound Left	-	-	-	-	D	37.3	D	44.1
Northbound Through	C	27.1	A	9.9	D	47.0	C	24.1
Northbound Right	A	3.3	A	5.4	A	0.1	A	2.0
Southbound Left	D	41.9	D	42.1	D	45.3	D	52.0
Southbound Through	A	7.7	A	8.4	A	8.9	C	20.9
Southbound Right	-	-	-	-	A	0.1	A	0.6

Table 4 - Year 2026 Level of Service – Continued

Intersection	2026 No Build Conditions				2026 Build Conditions			
	AM PEAK		PM PEAK		AM PEAK		PM PEAK	
Signalized Intersections	LOS	DELAY	LOS	DELAY	LOS	DELAY	LOS	DELAY
Ellsworth Road and Legacy Drive (6) - Signalized								
Overall Intersection	C	20.4	B	15.9	C	28.4	B	16.7
Westbound Left & Shared Left-Right	C	29.0	C	22.7	C	29.0	C	22.7
Westbound Right	C	21.0	B	10.1	C	21.0	B	10.1
Northbound Through	C	27.8	C	21.7	D	37.5	C	22.2
Northbound Right	A	1.7	A	5.5	A	0.9	A	5.4
Southbound Left	D	38.3	D	48.0	C	33.0	D	43.3
Southbound Through	A	6.8	B	10.1	B	11.4	B	11.8
Ellsworth Road and Pecos Road North (7) - Signalized								
Overall Intersection	B	13.5	B	12.2	B	15.9	B	13
Westbound Left	D	53.4	D	35.8	D	53.4	D	35.8
Westbound Right	B	16.1	B	17.0	B	16.1	B	16.9
Northbound Through & Through Right	B	17.8	B	16.9	C	21.6	B	17.4
Southbound Left	D	54.9	D	53.0	D	54.8	D	48.6
Southbound Through	A	0.2	A	4.1	A	0.2	A	5.9
Williams Field Road and Legacy Avenue (8) - Signalized								
Overall Intersection	A	2.5	A	9.1	A	1.7	A	7.2
Eastbound Through	A	4.3	A	5.3	A	2.3	A	3.7
Eastbound Right	A	4.1	A	0.9	A	1.6	A	0.1
Westbound Left	A	1.2	A	2.7	A	1.2	A	2.8
Westbound Through	A	1.2	A	3.2	A	1.2	A	3.2
Northbound Left	D	36.0	D	40.7	D	36.0	D	40.7
Northbound Right	A	0.0	B	13.7	A	0.0	B	13.7
Williams Field Road and Legacy Park Driveway (9) - Unsignalized								
Northbound Right	A	0.0	A	9.5	A	0.0	B	10.3
Williams Field Road and SR-24 Southbound Ramps (10) - Signalized								
Overall Intersection	C	226.4	F	282.0	C	28.5	F	266.9
Eastbound Through	C	34.4	D	37.4	D	37.9	D	37.9
Eastbound Right	A	0.0	A	0.0	A	0.3	A	0.9
Wesbound Left	A	9.8	B	19.6	C	33.8	C	28.2
Westbound Through	A	1.2	A	9.6	C	20.1	B	17.0
Southbound Left	B	18.7	B	18.4	B	19.2	B	18.4
Southbound Shared Left-Through & Through-Right	C	29.1	F	332.5	C	31.2	F	332.5
Williams Field Road and SR-24 Northbound Ramps (11) - Signalized								
Overall Intersection	F	172.2	C	27.4	F	160.7	C	27.4
Eastbound Left	D	37.6	D	43.4	D	41.6	D	49
Eastbound Through	C	22.7	B	18.9	C	20.1	B	16.5
Wesbound Through	C	34.8	D	37.5	C	34.1	D	37.5
Westbound Right	F	127.6	B	12.7	F	119.9	B	12.9
Northbound Left	B	16.0	B	15.7	B	16.7	B	16.3
Northbound Through & Shared Through-Right	F	206.8	C	31.6	F	199.5	C	31.5



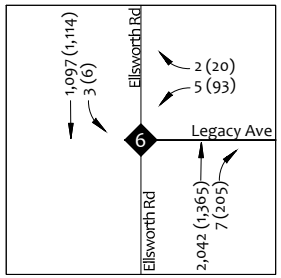


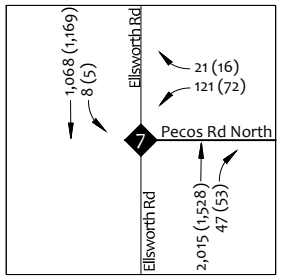


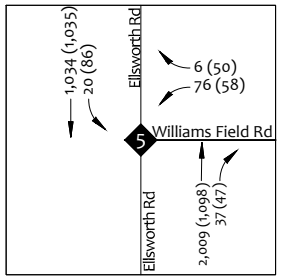
Legend

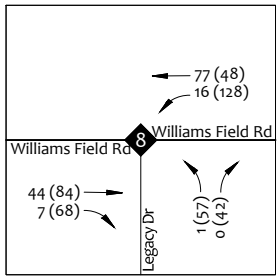
AM (PM) Peak Hour Traffic Volumes

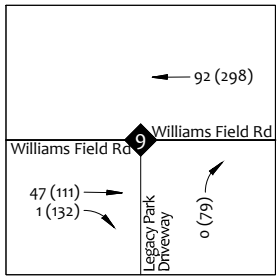
X Intersection

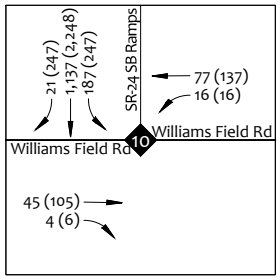












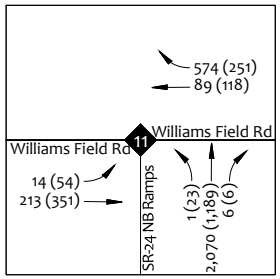
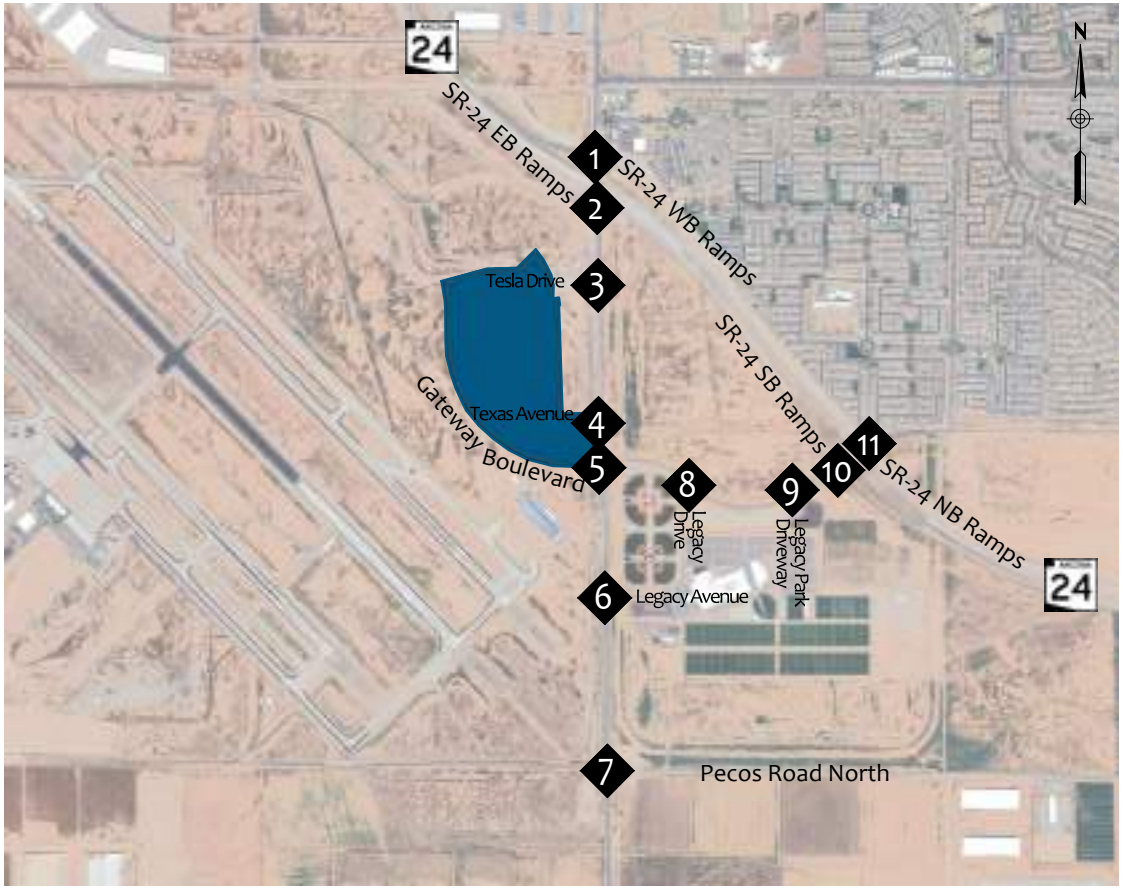


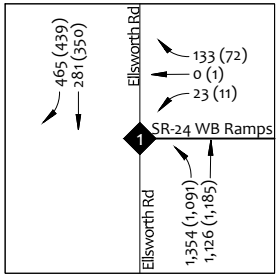
FIGURE 8 | YEAR 2026 BACKGROUND TRAFFIC VOLUMES

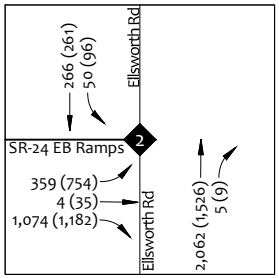


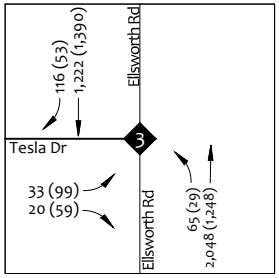
Legend

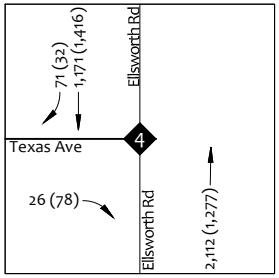
AM (PM) Peak Hour Traffic Volumes

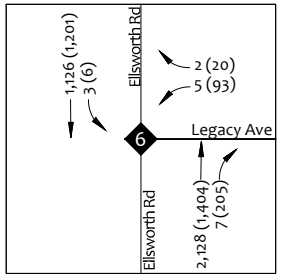
X Intersection

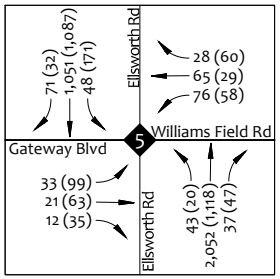


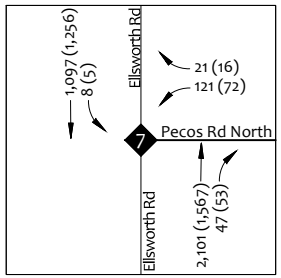


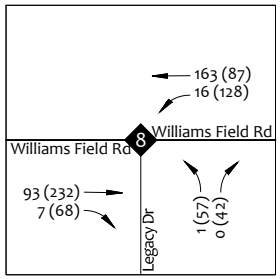


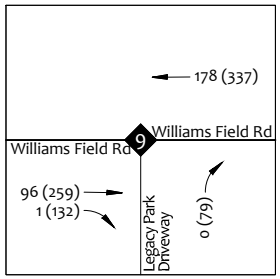


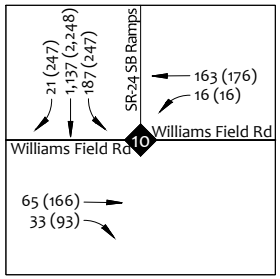












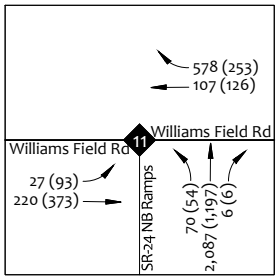
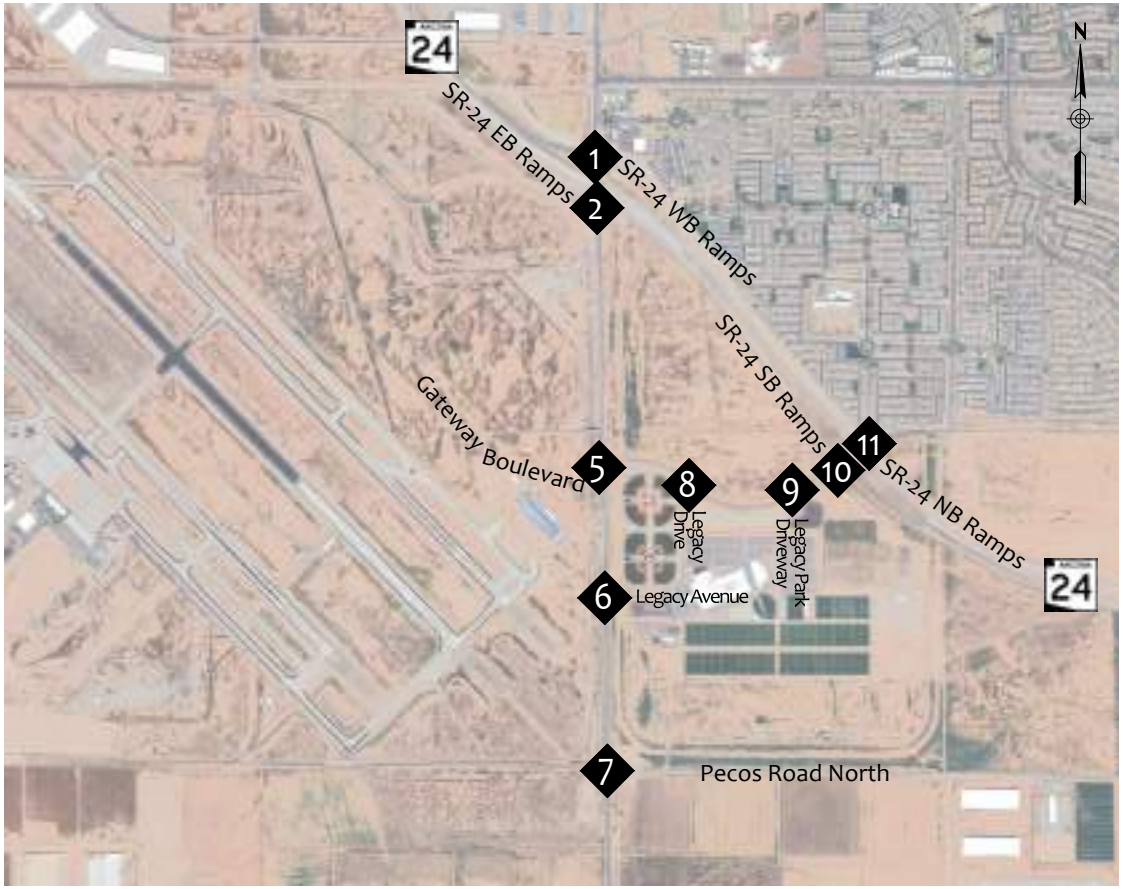
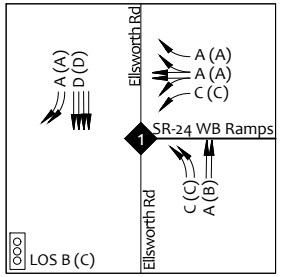
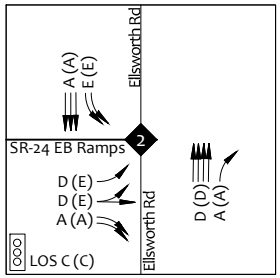


FIGURE 9 | YEAR 2026 BUILD TRAFFIC VOLUMES

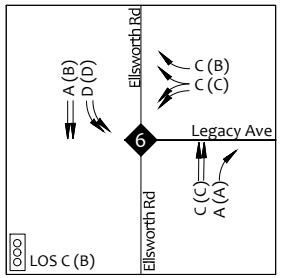


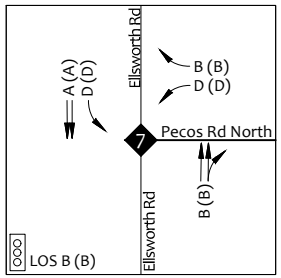


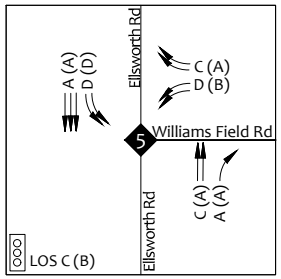


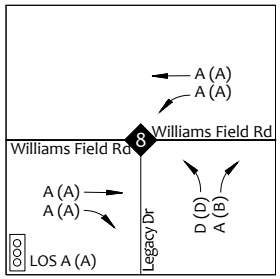
Legend

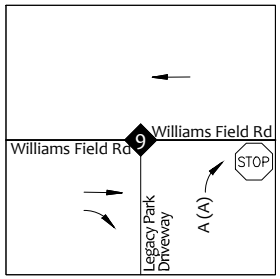
AM(PM)	Peak Hour Capacity Analysis
X	Intersection
	Lane Configuration

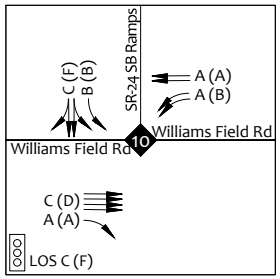












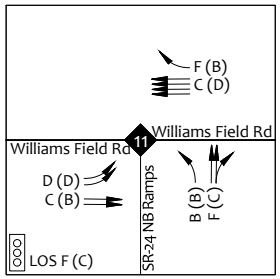
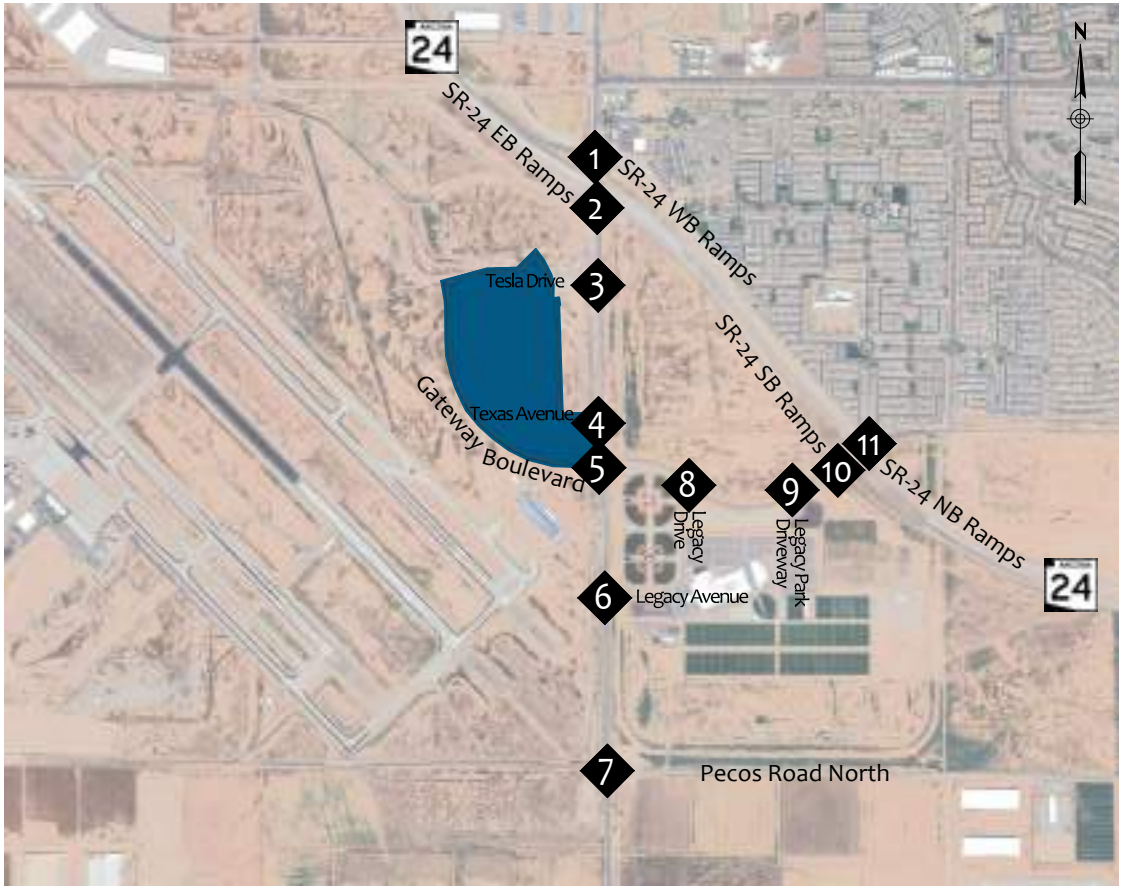
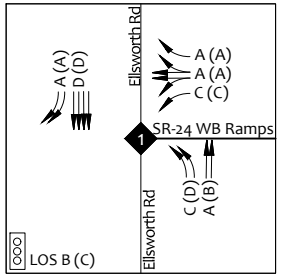


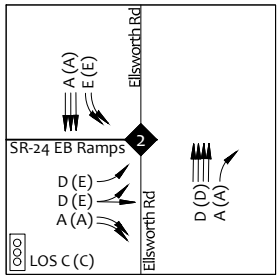
FIGURE 10 | YEAR 2026 NO BUILD CAPACITY ANALYSIS

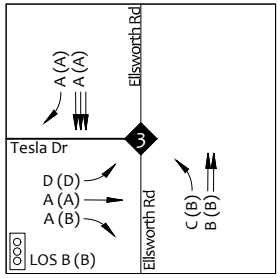


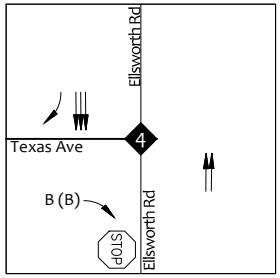
Legend

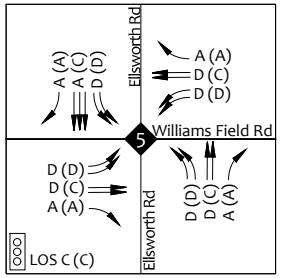
AM(PM)	Peak Hour Capacity Analysis
X	Intersection
	Lane Configuration

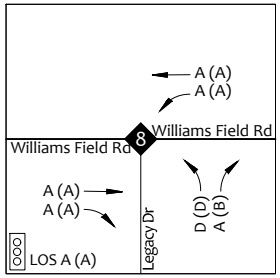


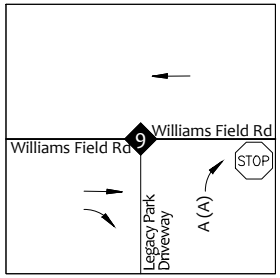


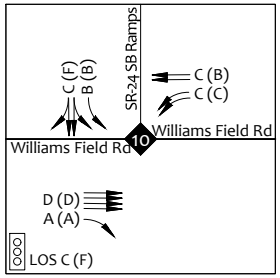


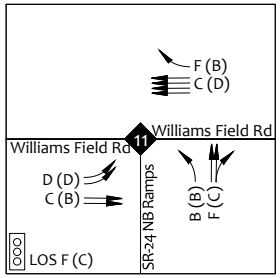


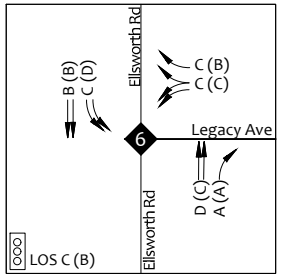












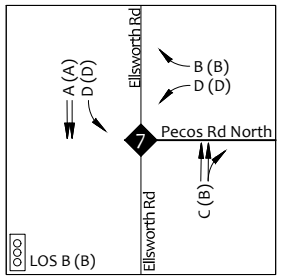


FIGURE 11 | YEAR 2026 BUILD CAPACITY ANALYSIS

7. FUTURE CONDITIONS (YEAR 2031)

This section analyzes the effects the proposed development will have on the surrounding roadway network during the year of 2031, 5 years after the opening year.

7.1. YEAR 2031 FUTURE ROADWAY NETWORK

No additional roadway improvements to the year 2026 improvements listed in **Section 6.1** were assumed to be built out by year 2031.

7.2. YEAR 2031 BACKGROUND TRAFFIC VOLUMES

Similar to the year 2026 background traffic volumes described in detail in **Section 6.2**, a 1.5% annual growth rate was applied to the existing traffic volumes through the year 2031. The year 2031 background traffic volumes are shown in **Figure 12**.

7.3. YEAR 2031 BUILD TRAFFIC VOLUMES

When the total site traffic (**Figure 7**) is added to the year 2031 background traffic (**Figure 12**), the result is the 2031 build traffic volumes. This represents the traffic volumes with the build out of the proposed development. The year 2031 build traffic volumes are shown in **Figure 13**.

7.4. YEAR 2031 NO BUILD CAPACITY ANALYSIS

The capacity and level of service for the study area intersections were evaluated for the year 2031 no build scenario. The corresponding traffic volumes are shown in **Figure 12**. Signal timing splits were optilized and adjusted for future traffic volumes. A Peak Hour Factor (PHF) of 0.92 was utilized.

The year 2031 no build AM and PM peak hour level of service and delay for signalized and unsignalized intersections are shown in **Table 5**. The year 2031 no build capacity analysis sheets can be found in **Appendix J**.

The results of the 2031 no build capacity analysis level of service is shown in **Figure 14**. The results of the capacity analyses reveal that all movements operate at a LOS D or better or are maintained at the existing LOS with the exception of the following:

Ellsworth Road and SR-24 Eastbound Ramps (2)

- Northbound through AM peak hour operates at LOS E

As mentioned in **Section 6.1,** *Ellsworth Road was assumed to have two (2) northbound through lane. However, Ellsworth Road will ultimately provide three (3) northbound through lanes. Therefore, the movement noted above will likely operate at an acceptable LOS.*

7.5. YEAR 2031 BUILD CAPACITY ANALYSIS

The year 2031 build capacity analysis was completed for the study intersections and driveways during the AM and PM peak hour. The analysis for the study area intersections were evaluated using the methodology described in **Section 4.2**. Signal timing splits were optimized for the future traffic volumes, and a peak hour factor (PHF) of 0.92 was used for future conditions. The detailed capacity analysis sheets can be found in **Appendix K**.

The capacity and level of service for the study area intersections were evaluated for the year 2031 build traffic volumes (**Figure 13**).

The year 2031 no build AM and PM peak hour level of service and delay for signalized and unsignalized intersections are shown in **Table 5**. The year 2031 build capacity analysis sheets can be found in **Appendix K.**

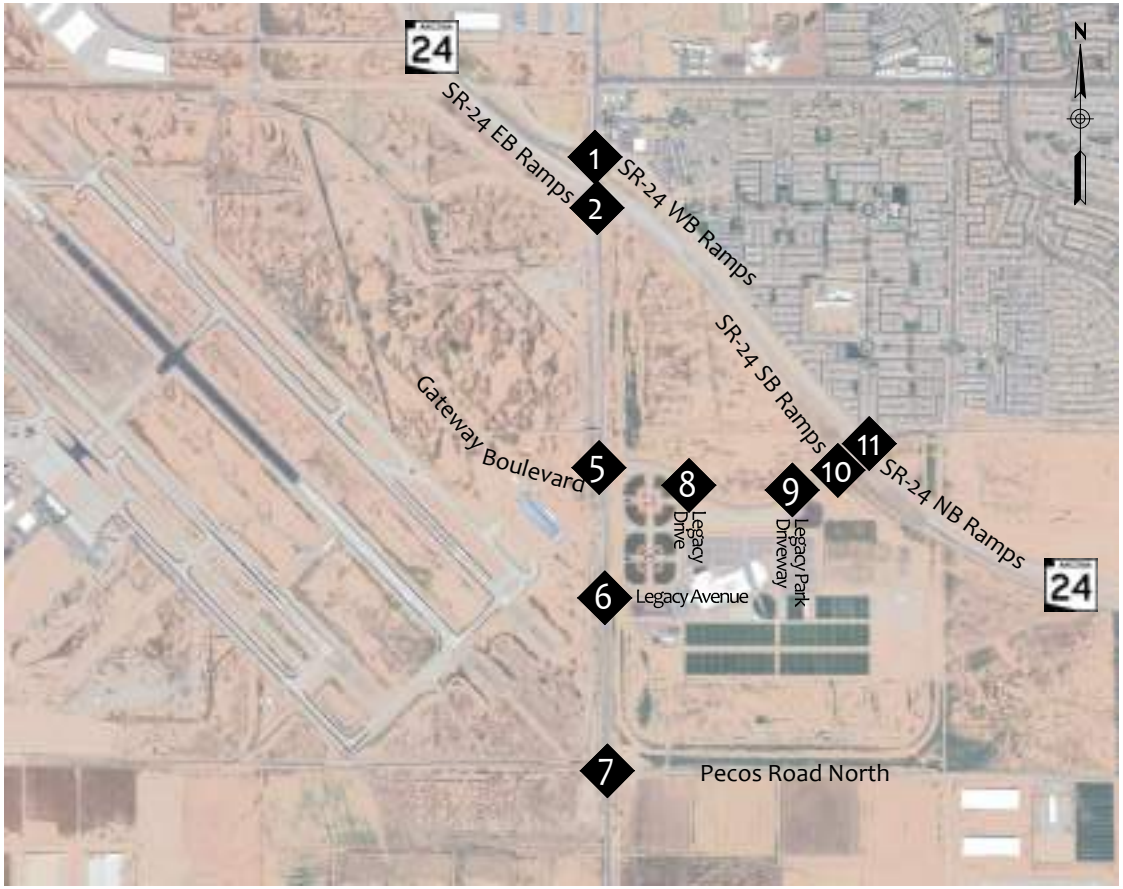
The results of the 2031 build capacity analysis level of service are shown in **Figure 15**. The results of the capacity analyses reveal that all movements operate at a LOS D or better or are maintained at the year 2031 no build LOS.

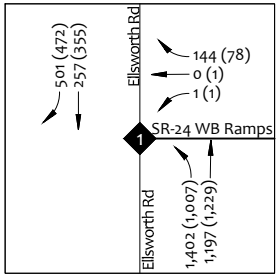
Table 5 - Year 2031 Level of Service

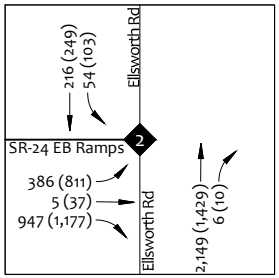
Intersection	2031 No Build Conditions				2031 Build Conditions			
	AM PEAK		PM PEAK		AM PEAK		PM PEAK	
Signalized Intersections	LOS	DELAY	LOS	DELAY	LOS	DELAY	LOS	DELAY
Ellsworth Road and SR-24 Westbound Ramps (1) - Signalized								
Overall Intersection	B	18.9	C	24.9	C	23.2	C	32
Westbound Left	C	33.0	C	22.0	C	33.4	C	22.4
Westbound Shared Left-Through & Through-Right	A	0.2	A	9.9	A	0.2	B	11.5
Westbound Right	A	0.7	A	0.2	A	0.6	A	0.2
Northbound Left	C	31.1	C	33.2	D	39.3	D	53.6
Northbound Through	A	5.6	B	17.0	A	6.1	B	15.7
Southbound Through	D	45.5	D	53.0	D	47.9	D	54.0
Southbound Right	A	8.4	A	10.0	A	9.0	A	10.0
Ellsworth Road and SR-24 Westbound Ramps (2) - Signalized								
Overall Intersection	D	40.6	C	33.4	D	49.4	D	35.6
Eastbound Left	D	49.5	E	70.7	D	47.5	E	70.7
Eastbound Shrared Left-Through	D	48.9	E	71	D	47.0	E	71.0
Eastbound Right	A	1.6	A	3.3	A	4.7	A	5.1
Northbound Through	E	59.4	D	38.8	E	78.6	D	44.6
Northbound Right	A	0.0	A	0.1	A	0.0	A	0.1
Southbound Left	E	79.8	E	78.4	E	74.5	E	76.3
Southbound Through	A	0.4	A	0.1	A	0.8	A	0.4
Ellsworth Road and Tesla Drive (3) - Signalized								
Overall Intersection	-	-	-	-	B	11.6	B	10.8
Eastbound Left	-	-	-	-	D	42.3	D	44.8
Eastbound Right	-	-	-	-	A	0.1	C	20.4
Northbound Left	-	-	-	-	C	33.1	B	12.9
Northbound Through	-	-	-	-	B	14.3	B	16.4
Southbound Through	-	-	-	-	A	6.4	A	3.5
Southbound Right	-	-	-	-	A	1.6	A	1.0
Ellsworth Road and Texas Avenue (4) - Unsignalized								
Eastbound Right	-	-	-	-	B	10.8	B	12.6
Ellsworth Road and Williams Field Road (5) - Signalized								
Overall Intersection	C	27.0	B	11.5	C	34.4	C	26.7
Eastbound Left	-	-	-	-	D	49.9	D	47.7
Eastbound Through	-	-	-	-	D	41.1	C	29.4
Eastbound Right	-	-	-	-	A	0.2	A	0.3
Westbound Left	D	37.1	B	19.0	D	46.3	D	54.8
Westbound Through	-	-	-	-	D	44.7	C	26.8
Westbound Right	C	25.0	A	4.3	A	0.9	A	1.6
Northbound Left	-	-	-	-	C	34.1	D	43.4
Northbound Through	D	37.7	B	12.0	D	49.4	C	28.2
Northbound Right	A	3.5	A	5.6	A	0.1	A	2.2
Southbound Left	D	40.0	D	42.5	D	38.2	D	53.5
Southbound Through	A	6.3	A	8.6	A	7.4	C	21.3
Southbound Right	-	-	-	-	A	0.1	A	0.6

Table 5 - Year 2031 Level of Service - Continued

Intersection	2031 No Build Conditions				2031 Build Conditions			
	AM PEAK		PM PEAK		AM PEAK		PM PEAK	
Signalized Intersections	LOS	DELAY	LOS	DELAY	LOS	DELAY	LOS	DELAY
Ellsworth Road and Legacy Drive (6) - Signalized								
Overall Intersection	C	34.8	B	16.6	C	23.8	B	17.7
Westbound Left & Shared Left-Right	C	29.0	C	22.8	C	32.3	C	22.8
Westbound Right	C	21.0	A	9.9	C	23.5	A	9.9
Northbound Through	D	49.9	C	22.9	C	31.3	C	23.6
Northbound Right	A	0.6	A	5.2	A	0.2	A	5.0
Southbound Left	D	37.7	D	47.7	C	35.0	D	42.3
Southbound Through	A	7.0	B	10.3	A	9.9	B	12.6
Ellsworth Road and Pecos Road North (7) - Signalized								
Overall Intersection	C	21.9	B	13.4	C	27.5	B	14.9
Westbound Left	D	50.5	D	35.9	D	50.5	D	35.9
Westbound Right	B	15.4	B	16.4	B	15.4	B	16.4
Northbound Through & Through Right	C	31.4	B	19.2	D	39.5	C	20.1
Southbound Left	D	41.2	D	53.5	D	42.9	D	49.2
Southbound Through	A	0.3	A	4.0	A	1.6	A	6.7
Williams Field Road and Legacy Avenue (8) - Signalized								
Overall Intersection	A	2.5	A	9.1	A	1.6	A	7.2
Eastbound Through	A	4.3	A	5.1	A	2.2	A	3.7
Eastbound Right	A	4	A	0.8	A	1.4	A	0.1
Westbound Left	A	1.2	A	2.8	A	1.2	A	2.9
Westbound Through	A	1.2	A	3.2	A	1.2	A	3.2
Northbound Left	D	36.0	D	41.0	D	36.0	D	41.0
Northbound Right	A	0.0	B	13.4	A	0.0	B	13.4
Williams Field Road and Legacy Park Driveway (9) - Unsignalized								
Northbound Right	A	0.0	A	9.6	A	0.0	B	10.3
Williams Field Road and SR-24 Southbound Ramps (10) - Signalized								
Overall Intersection	C	30.3	F	329.2	C	33.4	F	312.6
Eastbound Through	C	33.7	D	37.4	C	33.8	D	37.9
Eastbound Right	A	0	A	0.0	A	0.2	A	1.0
Wesbound Left	B	10.2	B	19.6	D	36.2	C	27.9
Westbound Through	A	0.9	A	9.6	B	19.0	B	16.1
Southbound Left	B	19.6	B	18.8	C	20.2	B	18.8
Southbound Shared Left-Through & Through-Right	C	34.0	F	388.9	D	38.0	F	388.9
Williams Field Road and SR-24 Northbound Ramps (11) - Signalized								
Overall Intersection	F	218.8	C	28.4	F	216.4	C	28.4
Eastbound Left	D	36.4	D	43.9	D	40.5	D	50
Eastbound Through	C	22.2	B	19.9	B	19.6	B	17.5
Wesbound Through	C	34.0	D	37.5	C	34.1	D	37.6
Westbound Right	F	152.8	B	15.0	F	155.9	B	15.3
Northbound Left	B	17.0	B	15.2	B	17.9	B	15.8
Northbound Through & Shared Through-Right	F	266.4	C	32.4	F	271.3	C	32.4



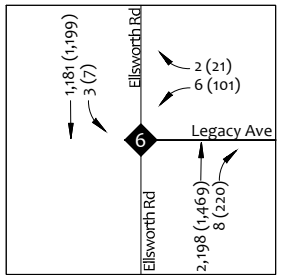


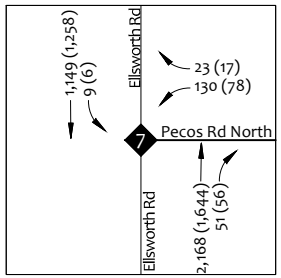


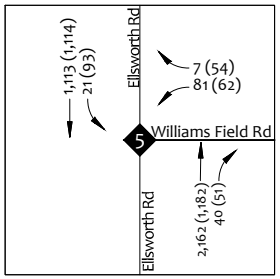
Legend

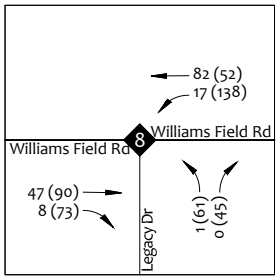
AM (PM) Peak Hour Traffic Volumes

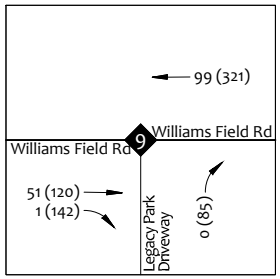
X Intersection

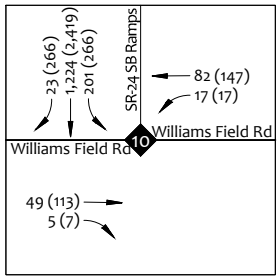












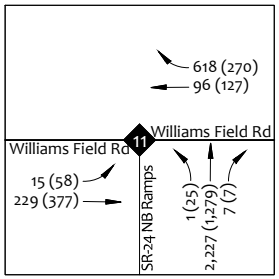
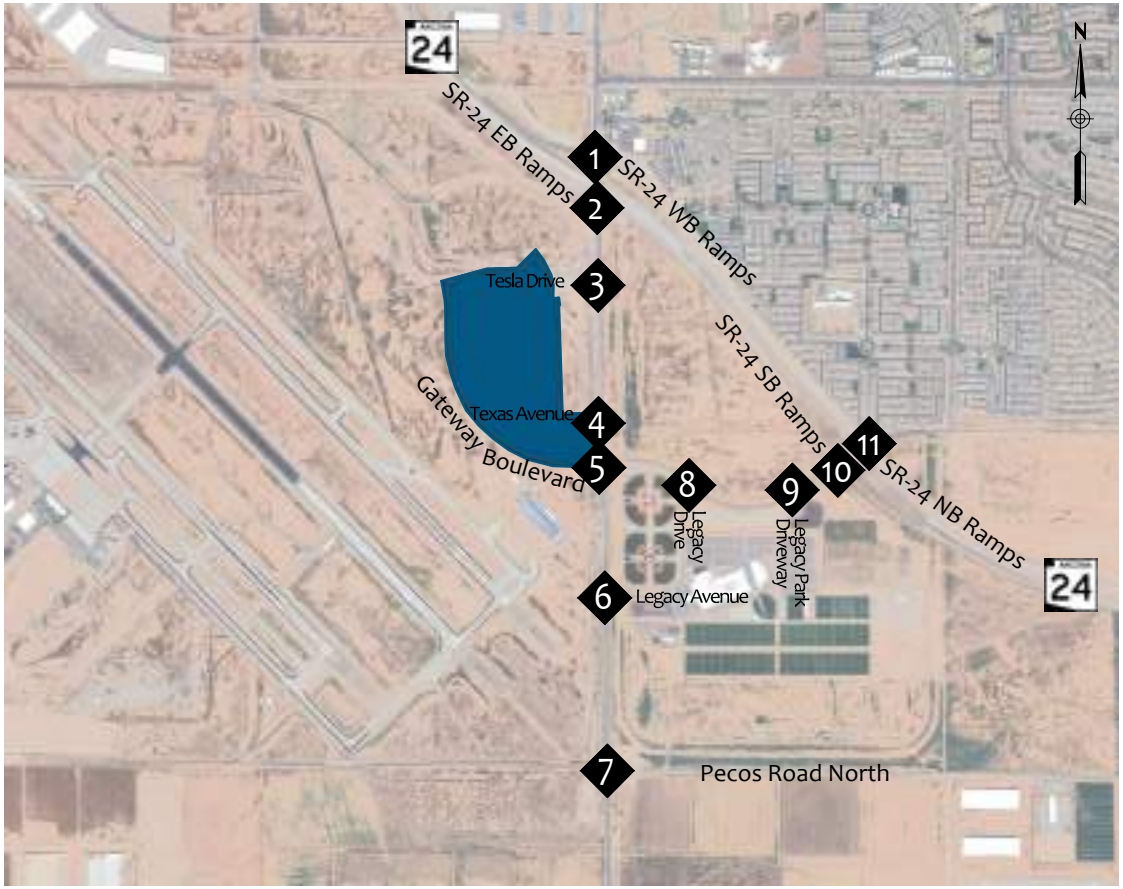


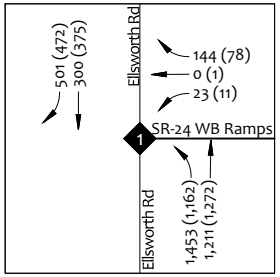
FIGURE 12 | YEAR 2031 BACKGROUND TRAFFIC VOLUMES

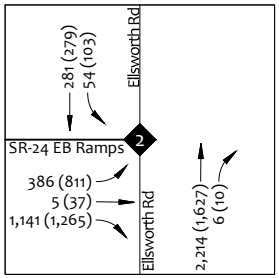


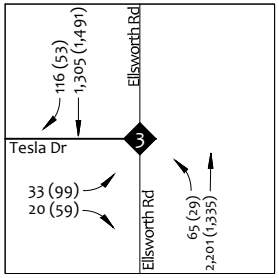
Legend

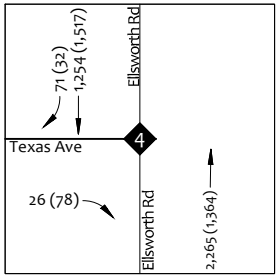
AM (PM) Peak Hour Traffic Volumes

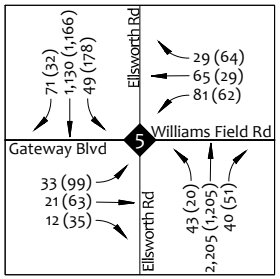
X Intersection

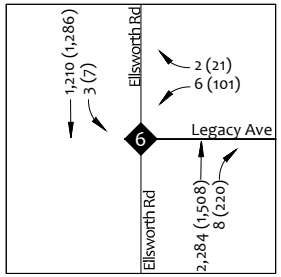


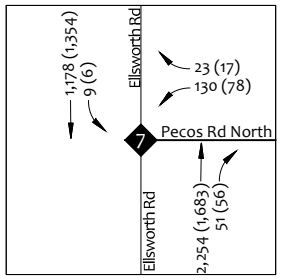


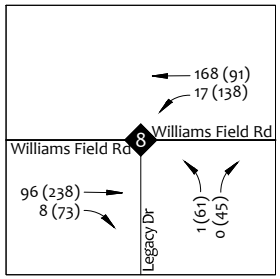


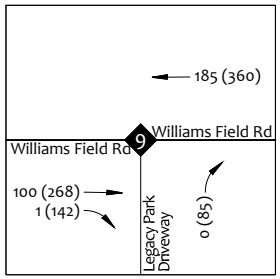


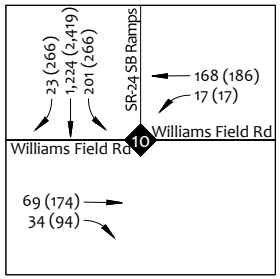












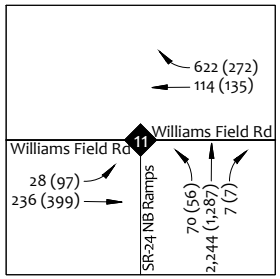
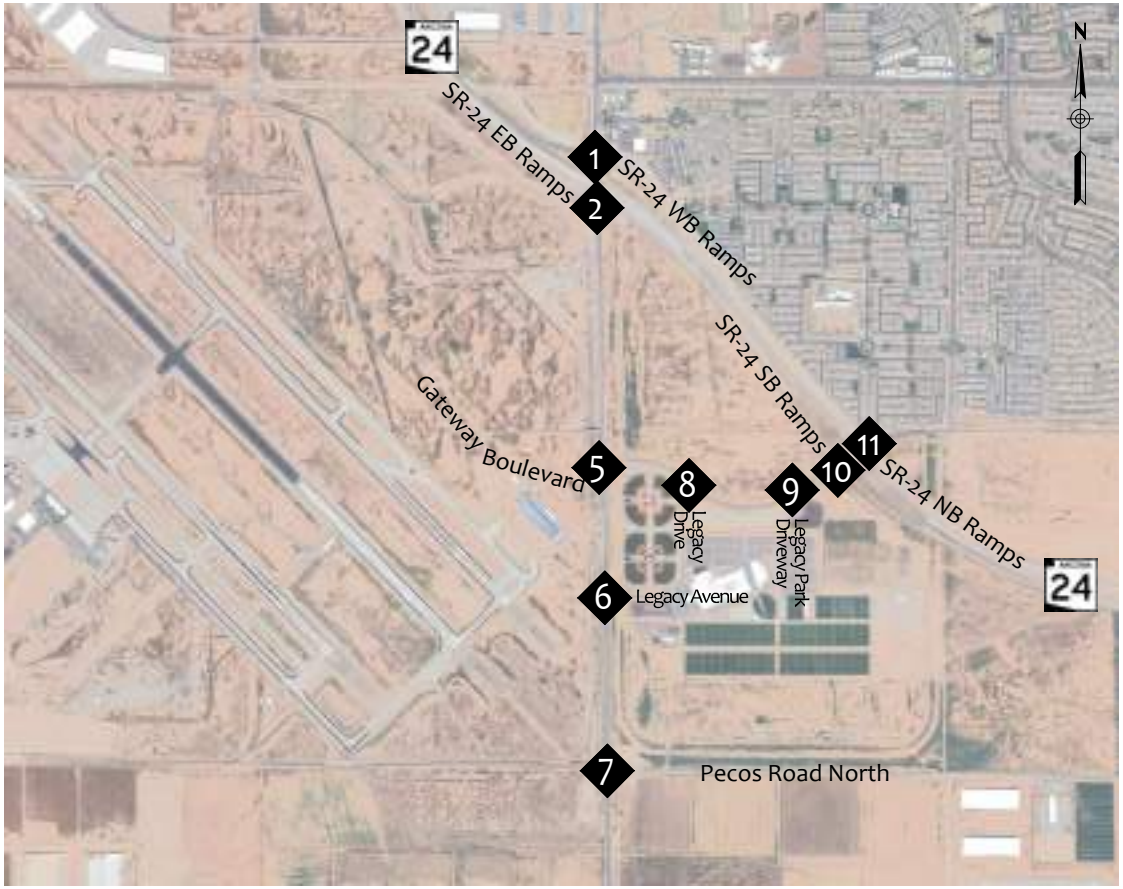
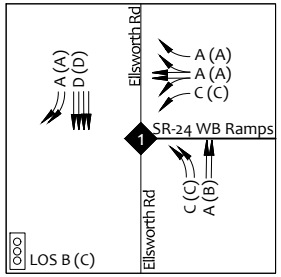
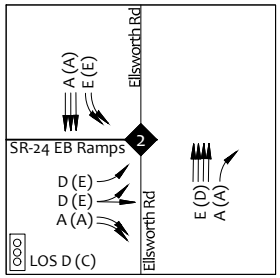


FIGURE 13 | YEAR 2031 BUILD TRAFFIC VOLUMES

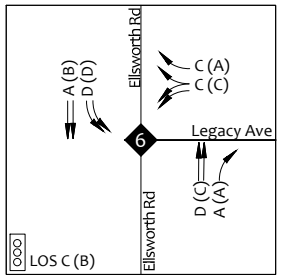


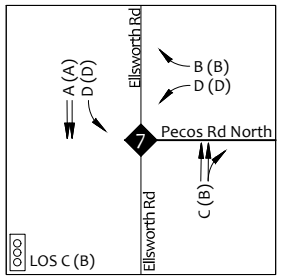


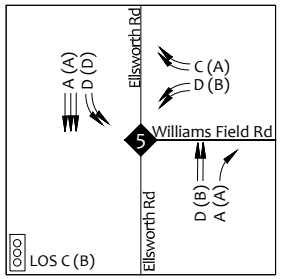


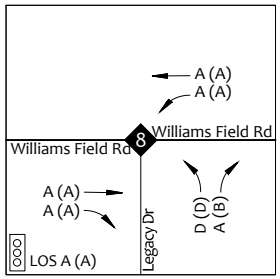
Legend

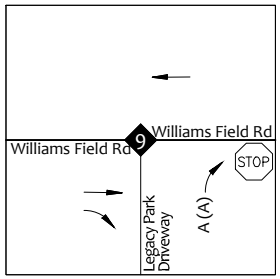
AM(PM)	Peak Hour Capacity Analysis
X	Intersection
	Lane Configuration

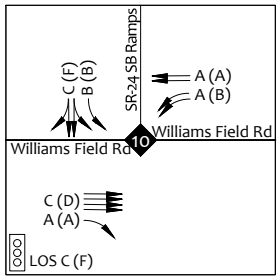












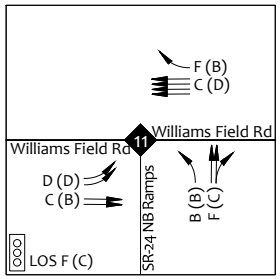
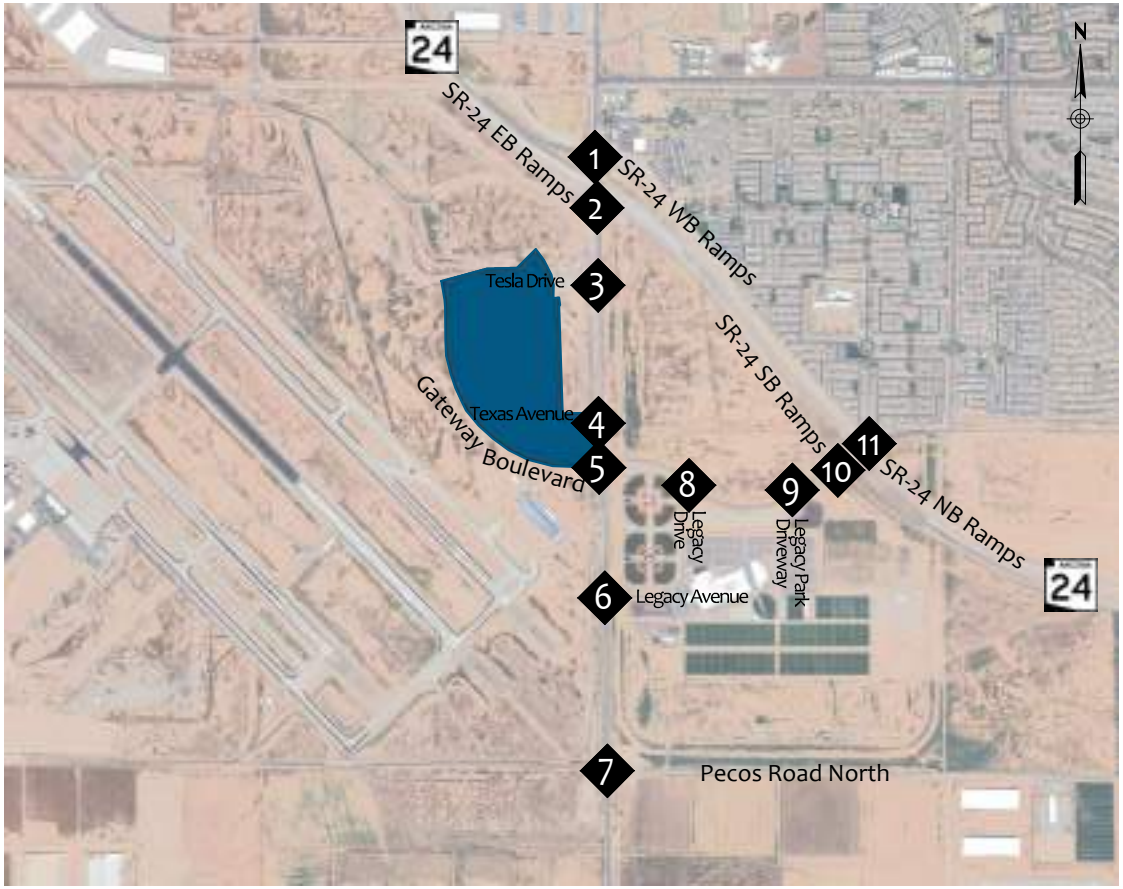
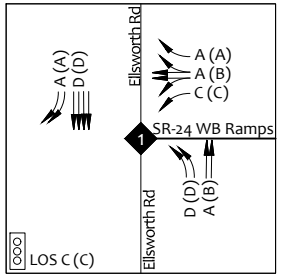


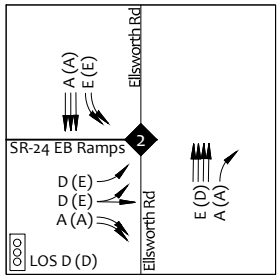
FIGURE 14 | YEAR 2031 NO BUILD CAPACITY ANALYSIS

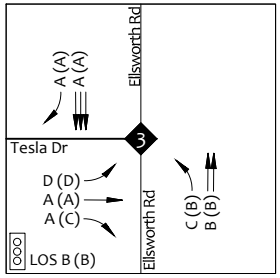


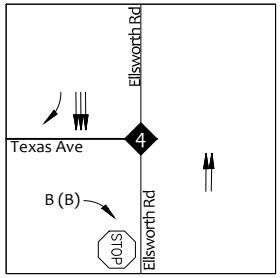
Legend

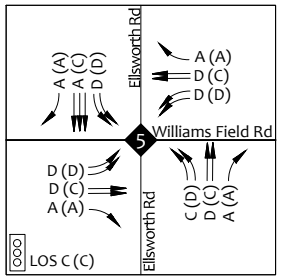
AM(PM)	Peak Hour Capacity Analysis
X	Intersection
	Lane Configuration

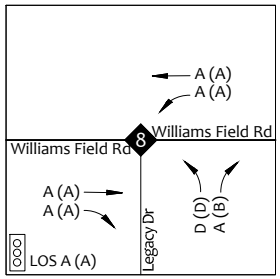


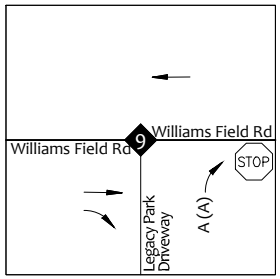


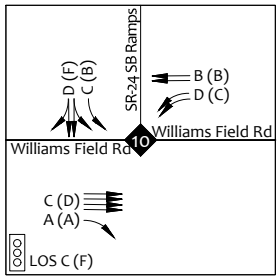


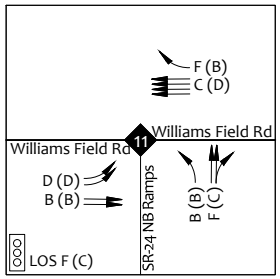


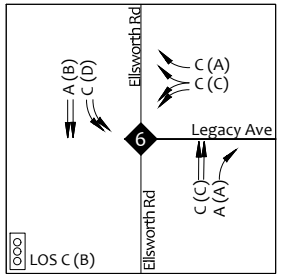












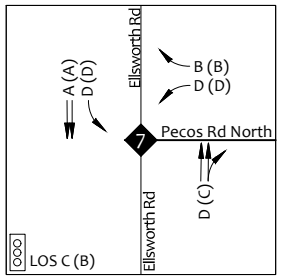


FIGURE 15 | YEAR 2031 BUILD CAPACITY ANALYSIS

8. RECOMMENDATIONS AND CONCLUSIONS

The proposed Gateway Phase I development is located on the northwest corner of Ellsworth Road and Gateway Boulevard/Williams Field Road in the City of Mesa, Arizona. The proposed Gateway Phase I development will include the following land uses:

- **Industrial Park** 1,275,000 square feet
- **Hotel** 150 rooms
- **Retail** 10,000 square feet
- **Restaurant** 5,000 square feet

For the purposes of this report, it was assumed that the development will be opened and completed in a single phase during the year 2026.

Recommendations

In addition to the future roadway network improved assumed to be built out by year 2026 as described in **Section 6.1**, the following are the recommendations with the build out of the proposed Gateway Phase I development:

- **Ellsworth Road and Tesla Drive (3)**
  Build out of a full-access signalized intersection. The eastbound approach will provide one (1) dedicated left turn lane, one (1) through lane, and one (1) dedicated right turn lane. Additionally, there will be one (1) westbound receiving lane.

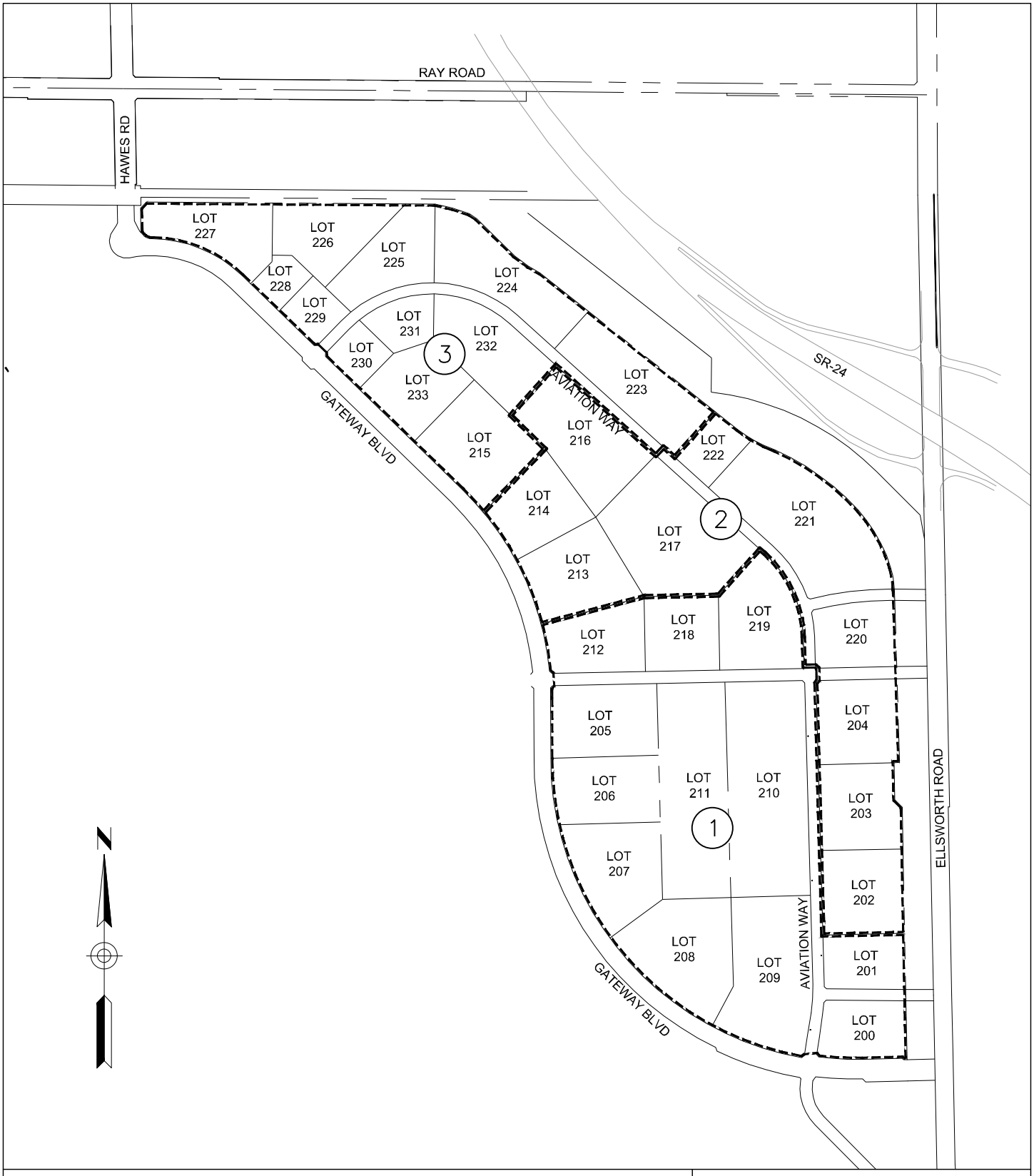
- **Ellsworth Road and Texas Avenue (4)**
  Build out of a right-in and right-out only stop-controlled driveway.

- **Tesla Drive**
  It is assumed Tesla Drive will operate with one (1) through lane in each direction of travel, with a center two-way left turn lane. These improvements will extend from Gateway Boulevard to Ellsworth Road.

As with any new development and potential change in traffic patterns, the following is recommended:

- **Monitor and Adjust Signal Timing**
  Monitor traffic patterns in the area and if necessary, adjust nearby signal timing.

Appendix A – Proposed Site Plan



GATEWAY EAST

PROJECT NAME

SITE PLAN WITH PHASES

DRAWING TITLE

EXHIBIT C(a)

SHEET NUMBER

6/27/2023

DATE

DIBBLE

Appendix B – Parcel Information

304-35-017B **Land Parcel**

This is a Land parcel located at 6001 S POWER RD 1110 MESA 85212. The current owner is PHOENIX-MESA GATEWAY AIRPORT AUTHORITY. Its current year full cash value is $20,002,600.

MAPS | PICTOMETRY | $ VIEW/PAY TAX BILL | DEED

OWNER | VALUATIONS | MAP FERRET | SIMILAR PARCELS

REGISTER RENTAL | PRINT DETAILS

PROPERTY INFORMATION

6001 S POWER RD 1110 MESA 85212

MCR #	
Description	SE4 EX S 33F RD & EX E 65F FOR ROAD P/F 08-1094192
Lat/Long	|
Lot Size	6,672,643 sq ft.
Zoning	LI
Lot #	
High School District	QUEEN CREEK UNIFIED #95
Elementary School District	QUEEN CREEK UNIFIED SCHOOL DISTRICT
Local Jurisdiction	MESA
S/T/R	28 1S 7E
Market Area/Neighborhood	28/005
Subdivision (0 Parcels)	

OWNER INFORMATION

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

Mailing Address	600 S POWER RD BLDG, MESA, AZ 852065219
Deed Number	20120207529

Last Deed Date	03/13/2012
Sale Date	n/a
Sale Price	n/a

VALUATION INFORMATION

We provide valuation information for the past 5 years. For mobile display, we only show 1 year of valuation information. Should you need more data, please look at our data sales.

The Valuation Information displayed below may not reflect the taxable value used on the tax bill due to any special valuation relief program. CLICK HERE TO PAY YOUR TAXES OR VIEW YOUR TAX BILL

Tax Year	2024	2023	2022	2021	2020
Full Cash Value	$20,002,600	$16,951,400	$9,297,100	$8,412,300	$7,373,900
Limited Value	$8,102,091	$7,716,278	$7,348,836	$6,998,891	$6,665,610
Legal Class	2.R	2.R	2.R	2.R	2.R
Description	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P
Assessment Ratio	15%	15%	15%	15%	15%
Assessed LPV	$1,215,313	$1,157,442	$1,102,325	$1,049,834	$999,842
Property Use Code	9705	9705	9700	9700	9700
PU Description	Municipal Ownership	Municipal Ownership	Municipal Ownership	Municipal Ownership	Municipal Ownership
Tax Area Code	951006	951006	951006	951006	951006
Valuation Source	Notice	Notice	Notice	Notice	Notice

MAP FERRET MAPS

Mapferret maps, also known as MapId maps, pdf maps, or output maps are now available here without having to search.

Please wait
Checking for MapId maps

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The Assessor does not guarantee that any information provided on this website is accurate, complete, or current. In many instances, the Assessor has gathered information from independent sources and made it available on this site, and the original information may have contained errors and omissions. Errors and omissions may also have occurred in the process of gathering, interpreting, and reporting the information. Information on the website is not updated in "real time". In addition, users are cautioned that the process used on this site to illustrate the boundaries of the adjacent parcels is not always consistent with the recorded documents for such parcels. The parcel boundaries depicted on this site are for illustrative purposes only, and the exact relationship of adjacent parcels should be independently researched and verified. The information provided on this site is not the equivalent of a title report or a real estate survey. Users should independently research, investigate and verify all information before relying on it or in the preparation of legal documents.

By using this website, you acknowledge having read the above and waive any right you may have to claim against Maricopa County, its officers, employees, and contractors arising out of my reliance on or the use of the information provided on this website.

304-35-025A **Land Parcel**

This is a Land parcel located at 6001 S POWER RD 1101 MESA 85212. The current owner is PHOENIX-MESA GATEWAY AIRPORT AUTHORITY. Its current year full cash value is $20,130,500.

MAPS | PICTOMETRY | $ VIEW/PAY TAX BILL | DEED
OWNER | VALUATIONS | MAP FERRET | SIMILAR PARCELS
REGISTER RENTAL | PRINT DETAILS

PROPERTY INFORMATION

6001 S POWER RD 1101 MESA 85212

MCR #	
Description	NE4 EX N 33F RD & EX E 65F FOR RD P/F 08-1094192
Lat/Long	|
Lot Size	6,724,587 sq ft.
Zoning	LI
Lot #	
High School District	QUEEN CREEK UNIFIED #95
Elementary School District	QUEEN CREEK UNIFIED SCHOOL DISTRICT
Local Jurisdiction	MESA
S/T/R	33 1S 7E
Market Area/Neighborhood	28/005
Subdivision (0 Parcels)	

OWNER INFORMATION

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

Mailing Address	600 S POWER RD BLDG, MESA, AZ 852065219
Deed Number	20120207529

Last Deed Date	03/13/2012
Sale Date	n/a
Sale Price	n/a

VALUATION INFORMATION

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Tax Year	2024	2023	2022	2021	2020
Full Cash Value	$20,130,500	$17,059,700	$9,345,300	$8,456,000	$7,412,300
Limited Value	$8,143,953	$7,756,146	$7,386,806	$7,035,053	$6,700,050
Legal Class	2.R	2.R	2.R	2.R	2.R
Description	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P	AG / VACANT LAND / NON-PROFIT R/P
Assessment Ratio	15%	15%	15%	15%	15%
Assessed LPV	$1,221,593	$1,163,422	$1,108,021	$1,055,258	$1,005,008
Property Use Code	9705	9705	9700	9700	9700
PU Description	Municipal Ownership	Municipal Ownership	Municipal Ownership	Municipal Ownership	Municipal Ownership
Tax Area Code	951006	951006	951006	951006	951006
Valuation Source	Notice	Notice	Notice	Notice	Notice

MAP FERRET MAPS

Mapferret maps, also known as MapId maps, pdf maps, or output maps are now available here without having to search.

- Parcel Maps (1)
- Book/Map Maps (22)

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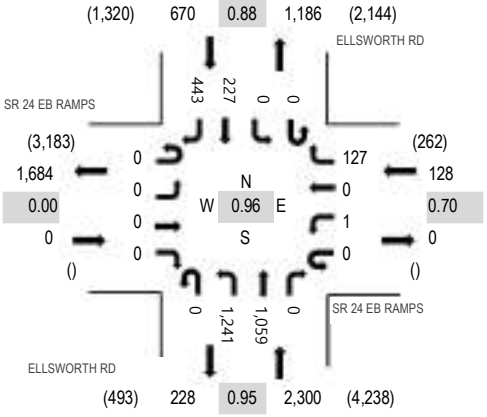
Appendix C – Traffic Count Data

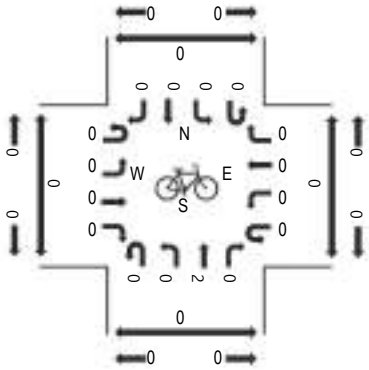
(303) 216-2439
www.alltrafficdata.net

Location: 8 ELLSWORTH RD & SR 24 EB RAMPS AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:00 AM - 08:00 AM
Peak 15-Minutes: 07:00 AM - 07:15 AM

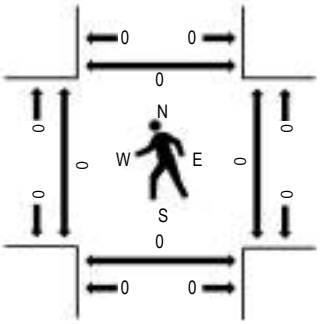
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	SR 24 EB RAMPS Eastbound				SR 24 EB RAMPS Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	0	0	0	0	0	0	39	0	321	286	0	0	0	47	112	805	3,098	0	0	0	0
7:15 AM	0	0	0	0	0	0	0	37	0	321	244	0	0	0	61	129	792	3,004	0	0	0	0
7:30 AM	0	0	0	0	0	0	0	29	0	298	255	0	0	0	56	93	731	2,941	0	0	0	0
7:45 AM	0	0	0	0	0	1	0	22	0	301	274	0	0	0	63	109	770	2,847	0	0	0	0
8:00 AM	0	0	0	0	0	0	0	49	0	280	223	0	0	0	64	95	711	2,722	0	0	0	0
8:15 AM	0	0	0	0	0	1	0	31	0	288	246	0	0	0	58	105	729		0	0	0	0
8:30 AM	0	0	0	0	0	1	0	30	0	254	183	0	0	0	74	95	637		0	0	0	0
8:45 AM	0	0	0	0	0	2	0	20	0	288	176	0	0	0	65	94	645		0	0	0	0
Count Total	0	0	0	0	0	5	0	257	0	2,351	1,887	0	0	0	488	832	5,820		0	0	0	0
Peak Hour	0	0	0	0	0	1	0	127	0	1,241	1,059	0	0	0	227	443	3,098		0	0	0	0

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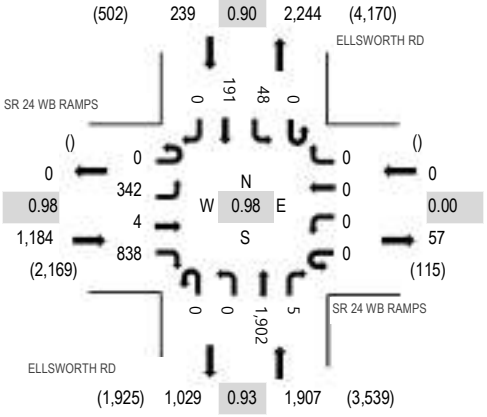
Location: 9 ELLSWORTH RD & SR 24 WB RAMPS AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:00 AM - 08:00 AM
Peak 15-Minutes: 07:00 AM - 07:15 AM

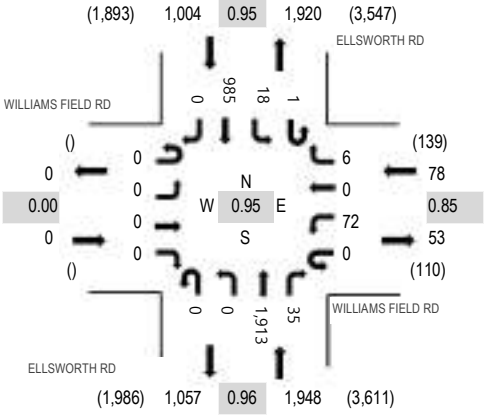
Peak Hour - Motorized Vehicles


(502) 239 0.90 2,244 (4,170)
ELLSWORTH RD
SR 24 WB RAMPS
191 48
0 342 4 838
0.98 W 0.98 E
N S
1,184 (2,169)
() 0 0 0

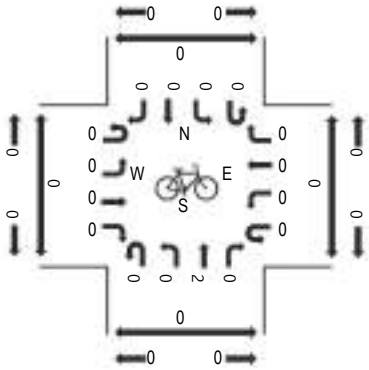
(303) 216-2439
www.alltrafficdata.net

Location: 10 ELLSWORTH RD & WILLIAMS FIELD RD AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:00 AM - 08:00 AM
Peak 15-Minutes: 07:15 AM - 07:30 AM

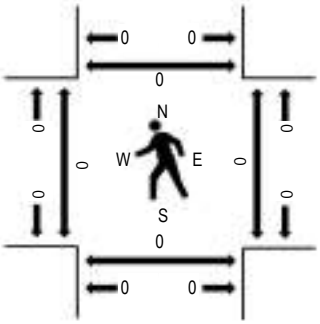
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	0	0	0	0	20	0	1	0	0	489	7	0	2	209	0	728	3,030	0	0	0	0
7:15 AM	0	0	0	0	0	22	0	1	0	0	491	14	0	3	265	0	796	2,990	0	0	0	0
7:30 AM	0	0	0	0	0	15	0	1	0	0	480	9	1	7	256	0	769	2,873	0	0	0	0
7:45 AM	0	0	0	0	0	15	0	3	0	0	453	5	0	6	255	0	737	2,728	0	0	0	0
8:00 AM	0	0	0	0	0	17	0	1	0	0	427	14	0	0	229	0	688	2,613	0	0	0	0
8:15 AM	0	0	0	0	0	7	0	1	0	0	438	9	1	4	219	0	679		0	0	0	0
8:30 AM	0	0	0	0	0	18	0	3	0	0	365	10	1	3	224	0	624		0	0	0	0
8:45 AM	0	0	0	0	0	13	0	1	0	0	388	12	1	5	202	0	622		0	0	0	0
Count Total	0	0	0	0	0	127	0	12	0	0	3,531	80	4	30	1,859	0	5,643		0	0	0	0
Peak Hour	0	0	0	0	0	72	0	6	0	0	1,913	35	1	18	985	0	3,030		0	0	0	0

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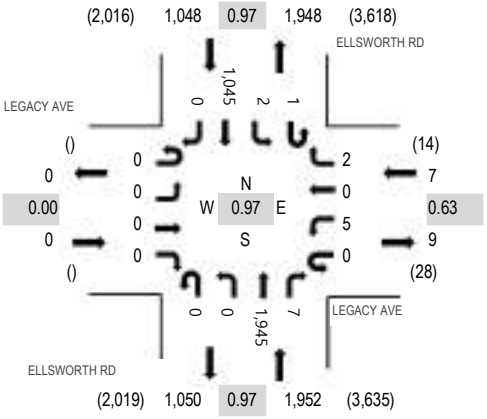
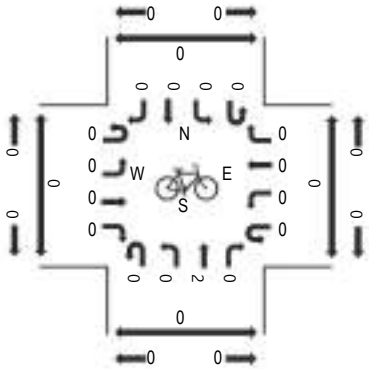
Location: 11 ELLSWORTH RD & LEGACY AVE AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:00 AM - 08:00 AM
Peak 15-Minutes: 07:15 AM - 07:30 AM

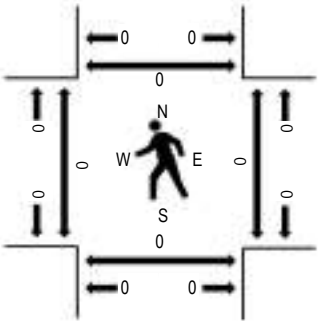
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	LEGACY AVE Eastbound				LEGACY AVE Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	0	0	0	0	1	0	0	0	0	502	1	0	1	229	0	734	3,007	0	0	0	0
7:15 AM	0	0	0	0	0	0	0	1	0	0	502	0	0	0	276	0	779	2,977	0	0	0	0
7:30 AM	0	0	0	0	0	2	0	0	0	0	479	1	1	1	273	0	757	2,896	0	0	0	0
7:45 AM	0	0	0	0	0	2	0	1	0	0	462	5	0	0	267	0	737	2,754	0	0	0	0
8:00 AM	0	0	0	0	0	1	0	0	0	0	446	3	0	1	253	0	704	2,658	0	0	0	0
8:15 AM	0	0	0	0	0	2	0	2	0	0	442	4	0	0	248	0	698		0	0	0	0
8:30 AM	0	0	0	0	0	1	0	0	0	0	368	5	0	1	240	0	615		0	0	0	0
8:45 AM	0	0	0	0	0	1	0	0	0	0	412	3	0	2	223	0	641		0	0	0	0
Count Total	0	0	0	0	0	10	0	4	0	0	3,613	22	1	6	2,009	0	5,665		0	0	0	0
Peak Hour	0	0	0	0	0	5	0	2	0	0	1,945	7	1	2	1,045	0	3,007		0	0	0	0

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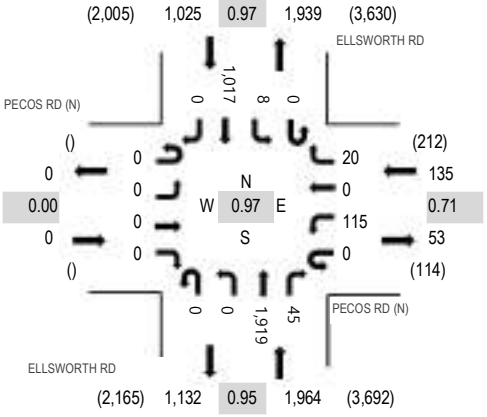
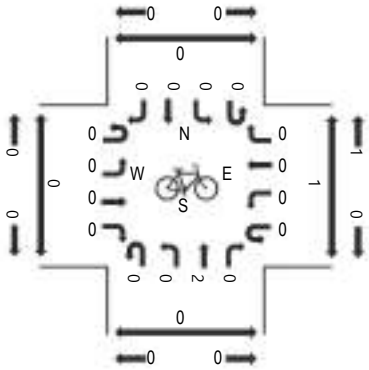
Location: 12 ELLSWORTH RD & PECOS RD (N) AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:00 AM - 08:00 AM
Peak 15-Minutes: 07:15 AM - 07:30 AM

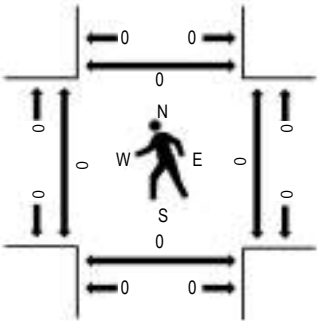
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	PECOS RD (N) Eastbound				PECOS RD (N) Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	0	0	0	0	25	0	3	0	0	505	6	0	1	228	0	768	3,124	0	0	0	0
7:15 AM	0	0	0	0	0	19	0	3	0	0	504	11	0	5	264	0	806	3,118	0	0	0	0
7:30 AM	0	0	0	0	0	41	0	7	0	0	474	13	0	1	261	0	797	3,031	0	0	0	0
7:45 AM	0	0	0	0	0	30	0	7	0	0	436	15	0	1	264	0	753	2,888	0	0	0	0
8:00 AM	0	0	0	0	0	25	0	4	0	0	467	16	0	2	248	0	762	2,785	0	0	0	0
8:15 AM	0	0	0	0	0	11	0	5	0	0	429	13	0	3	258	0	719		0	0	0	0
8:30 AM	0	0	0	0	0	15	0	3	0	0	377	14	0	3	242	0	654		0	0	0	0
8:45 AM	0	0	0	0	0	11	0	3	0	0	403	9	0	1	223	0	650		0	0	0	0
Count Total	0	0	0	0	0	177	0	35	0	0	3,595	97	0	17	1,988	0	5,909		0	0	0	0
Peak Hour	0	0	0	0	0	115	0	20	0	0	1,919	45	0	8	1,017	0	3,124		0	0	0	0

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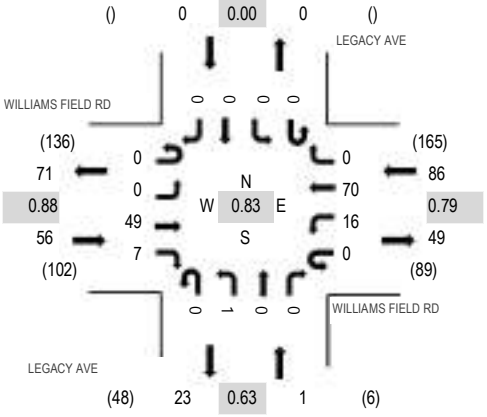
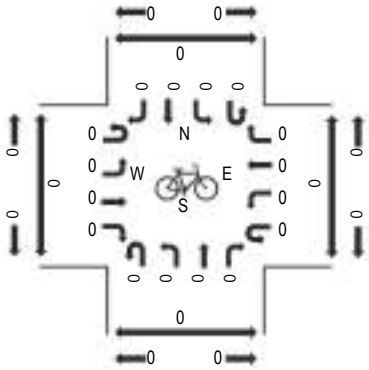
Location: 14 LEGACY AVE & WILLIAMS FIELD RD AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:15 AM - 08:15 AM
Peak 15-Minutes: 07:15 AM - 07:30 AM

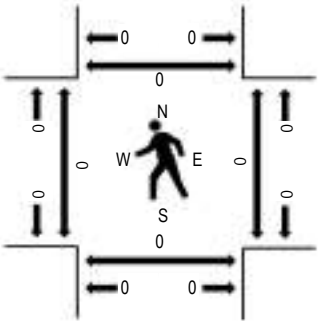
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				LEGACY AVE Northbound				LEGACY AVE Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	0	8	0	0	2	20	0	0	1	0	0	0	0	0	0	31	138	0	0	0	0
7:15 AM	0	0	13	2	0	3	25	0	0	0	0	0	0	0	0	0	43	143	0	0	0	0
7:30 AM	0	0	14	2	0	2	12	0	0	0	0	0	0	0	0	0	30	126	0	0	0	0
7:45 AM	0	0	7	3	0	8	16	0	0	0	0	0	0	0	0	0	34	130	0	0	0	0
8:00 AM	0	0	15	0	0	3	17	0	0	1	0	0	0	0	0	0	36	135	0	0	0	0
8:15 AM	0	0	7	2	0	6	11	0	0	0	0	0	0	0	0	0	26		0	0	0	0
8:30 AM	0	0	10	1	0	2	19	0	0	1	0	1	0	0	0	0	34		0	0	0	0
8:45 AM	0	0	13	5	0	7	12	0	0	1	0	1	0	0	0	0	39		0	0	0	0
Count Total	0	0	87	15	0	33	132	0	0	4	0	2	0	0	0	0	273		0	0	0	0
Peak Hour	0	0	49	7	0	16	70	0	0	1	0	0	0	0	0	0	143		0	0	0	0

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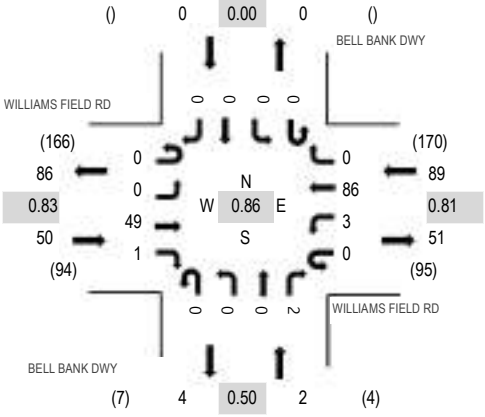
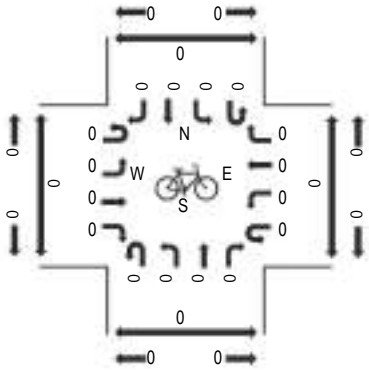
Location: 15 BELL BANK DWY & WILLIAMS FIELD RD AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:15 AM - 08:15 AM
Peak 15-Minutes: 07:15 AM - 07:30 AM

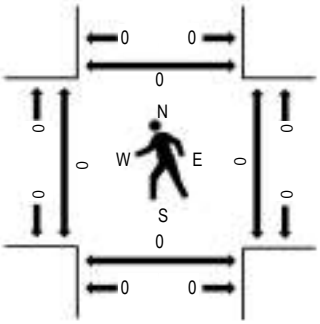
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				BELL BANK DWY Northbound				BELL BANK DWY Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	0	11	0	0	1	22	0	0	0	0	0	0	0	0	0	34	137	0	0	0	0
7:15 AM	0	0	13	0	0	1	27	0	0	0	0	0	0	0	0	0	41	141	0	0	0	0
7:30 AM	0	0	14	0	0	0	14	0	0	0	0	0	0	0	0	0	28	124	0	0	0	0
7:45 AM	0	0	7	1	0	1	25	0	0	0	0	0	0	0	0	0	34	131	0	0	0	0
8:00 AM	0	0	15	0	0	1	20	0	0	0	0	2	0	0	0	0	38	131	0	0	0	0
8:15 AM	0	0	6	0	0	1	16	0	0	1	0	0	0	0	0	0	24		0	0	0	0
8:30 AM	0	0	12	1	0	0	22	0	0	0	0	0	0	0	0	0	35		0	0	0	0
8:45 AM	0	0	14	0	0	0	19	0	0	0	0	1	0	0	0	0	34		0	0	0	0
Count Total	0	0	92	2	0	5	165	0	0	1	0	3	0	0	0	0	268		0	0	0	0
Peak Hour	0	0	49	1	0	3	86	0	0	0	0	2	0	0	0	0	141		0	0	0	0

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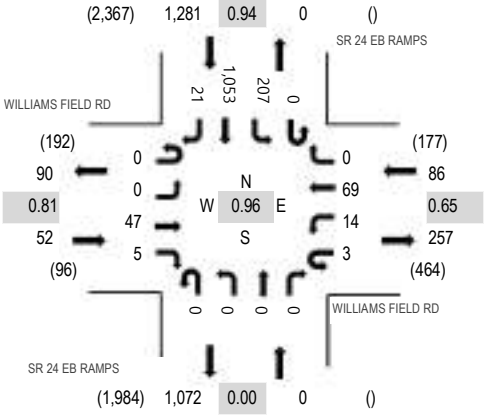
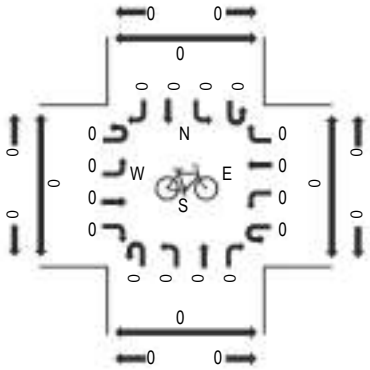
Location: 16 SR 24 EB RAMPS & WILLIAMS FIELD RD AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:15 AM - 08:15 AM
Peak 15-Minutes: 07:30 AM - 07:45 AM

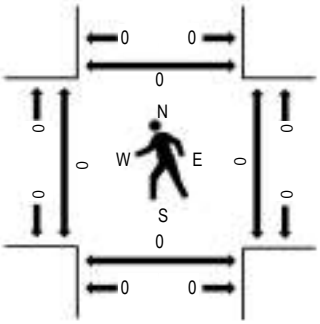
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				SR 24 EB RAMPS Northbound				SR 24 EB RAMPS Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	0	11	0	0	3	20	0	0	0	0	0	0	38	233	4	309	1,416	0	0	0	0
7:15 AM	0	0	12	1	1	4	22	0	0	0	0	0	0	50	272	6	368	1,419	0	0	0	0
7:30 AM	0	0	14	1	1	2	11	0	0	0	0	0	0	35	303	3	370	1,348	0	0	0	0
7:45 AM	0	0	6	2	1	3	20	0	0	0	0	0	0	55	275	7	369	1,276	0	0	0	0
8:00 AM	0	0	15	1	0	5	16	0	0	0	0	0	0	67	203	5	312	1,224	0	0	0	0
8:15 AM	0	0	7	0	0	4	9	0	0	0	0	0	0	58	211	8	297		0	0	0	0
8:30 AM	0	0	9	2	0	5	16	0	0	0	0	0	0	29	230	7	298		0	0	0	0
8:45 AM	0	0	15	0	0	3	31	0	0	0	0	0	0	40	221	7	317		0	0	0	0
Count Total	0	0	89	7	3	29	145	0	0	0	0	0	0	372	1,948	47	2,640		0	0	0	0
Peak Hour	0	0	47	5	3	14	69	0	0	0	0	0	0	207	1,053	21	1,419		0	0	0	0

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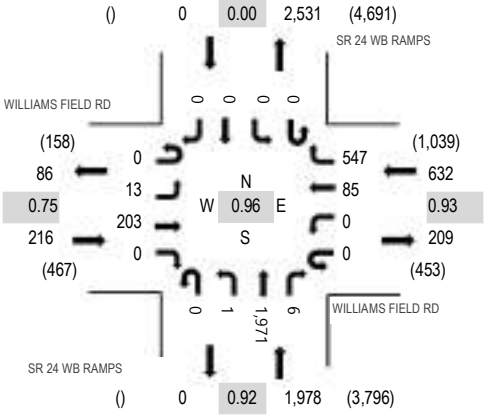
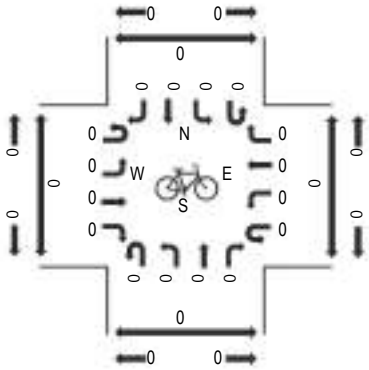
Location: 17 SR 24 WB RAMPS & WILLIAMS FIELD RD AM
Date: Wednesday, May 17, 2023
Peak Hour: 07:00 AM - 08:00 AM
Peak 15-Minutes: 07:00 AM - 07:15 AM

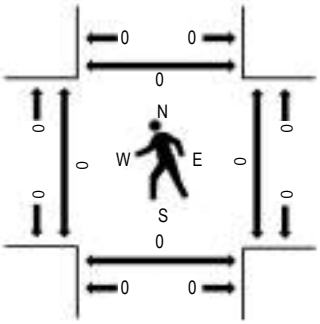
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				SR 24 WB RAMPS Northbound				SR 24 WB RAMPS Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
7:00 AM	0	1	49	0	0	0	24	123	0	0	531	6	0	0	0	0	734	2,826	0	0	0	0
7:15 AM	0	5	51	0	0	0	26	125	0	0	514	0	0	0	0	0	721	2,816	0	0	0	0
7:30 AM	0	5	51	0	0	0	22	147	0	0	458	0	0	0	0	0	683	2,718	0	0	0	0
7:45 AM	0	2	52	0	0	0	13	152	0	1	468	0	0	0	0	0	688	2,633	0	0	0	0
8:00 AM	0	4	83	0	0	0	20	120	0	1	494	2	0	0	0	0	724	2,476	0	0	0	0
8:15 AM	0	2	62	0	0	0	11	87	0	2	457	2	0	0	0	0	623		0	0	0	0
8:30 AM	0	2	40	0	0	0	20	71	0	1	463	1	0	0	0	0	598		0	0	0	0
8:45 AM	0	6	52	0	0	0	15	63	0	2	391	2	0	0	0	0	531		0	0	0	0
Count Total	0	27	440	0	0	0	151	888	0	7	3,776	13	0	0	0	0	5,302		0	0	0	0
Peak Hour	0	13	203	0	0	0	85	547	0	1	1,971	6	0	0	0	0	2,826		0	0	0	0

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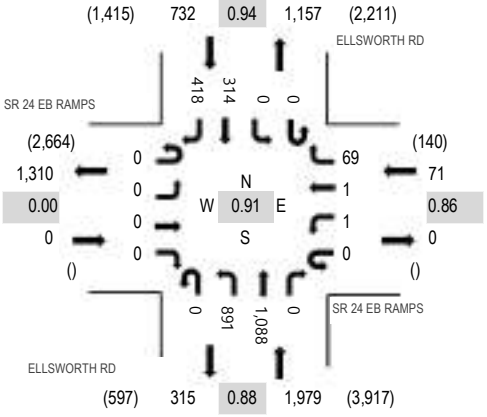
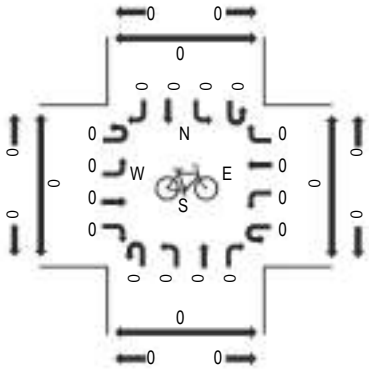
Location: 8 ELLSWORTH RD & SR 24 EB RAMPS PM
Date: Wednesday, May 17, 2023
Peak Hour: 05:00 PM - 06:00 PM
Peak 15-Minutes: 05:15 PM - 05:30 PM

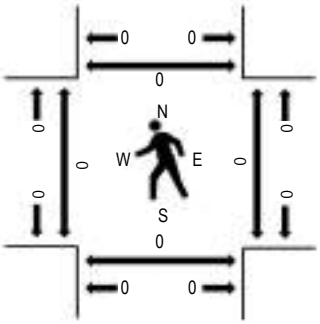
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	SR 24 EB RAMPS Eastbound				SR 24 EB RAMPS Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
4:00 PM	0	0	0	0	0	0	0	15	0	235	264	0	0	0	88	119	721	2,690	0	0	0	0
4:15 PM	0	0	0	0	0	0	0	13	0	246	246	0	0	0	58	100	663	2,614	0	0	0	0
4:30 PM	0	0	0	0	0	0	0	24	0	251	238	0	0	0	76	89	678	2,715	0	0	0	0
4:45 PM	0	0	0	0	0	0	0	17	0	221	237	0	0	0	60	93	628	2,748	0	0	0	0
5:00 PM	0	0	0	0	0	0	0	21	0	192	243	0	0	0	77	112	645	2,782	0	0	0	0
5:15 PM	0	0	0	0	0	1	0	20	0	273	288	0	0	0	72	110	764		0	0	0	0
5:30 PM	0	0	0	0	0	0	1	17	0	215	284	0	0	0	84	110	711		0	0	0	0
5:45 PM	0	0	0	0	0	0	0	11	0	211	273	0	0	0	81	86	662		0	0	0	0
Count Total	0	0	0	0	0	1	1	138	0	1,844	2,073	0	0	0	596	819	5,472		0	0	0	0
Peak Hour	0	0	0	0	0	1	1	69	0	891	1,088	0	0	0	314	418	2,782		0	0	0	0

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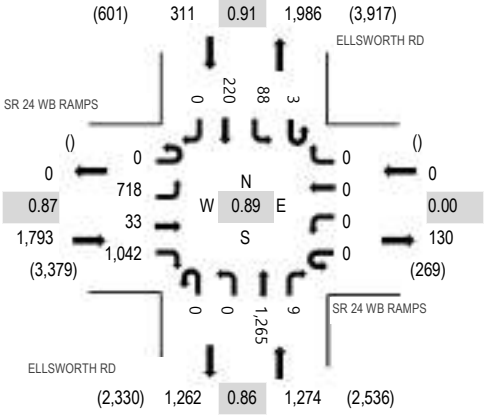
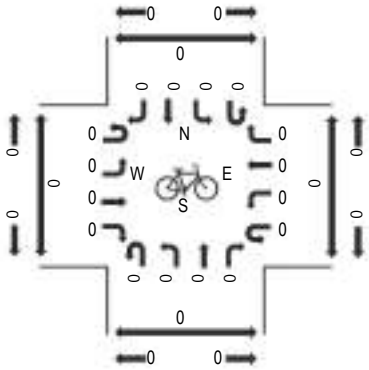
Location: 9 ELLSWORTH RD & SR 24 WB RAMPS PM
Date: Wednesday, May 17, 2023
Peak Hour: 05:00 PM - 06:00 PM
Peak 15-Minutes: 05:15 PM - 05:30 PM

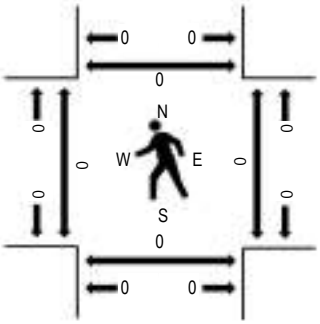
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	SR 24 WB RAMPS Eastbound				SR 24 WB RAMPS Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound					Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	Total		West	East	South	North
4:00 PM	0	177	32	223	0	0	0	0	0	0	313	4	1	34	56	0	840	3,138	0	0	0	0
4:15 PM	0	170	3	231	0	0	0	0	0	0	333	2	1	22	40	0	802	3,033	0	0	0	0
4:30 PM	0	151	7	209	0	0	0	0	0	0	337	2	1	17	57	0	781	3,181	0	0	0	0
4:45 PM	0	176	0	207	0	0	0	0	0	0	271	0	0	16	45	0	715	3,278	0	0	0	0
5:00 PM	0	177	2	229	0	0	0	0	0	0	253	0	0	25	49	0	735	3,378	0	0	0	0
5:15 PM	0	189	5	319	0	0	0	0	0	0	367	3	0	14	53	0	950		0	0	0	0
5:30 PM	0	181	9	274	0	0	0	0	0	0	329	0	2	17	66	0	878		0	0	0	0
5:45 PM	0	171	17	220	0	0	0	0	0	0	316	6	1	32	52	0	815		0	0	0	0
Count Total	0	1,392	75	1,912	0	0	0	0	0	0	2,519	17	6	177	418	0	6,516		0	0	0	0
Peak Hour	0	718	33	1,042	0	0	0	0	0	0	1,265	9	3	88	220	0	3,378		0	0	0	0

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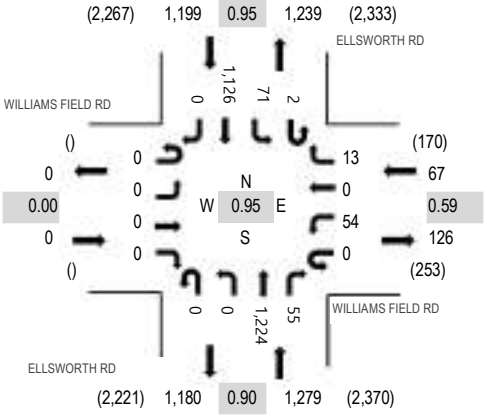
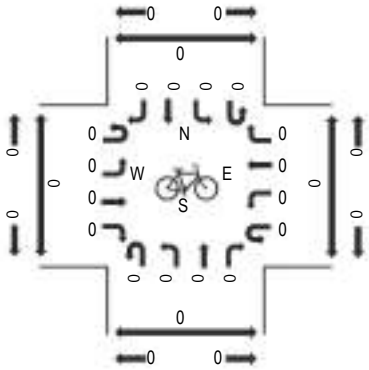
Location: 10 ELLSWORTH RD & WILLIAMS FIELD RD PM
Date: Wednesday, May 17, 2023
Peak Hour: 04:00 PM - 05:00 PM
Peak 15-Minutes: 04:15 PM - 04:30 PM

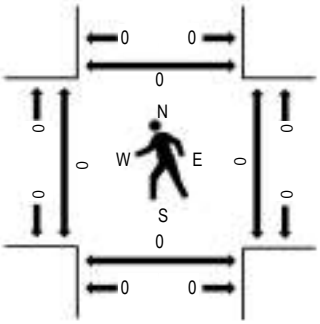
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
4:00 PM	0	0	0	0	0	14	0	2	0	0	327	4	1	19	279	0	646	2,545	0	0	0	0
4:15 PM	0	0	0	0	0	13	0	1	0	0	326	16	1	16	297	0	670	2,476	0	0	0	0
4:30 PM	0	0	0	0	0	16	0	6	0	0	336	18	0	15	278	0	669	2,243	0	0	0	0
4:45 PM	0	0	0	0	0	11	0	4	0	0	235	17	0	21	272	0	560	2,249	0	0	0	0
5:00 PM	0	0	0	0	0	13	0	3	0	0	297	14	0	14	236	0	577	2,262	0	0	0	0
5:15 PM	0	0	0	0	0	10	0	5	0	0	123	8	0	22	269	0	437		0	0	0	0
5:30 PM	0	0	0	0	0	14	0	14	0	0	365	14	0	20	248	0	675		0	0	0	0
5:45 PM	0	0	0	0	0	18	0	26	0	0	261	9	0	26	233	0	573		0	0	0	0
Count Total	0	0	0	0	0	109	0	61	0	0	2,270	100	2	153	2,112	0	4,807		0	0	0	0
Peak Hour	0	0	0	0	0	54	0	13	0	0	1,224	55	2	71	1,126	0	2,545		0	0	0	0

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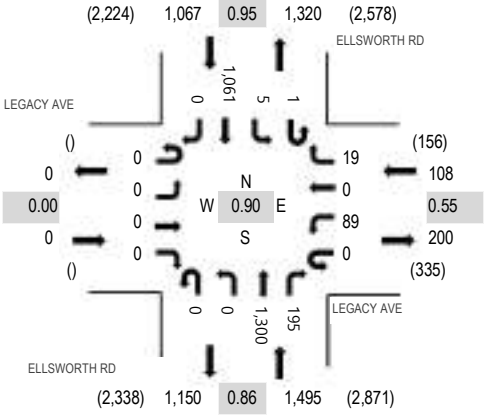
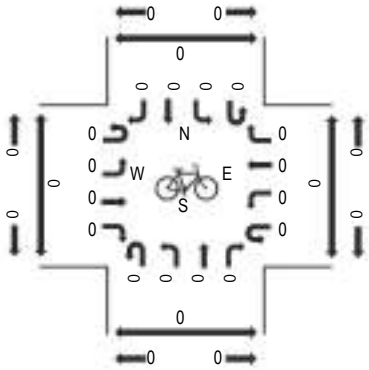
Location: 11 ELLSWORTH RD & LEGACY AVE PM
Date: Wednesday, May 17, 2023
Peak Hour: 05:00 PM - 06:00 PM
Peak 15-Minutes: 05:15 PM - 05:30 PM

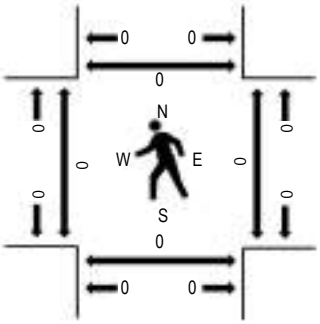
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	LEGACY AVE Eastbound				LEGACY AVE Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
4:00 PM	0	0	0	0	0	9	0	4	0	0	332	12	0	0	296	0	653	2,581	0	0	0	0
4:15 PM	0	0	0	0	0	4	0	1	0	0	337	30	0	0	303	0	675	2,582	0	0	0	0
4:30 PM	0	0	0	0	0	8	0	2	0	0	338	43	0	2	294	0	687	2,648	0	0	0	0
4:45 PM	0	0	0	0	0	14	0	6	0	0	237	47	1	1	260	0	566	2,630	0	0	0	0
5:00 PM	0	0	0	0	0	8	0	1	0	0	333	44	0	0	268	0	654	2,670	0	0	0	0
5:15 PM	0	0	0	0	0	7	0	4	0	0	369	66	0	2	293	0	741		0	0	0	0
5:30 PM	0	0	0	0	0	32	0	7	0	0	332	45	1	2	250	0	669		0	0	0	0
5:45 PM	0	0	0	0	0	42	0	7	0	0	266	40	0	1	250	0	606		0	0	0	0
Count Total	0	0	0	0	0	124	0	32	0	0	2,544	327	2	8	2,214	0	5,251		0	0	0	0
Peak Hour	0	0	0	0	0	89	0	19	0	0	1,300	195	1	5	1,061	0	2,670		0	0	0	0

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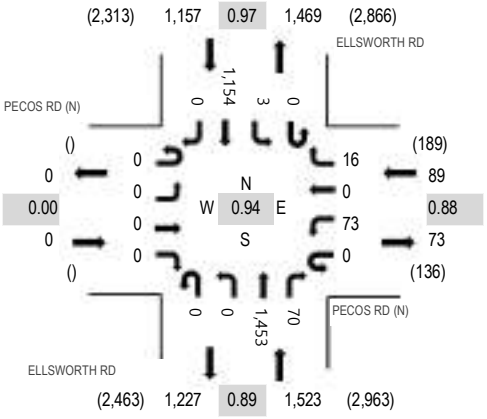
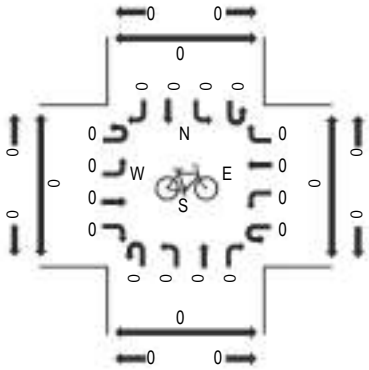
Location: 12 ELLSWORTH RD & PECOS RD (N) PM
Date: Wednesday, May 17, 2023
Peak Hour: 04:30 PM - 05:30 PM
Peak 15-Minutes: 05:15 PM - 05:30 PM

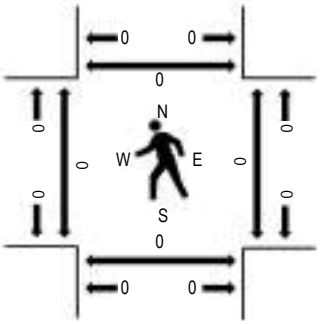
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	PECOS RD (N) Eastbound				PECOS RD (N) Westbound				ELLSWORTH RD Northbound				ELLSWORTH RD Southbound				Rolling Hour		Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	Total		West	East	South	North
4:00 PM	0	0	0	0	0	21	0	1	0	0	344	15	0	1	307	0	689	2,758	0	0	0	0
4:15 PM	0	0	0	0	0	25	0	5	0	0	368	15	0	1	298	0	712	2,743	0	0	0	0
4:30 PM	0	0	0	0	0	25	0	5	0	0	366	26	0	1	292	0	715	2,769	0	0	0	0
4:45 PM	0	0	0	0	0	19	0	4	0	0	303	21	0	1	294	0	642	2,734	0	0	0	0
5:00 PM	0	0	0	0	0	14	0	5	0	0	364	15	0	0	276	0	674	2,707	0	0	0	0
5:15 PM	0	0	0	0	0	15	0	2	0	0	420	8	0	1	292	0	738		0	0	0	0
5:30 PM	0	0	0	0	0	18	0	4	0	0	367	11	0	3	277	0	680		0	0	0	0
5:45 PM	0	0	0	0	0	22	0	4	0	0	304	16	0	1	268	0	615		0	0	0	0
Count Total	0	0	0	0	0	159	0	30	0	0	2,836	127	0	9	2,304	0	5,465		0	0	0	0
Peak Hour	0	0	0	0	0	73	0	16	0	0	1,453	70	0	3	1,154	0	2,769		0	0	0	0

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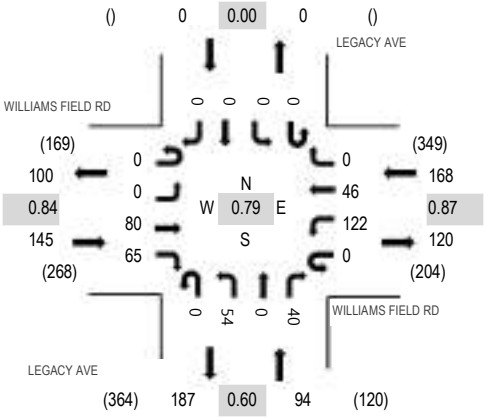
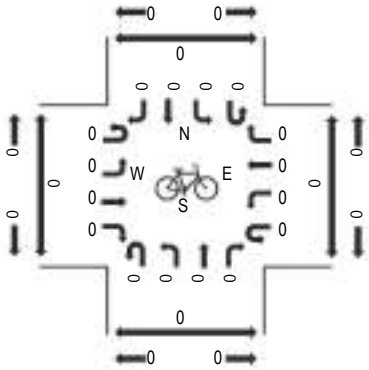
Location: 14 LEGACY AVE & WILLIAMS FIELD RD PM
Date: Wednesday, May 17, 2023
Peak Hour: 05:00 PM - 06:00 PM
Peak 15-Minutes: 05:45 PM - 06:00 PM

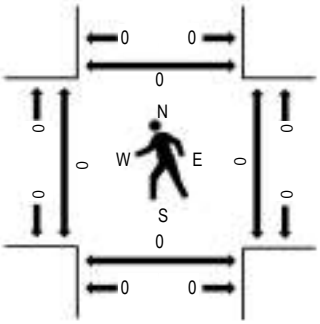
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				LEGACY AVE Northbound				LEGACY AVE Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
4:00 PM	0	0	16	7	0	16	15	0	0	4	0	5	0	0	0	0	63	330	0	0	0	0
4:15 PM	0	0	21	7	0	41	10	0	0	3	0	1	0	0	0	0	83	336	0	0	0	0
4:30 PM	0	0	21	14	0	31	15	0	0	5	0	0	0	0	0	0	86	349	0	0	0	0
4:45 PM	0	0	16	21	0	40	13	0	0	4	0	4	0	0	0	0	98	377	0	0	0	0
5:00 PM	0	0	17	11	0	26	9	0	0	4	0	2	0	0	0	0	69	407	0	0	0	0
5:15 PM	0	0	23	20	0	34	9	0	0	7	0	3	0	0	0	0	96		0	0	0	0
5:30 PM	0	0	18	19	0	26	12	0	0	15	0	24	0	0	0	0	114		0	0	0	0
5:45 PM	0	0	22	15	0	36	16	0	0	28	0	11	0	0	0	0	128		0	0	0	0
Count Total	0	0	154	114	0	250	99	0	0	70	0	50	0	0	0	0	737		0	0	0	0
Peak Hour	0	0	80	65	0	122	46	0	0	54	0	40	0	0	0	0	407		0	0	0	0

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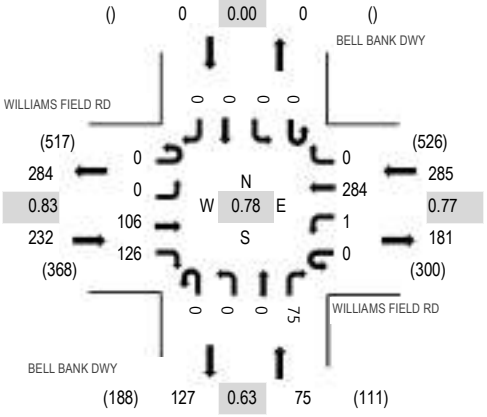
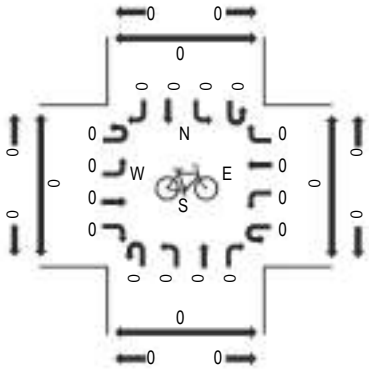
Location: 15 BELL BANK DWY & WILLIAMS FIELD RD PM
Date: Wednesday, May 17, 2023
Peak Hour: 05:00 PM - 06:00 PM
Peak 15-Minutes: 05:45 PM - 06:00 PM

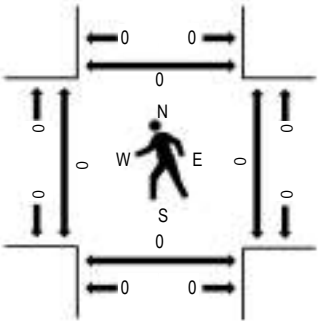
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

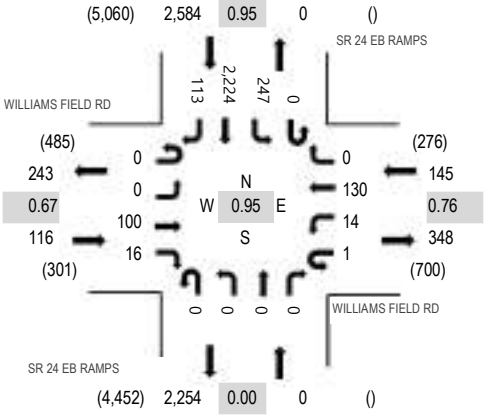
Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				BELL BANK DWY Northbound				BELL BANK DWY Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
4:00 PM	0	0	25	2	0	0	35	0	0	0	0	8	0	0	0	0	70	413	0	0	0	0
4:15 PM	0	0	21	9	0	1	58	0	0	0	0	4	0	0	0	0	93	449	0	0	0	0
4:30 PM	0	0	19	23	0	5	69	0	0	0	0	8	0	0	0	0	124	503	0	0	0	0
4:45 PM	0	0	18	19	0	2	71	0	0	0	0	16	0	0	0	0	126	528	0	0	0	0
5:00 PM	0	0	19	21	0	0	55	0	0	0	0	11	0	0	0	0	106	592	0	0	0	0
5:15 PM	0	0	19	40	0	0	81	0	0	0	0	7	0	0	0	0	147		0	0	0	0
5:30 PM	0	0	38	25	0	0	56	0	0	0	0	30	0	0	0	0	149		0	0	0	0
5:45 PM	0	0	30	40	0	1	92	0	0	0	0	27	0	0	0	0	190		0	0	0	0
Count Total	0	0	189	179	0	9	517	0	0	0	0	111	0	0	0	0	1,005		0	0	0	0
Peak Hour	0	0	106	126	0	1	284	0	0	0	0	75	0	0	0	0	592		0	0	0	0

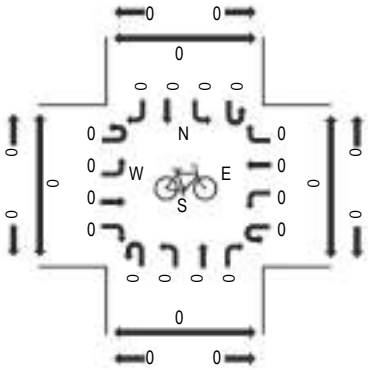
(303) 216-2439
www.alltrafficdata.net

Location: 16 SR 24 EB RAMPS & WILLIAMS FIELD RD PM
Date: Wednesday, May 17, 2023
Peak Hour: 04:15 PM - 05:15 PM
Peak 15-Minutes: 04:15 PM - 04:30 PM

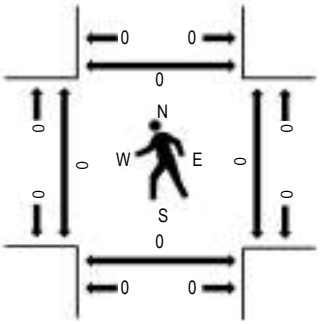
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



Note: Total study counts contained in parentheses.

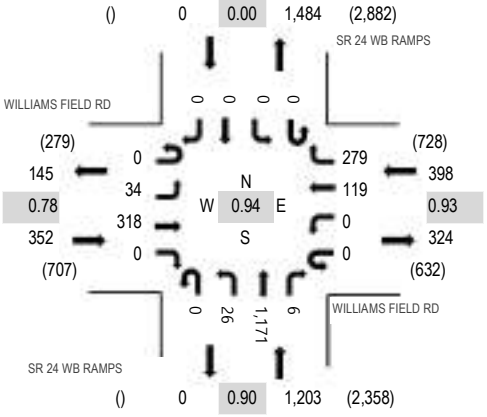
Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				SR 24 EB RAMPS Northbound				SR 24 EB RAMPS Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
4:00 PM	0	0	17	17	0	5	19	0	0	0	0	0	0	51	535	17	661	2,828	0	0	0	0
4:15 PM	0	0	22	3	0	7	41	0	0	0	0	0	0	65	588	24	750	2,845	0	0	0	0
4:30 PM	0	0	21	5	0	2	26	0	0	0	0	0	0	57	557	39	707	2,779	0	0	0	0
4:45 PM	0	0	30	3	1	4	41	0	0	0	0	0	0	56	540	35	710	2,791	0	0	0	0
5:00 PM	0	0	27	5	0	1	22	0	0	0	0	0	0	69	539	15	678	2,809	0	0	0	0
5:15 PM	0	0	25	3	0	3	39	0	0	0	0	0	0	51	544	19	684		0	0	0	0
5:30 PM	0	0	58	10	0	1	25	0	0	0	0	0	0	62	531	32	719		0	0	0	0
5:45 PM	0	0	35	20	0	2	37	0	0	0	0	0	0	53	527	54	728		0	0	0	0
Count Total	0	0	235	66	1	25	250	0	0	0	0	0	0	464	4,361	235	5,637		0	0	0	0
Peak Hour	0	0	100	16	1	14	130	0	0	0	0	0	0	247	2,224	113	2,845		0	0	0	0

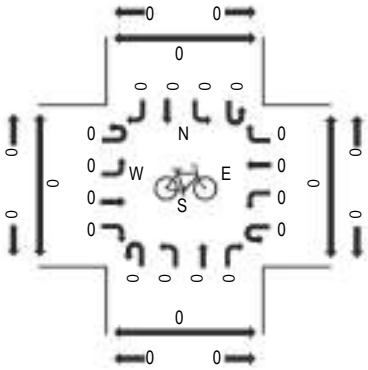
(303) 216-2439
www.alltrafficdata.net

Location: 17 SR 24 WB RAMPS & WILLIAMS FIELD RD PM
Date: Wednesday, May 17, 2023
Peak Hour: 04:15 PM - 05:15 PM
Peak 15-Minutes: 04:30 PM - 04:45 PM

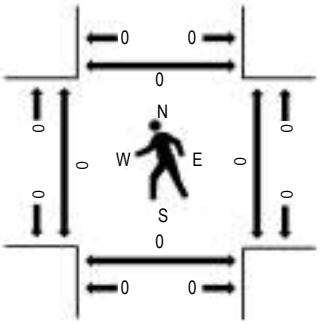
Peak Hour - Motorized Vehicles



Peak Hour - Bicycles



Peak Hour - Pedestrians



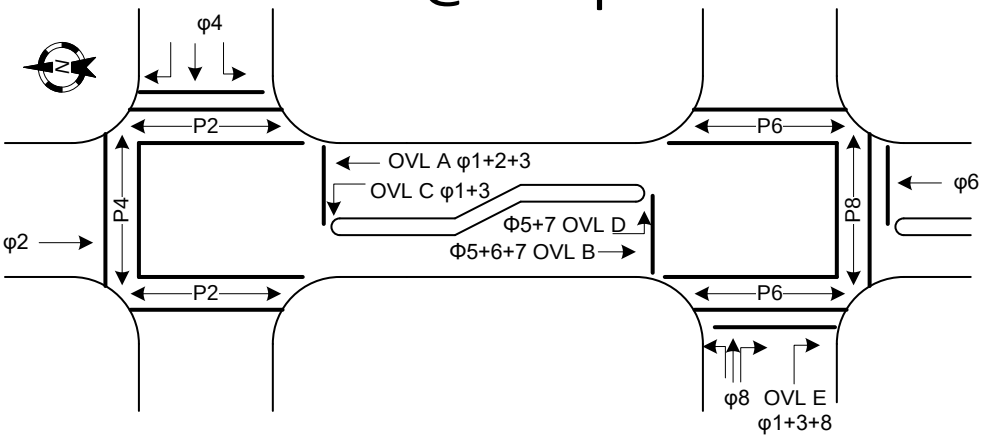
Note: Total study counts contained in parentheses.

Traffic Counts - Motorized Vehicles

Interval Start Time	WILLIAMS FIELD RD Eastbound				WILLIAMS FIELD RD Westbound				SR 24 WB RAMPS Northbound				SR 24 WB RAMPS Southbound				Total	Rolling Hour	Pedestrian Crossings			
	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right	U-Turn	Left	Thru	Right			West	East	South	North
4:00 PM	0	4	62	0	0	0	21	65	0	3	301	1	0	0	0	0	457	1,897	0	0	0	0
4:15 PM	0	4	86	0	0	0	40	61	0	7	261	1	0	0	0	0	460	1,953	0	0	0	0
4:30 PM	0	6	74	0	0	0	28	74	0	5	332	0	0	0	0	0	519	1,926	0	0	0	0
4:45 PM	0	19	67	0	0	0	32	56	0	8	278	1	0	0	0	0	461	1,938	0	0	0	0
5:00 PM	0	5	91	0	0	0	19	88	0	6	300	4	0	0	0	0	513	1,896	0	0	0	0
5:15 PM	0	3	70	0	0	0	34	50	0	6	269	1	0	0	0	0	433		0	0	0	0
5:30 PM	1	25	97	0	0	0	26	54	0	3	325	0	0	0	0	0	531		0	0	0	0
5:45 PM	0	17	76	0	0	0	33	47	0	7	238	1	0	0	0	0	419		0	0	0	0
Count Total	1	83	623	0	0	0	233	495	0	45	2,304	9	0	0	0	0	3,793		0	0	0	0
Peak Hour	0	34	318	0	0	0	119	279	0	26	1,171	6	0	0	0	0	1,953		0	0	0	0

Appendix D – Existing Signal Timing

#9967 SR-24 & Ellsworth
Effective: 9/14/2022 Flash@1:30pm
Normal@1:35pm



Phase Ring (MM-1-1

R1	2 1	3 4
R2	5 6	8 7
R3		
R4		

Seq - 10

LD Switch Assign
(MM-1-3)

	Phase /Ovlp	Type
1	3	O
2	2	V
3	2	O
4	4	V
5	4	O
6	6	V
7	1	O
8	8	V
9	2	P
10	4	P
11	6	P
12	8	P
13	5	O
14	0	.
15	0	.
16	0	.

Notes:

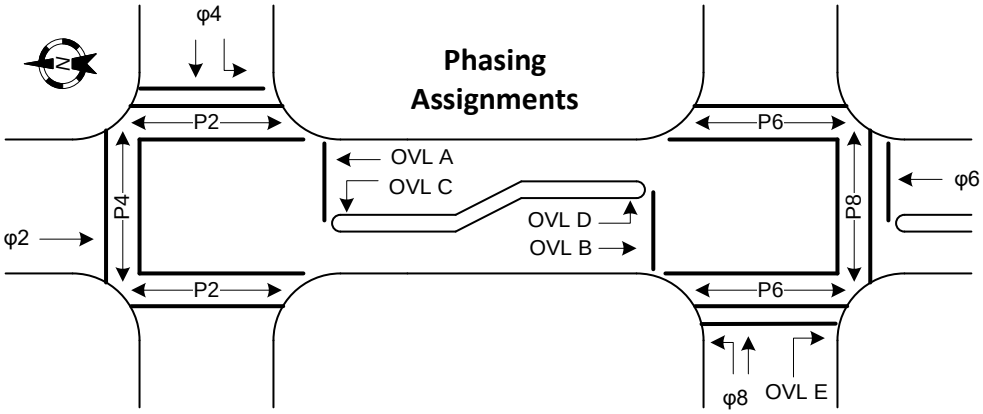
Power start sequence is 10.
OvL B – Not Ovlap enabled Ph 1 & 3
OvL E – Ped Protect Ph 6 & 8
Phase 5 omitted in Action Plans

	φ1	φ2	φ3	φ4	φ5	φ6	φ7	φ8
Direction	NBL	SB	NBL	WB	SBL	NB	SBL	EB
Phases In Use(MM-1-2)	X	X	X	X	X	X	X	X
Min Grn (MM-2-1)	5	15	5	10	5	15	5	10
BK MGrn (MM-2-1)								
Walk (MM-2-1)		4		4		4		4
Ped Clr (MM-2-1)		13		38		15		36
Yellow (MM-2-1)	4.0	5.5	4.0	4.5	4.0	5.5	4.0	4.5
Red Clr (MM-2-1)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Veh OL A - Incl. (MM-2-2)	X	X	X					
Veh OL B - Incl. (MM-2-2)					X	X	X	
Veh OL C - Incl. (MM-2-2)	X		X					
Veh OL D - Incl. (MM-2-2)					X		X	
Veh OL E - Incl. (MM-2-2)	X		X					X
Veh OL F - Incl. (MM-2-2)								
VE Recall (MM-2-8)		X				X		
PD Recall (MM-2-8)								
MX Recall (MM-2-8)								
SF Recall (MM-2-8)								
Left Turn Type	PT		PT		PT		PT	
3rd Car								

Revision History:

Date	Description
9/14/2022	Updated traffic signal phasing configuration and upgraded to cobalt controller…BG,FL

#9967 SR24 & Ellsworth

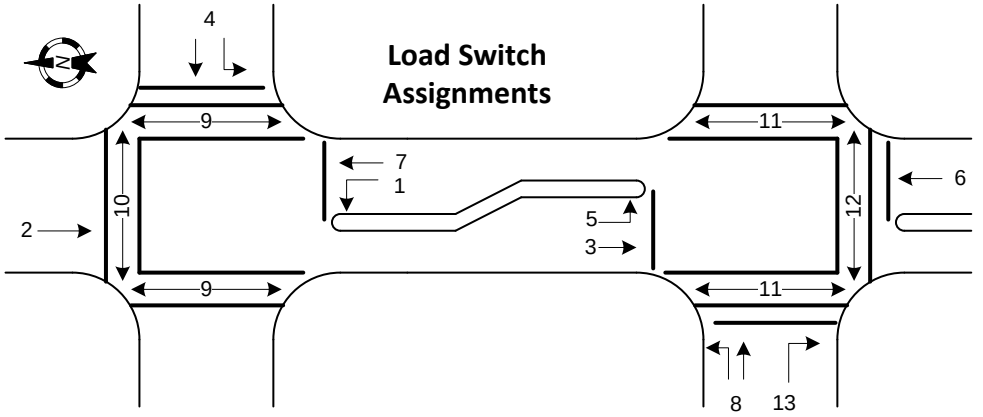


Phase Ring (MM-1-1
Compatibility Mode

R1	2 1	3 4
R2	5 6	8 7
R3		
R4		

Seq-10

Overlap	Incld. Phases
A	1,2,3
B	5,6,7
C	1,3
D	5,7
E	1,3,8



LD Switch Assign
(MM-1-3)

	Phase/ Ovlp	Type
1	3	O
2	2	V
3	2	O
4	4	V
5	4	O
6	6	V
7	1	O
8	8	V
9	2	P
10	4	P
11	6	P
12	8	P
13	5	O
14		
15		
16		

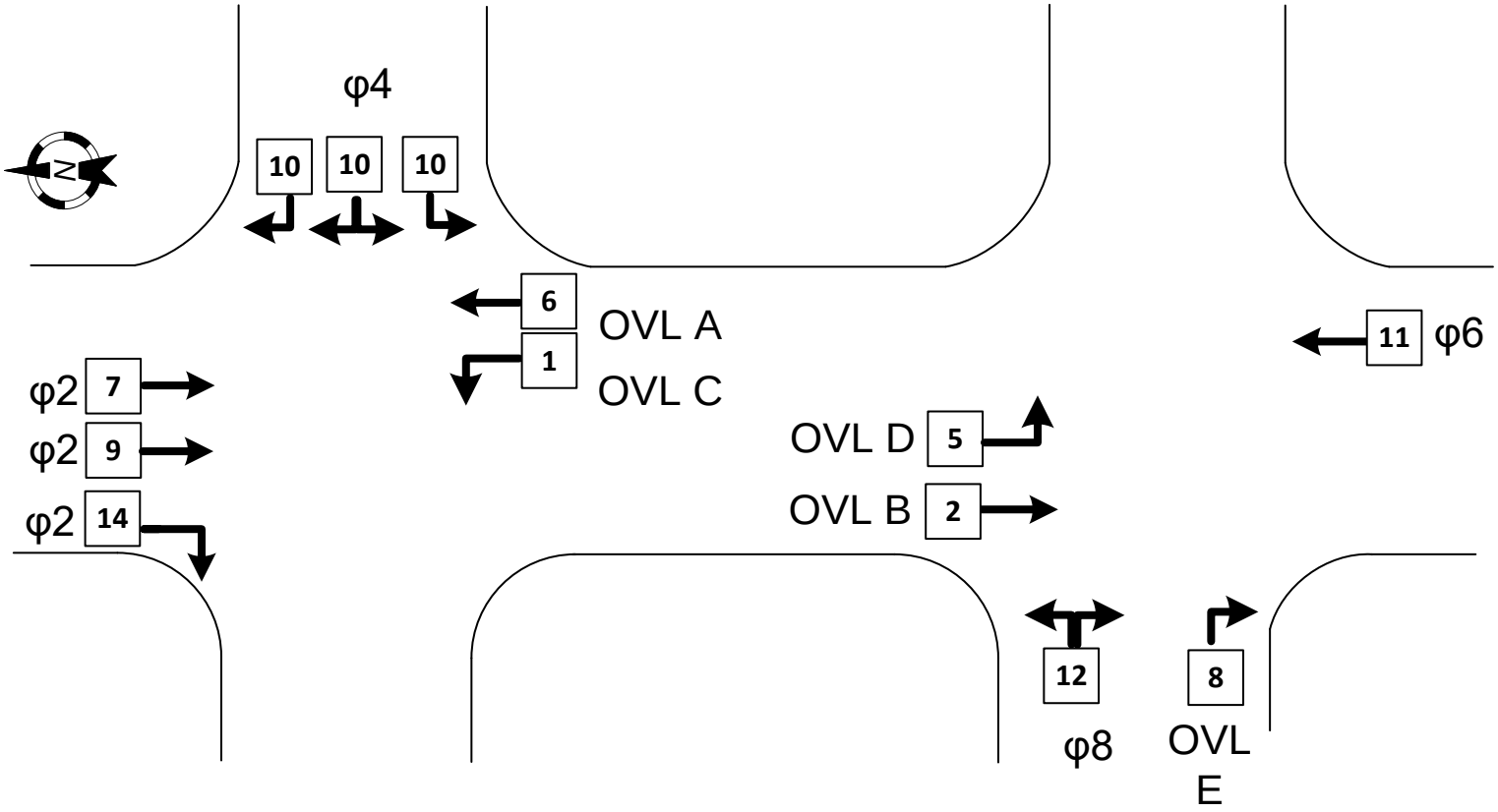
MMU Card Programming

	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2
1				X	X	X			X	X	X	X		X	
2				X	X	X		X	X	X	X	X		X	
3						X	X	X		X	X	X	X		
4				X	X	X	X		X		X	X			
5				X			X	X		X					
6				X		X	X	X		X					
7				X	X	X		X	X						
8				X	X		X	X							
9				X	X	X									
10				X	X	X									
11															
12															
13															
14															
15															

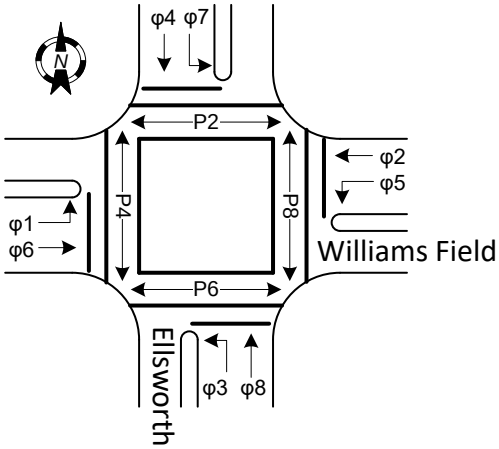
#9967 SR-24 & Ellsworth

Detectors (MM-6)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Phase	1,3	2,6,7			5,7	2	2,7	8	2	4	6	8		2		
Call	X	X			X	X	X	X	X	X	X	X		X		
Passage	X	X			X	X	X	X	X	X	X	X		X		
Bike																
Delay								10						10		
	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
Phase																
Call																
Passage																
Bike																
Delay																



#9990 Williams Field & Ellsworth
Effective: 2/9/2022 Flash@10:02AM
Normal@12:39PM



LD Switch Assign (MM-1-3)

	Phase/ Ovlp	Type
1	1	V
2	2	V
3	3	V
4	4	V
5	5	V
6	6	V
7	7	V
8	8	V
9	2	P
10	4	P
11	6	P
12	8	P
13	13	V
14	14	V
15	15	V
16	16	V

Notes:

Disabled Ped Protect (MM-2-6-1)

Phase Diagram (MM-1-1-1)

R1	1 2	3 4		
R2	5 6	7 8		
R3				
R4				

	φ1	φ2	φ3	φ4	φ5	φ6	φ7	φ8
Phases In Use(MM-1-2)	EBLT	WB	NBLT	SB	WBLT	EB	SBLT	NB
Min Grn (MM-2-1)	5	15	5	15	5	15	5	15
BK MGrn (MM-2-1)								
Walk (MM-2-1)		4		7		4		7
Ped Clr (MM-2-1)		26		21		27		23
Yellow (MM-2-1)	3.0	4.5	3.0	5.5	4.0	4.5	4.0	5.5
Red Clr (MM-2-1)	1.0	2.0	1.0	2.0	1.0	2.0	1.0	2.0
Veh Ovlp A - Included (MM-2-2)								
Veh Ovlp B - Included (MM-2-2)								
Veh Ovlp C - Included (MM-2-2)								
Veh Ovlp D - Included (MM-2-2)								
Lock Det (MM-2-8)								
VE Recall (MM-2-8)								
PD Recall (MM-2-8)								
MX Recall (MM-2-8)								
SF Recall (MM-2-8)								
Left Turn Type	P		P		P		P	
3rd Car	No		No		No		No	

Detectors (MM-6)

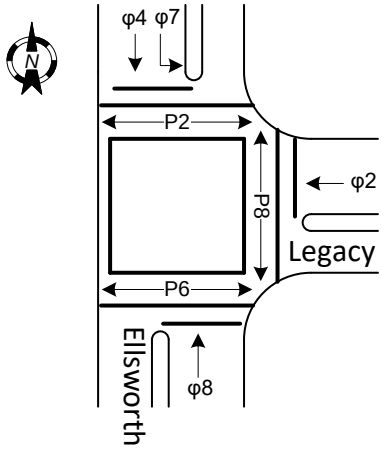
Ch.	Assigned Phase (MM-6-1)	
1/17		
2/18		
3/19	3 C,P	
4/20		
5/21		5 C,P
6/22		
7/23	7 C,P	
8/24		
9/25		2 C,P
10/26		4 C,P
11/27		
12/28		8 C,P
13/29		
14/30		
15/31		
16/32		

"C" =Call,"B"=Bike
"P"=Passage,"D"=Delay

Revision History:

Date	Description
12/22/2021	Signal Turn-on...BG
2/8/2022	Enabled phases 1&6 vehicle and phases 2,4,6,8 peds...BG, JF, TK

#9993 Legacy & Ellsworth
Effective: 12/15/2021 Flash@1009
Normal@1213



LD Switch Assign (MM-1-3)

	Phase/ Ovlp	Type
1	1	V
2	2	V
3	3	V
4	4	V
5	5	V
6	0	.
7	7	V
8	8	V
9	2	P
10	0	.
11	6	P
12	8	P
13	13	V
14	14	V
15	15	V
16	16	V

Notes:

Disabled Ped Protect (MM-2-6-1)

Phase Diagram (MM-1-1-1)

R1	1 2	3 4		
R2	5 6	7 8		
R3				
R4				

	φ1	φ2	φ3	φ4	φ5	φ6	φ7	φ8
Phases In Use(MM-1-2)		WB		SB		EB	SBLT	NB
Min Grn (MM-2-1)		10		15			5	15
BK MGrn (MM-2-1)								
Walk (MM-2-1)		4				4		7
Ped Clr (MM-2-1)		25				28		12
Yellow (MM-2-1)		4.0		5.5		3.0	4.0	5.5
Red Clr (MM-2-1)		2.0		2.0		0.0	1.0	2.0
Veh Ovlp A - Included (MM-2-2)								
Veh Ovlp B - Included (MM-2-2)								
Veh Ovlp C - Included (MM-2-2)								
Veh Ovlp D - Included (MM-2-2)								
Lock Det (MM-2-8)								
VE Recall (MM-2-8)								
PD Recall (MM-2-8)								
MX Recall (MM-2-8)								
SF Recall (MM-2-8)								
Left Turn Type							P	
3rd Car							No	

Detectors (MM 6)

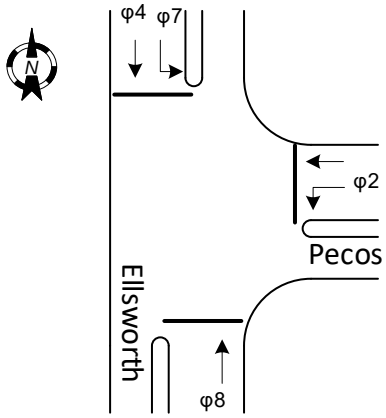
	Call Phase and Set up (MM 6-1, 6-2)
1	
2	
3	
4	
5	
6	
7	7 C,P
8	
9	2 C,P
10	4 C,P
11	
12	8 C,P
13	
14	
15	
16	

C = Call
P = Passage
B=Bike
D = Delay (X sec)

Revision History:

Date	Description
12/15/2021	Signal Turn-on...BG,SG

#9970 Pecos N. & Ellsworth
Effective: 1/26/2016



Phase Diagram (MM-1-1-1) Seq- 1

R1	1 2	3 4		
R2	5 6	7 8		
R3				
R4				

Notes:

Logic Statements 50-52 for FYA for phase 7.

MM-1-1-3
Backup Prevent enabled for phases 7/8 with B & C selected to place call on phase 2

LD Switch Assign
(MM-1-3)

	Phase/ Ovlp	Type
1	1	V
2	2	V
3	3	V
4	4	V
5	5	V
6	6	V
7	7	V
8	8	V
9	2	P
10	4	P
11	6	P
12	8	P
13	5	O
14	6	O
15	7	O
16	8	O

	φ1	φ2	φ3	φ4	φ5	φ6	φ7	φ8
Phases In Use(MM-1-2)		WB		SB			SBL	NB
Min Grn (MM-2-1)		5		15			8	15
BK MGrn (MM-2-1)		12						
Walk (MM-2-1)								
Ped Clr (MM-2-1)								
Yellow (MM-2-1)		4.5		5.5			3.0	5.5
Red Clr (MM-2-1)		2.0		2.0			1.0	2.0
Veh Ovlp A - Included (MM-2-2)								
Veh Ovlp B - Included (MM-2-2)								
Veh Ovlp C - Included (MM-2-2)								
Veh Ovlp D - Included (MM-2-2)								
Lock Det (MM-2-8)								
VE Recall (MM-2-8)								
PD Recall (MM-2-8)								
MX Recall (MM-2-8)				X				X
SF Recall (MM-2-8)								
Left Turn Type							FYA	
3rd Car								

Detectors (MM-6)

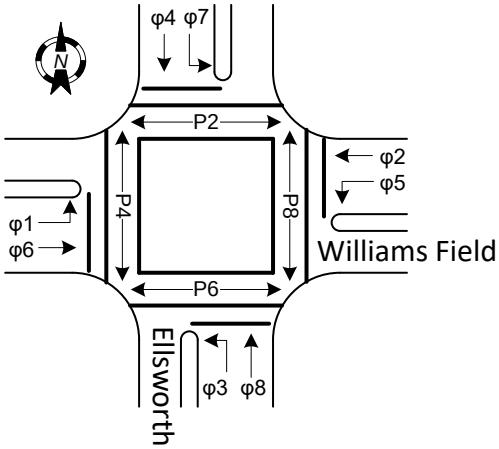
Ch.	Assigned Phase (MM-6-1)
1/17	
2/18	2,C,P
3/19	
4/20	
5/21	
6/22	
7/23	7,C,P
8/24	
9/25	2,C,P
10/26	
11/27	
12/28	
13/29	2,B
14/30	
15/31	
16/32	

"C"= Call,"B"= Bike
"P"= Passage

Revision History:

Date	Description
1/26/2016	Changed Bike Min Green to 12 sec, due to 139' measurement. SMH
2/27/2020	Backup protection enabled for ph 7/8 with B&C call to ph 2...BG

#9990 Williams Field & Ellsworth
Effective: 2/9/2022 Flash@10:02AM
Normal@12:39PM



LD Switch Assign (MM-1-3)

	Phase/ Ovlp	Type
1	1	V
2	2	V
3	3	V
4	4	V
5	5	V
6	6	V
7	7	V
8	8	V
9	2	P
10	4	P
11	6	P
12	8	P
13	13	V
14	14	V
15	15	V
16	16	V

Notes:

Disabled Ped Protect (MM-2-6-1)

Phase Diagram (MM-1-1-1)

R1	1 2	3 4		
R2	5 6	7 8		
R3				
R4				

	φ1	φ2	φ3	φ4	φ5	φ6	φ7	φ8
Phases In Use(MM-1-2)	EBLT	WB	NBLT	SB	WBLT	EB	SBLT	NB
Min Grn (MM-2-1)	5	15	5	15	5	15	5	15
BK MGrn (MM-2-1)								
Walk (MM-2-1)		4		7		4		7
Ped Clr (MM-2-1)		26		21		27		23
Yellow (MM-2-1)	3.0	4.5	3.0	5.5	4.0	4.5	4.0	5.5
Red Clr (MM-2-1)	1.0	2.0	1.0	2.0	1.0	2.0	1.0	2.0
Veh Ovlp A - Included (MM-2-2)								
Veh Ovlp B - Included (MM-2-2)								
Veh Ovlp C - Included (MM-2-2)								
Veh Ovlp D - Included (MM-2-2)								
Lock Det (MM-2-8)								
VE Recall (MM-2-8)								
PD Recall (MM-2-8)								
MX Recall (MM-2-8)								
SF Recall (MM-2-8)								
Left Turn Type	P		P		P		P	
3rd Car	No		No		No		No	

Detectors (MM-6)

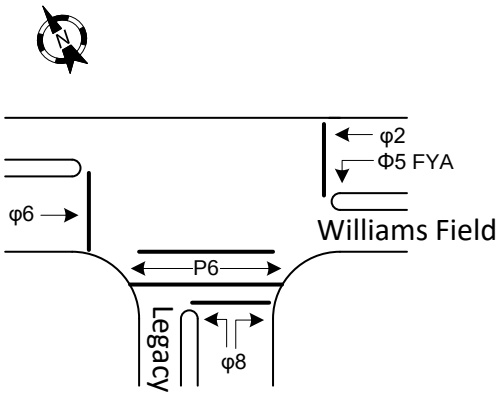
Ch.	Assigned Phase (MM-6-1)	
1/17		
2/18		
3/19	3 C,P	
4/20		
5/21		5 C,P
6/22		
7/23	7 C,P	
8/24		
9/25		2 C,P
10/26		4 C,P
11/27		
12/28		8 C,P
13/29		
14/30		
15/31		
16/32		

"C" =Call,"B"=Bike
"P"=Passage,"D"=Delay

Revision History:

Date	Description
12/22/2021	Signal Turn-on...BG
2/8/2022	Enabled phases 1&6 vehicle and phases 2,4,6,8 peds...BG, JF, TK

#9992 Williams Field & Legacy
Effective: 3/10/2022, Flash 8:10am, Normal 9:00am



Notes:

Logic Statements 47-49 enabled for FYA

Phase Diagram (MM-1-1-1)

R1	1 2	3 4		
R2	5 6	7 8		
R3				
R4				

LD Switch Assign (MM-1-3)

	Phase/ Ovlp	Type
1	1	V
2	2	V
3	3	V
4	0	.
5	5	V
6	6	V
7	7	V
8	8	V
9	0	.
10	0	.
11	6	P
12	0	.
13	13	V
14	14	V
15	7	O
16	16	V

	φ1	φ2	φ3	φ4	φ5	φ6	φ7	φ8
Phases In Use(MM-1-2)		WB			WBLT	EB		NB
Min Grn (MM-2-1)		15			8	15		10
BK MGrn (MM-2-1)								
Walk (MM-2-1)						7		
Ped Clr (MM-2-1)						15		
Yellow (MM-2-1)		4.5			3.0	4.5		4.0
Red Clr (MM-2-1)		2.0			1.0	2.0		2.0
Veh Ovlp A - Included (MM-2-2)								
Veh Ovlp B - Included (MM-2-2)								
Veh Ovlp C - Included (MM-2-2)								
Veh Ovlp D - Included (MM-2-2)								
Lock Det (MM-2-8)								
VE Recall (MM-2-8)								
PD Recall (MM-2-8)								
MX Recall (MM-2-8)								
SF Recall (MM-2-8)								
Left Turn Type					FYA			
3rd Car					Yes			

Detectors (MM 6)

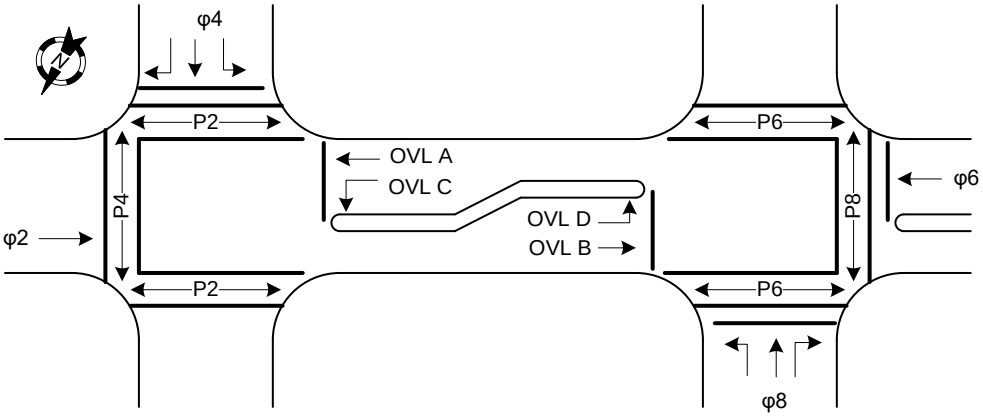
	Call Phase and Set up (MM 6-1, 6-2)
1	
2	
3	
4	
5	2 C,P
6	5 P
7	
8	8 C,P,D
9	2 C,P
10	
11	6 C,P
12	8 C,P
13	
14	
15	
16	

C = Call
P = Passage
B=Bike
D = Delay (X sec)

Revision History:

Date	Description

#9982 SR-24 & Williams Field
Effective: 8/11/2022 @11:30AM



Phase Ring (MM-1-1

R1	2 1	3 4
R2	5 6	8 7
R3		
R4		

Seq - 10

LD Switch Assign
(MM-1-3)

	Phase /Ovlp	Type
1	3	O
2	2	V
3	2	O
4	4	V
5	4	O
6	6	V
7	1	O
8	8	V
9	2	P
10	4	P
11	6	P
12	8	P
13	0	.
14	0	.
15	0	.
16	0	.

Notes:

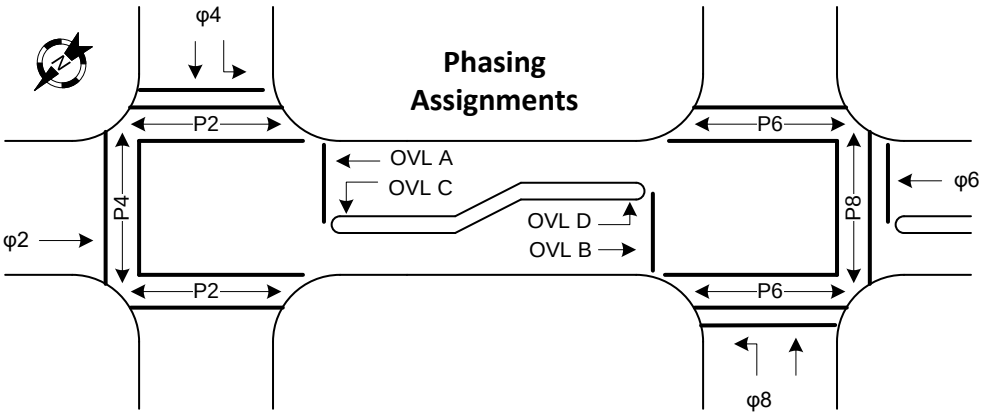
Power start sequence is 10.

	φ1	φ2	φ3	φ4	φ5	φ6	φ7	φ8
Direction	NBL	SB	NBL	WB	SBL	NB	SBL	EB
Phases In Use(MM-1-2)	X	X	X	X	X	X	X	X
Min Grn (MM-2-1)	5	15	5	10	5	15	5	10
BK MGrn (MM-2-1)								
Walk (MM-2-1)		4		4		4		4
Ped Clr (MM-2-1)		15		35		16		34
Yellow (MM-2-1)	4.0	4.5	4.0	5.5	4.0	4.5	4.0	5.5
Red Clr (MM-2-1)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Veh OL A - Incl. (MM-2-2)	X	X	X					
Veh OL B - Incl. (MM-2-2)					X	X	X	
Veh OL C - Incl. (MM-2-2)	X		X					
Veh OL D - Incl. (MM-2-2)					X		X	
Veh OL E - Incl. (MM-2-2)								
Veh OL F - Incl. (MM-2-2)								
VE Recall (MM-2-8)				X				X
PD Recall (MM-2-8)								
MX Recall (MM-2-8)								
SF Recall (MM-2-8)								
Left Turn Type	PT		PT		PT		PT	
3rd Car								

Revision History:

Date	Description
4/1/2022	Signal turn on...BG,MF
8/11/2022	SR24 opened up on east side, enable SBLT detection and ph 4/8 min recall...BG

#9982 SR24 & Williams Field



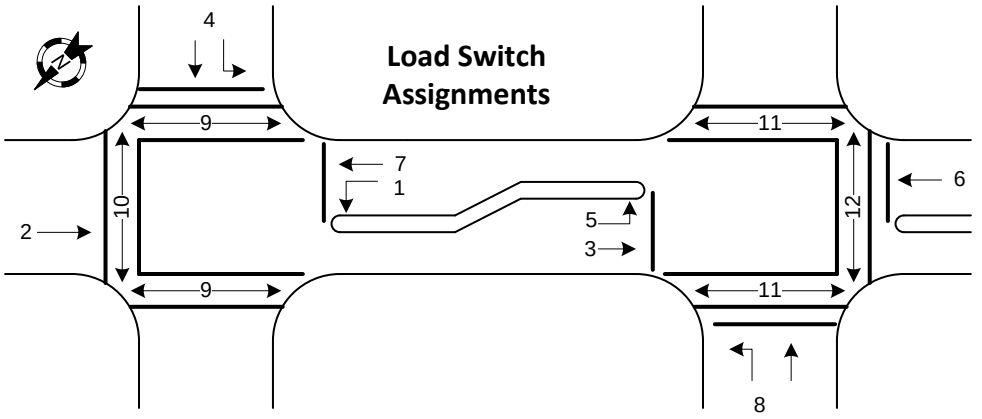
Phase Ring (MM-1-1·

Compatibility Mode

R1	2 1	3 4
R2	5 6	8 7
R3		
R4		

Seq-10

Overlap	Incld. Phases
A	1,2,3
B	5,6,7
C	1,3
D	5,7



LD Switch Assign

(MM-1-3)

	Phase/ Ovlp	Type
1	3	O
2	2	V
3	2	O
4	4	V
5	4	O
6	6	V
7	1	O
8	8	V
9	2	P
10	4	P
11	6	P
12	8	P
13	0	.
14	0	.
15	0	.
16	0	.

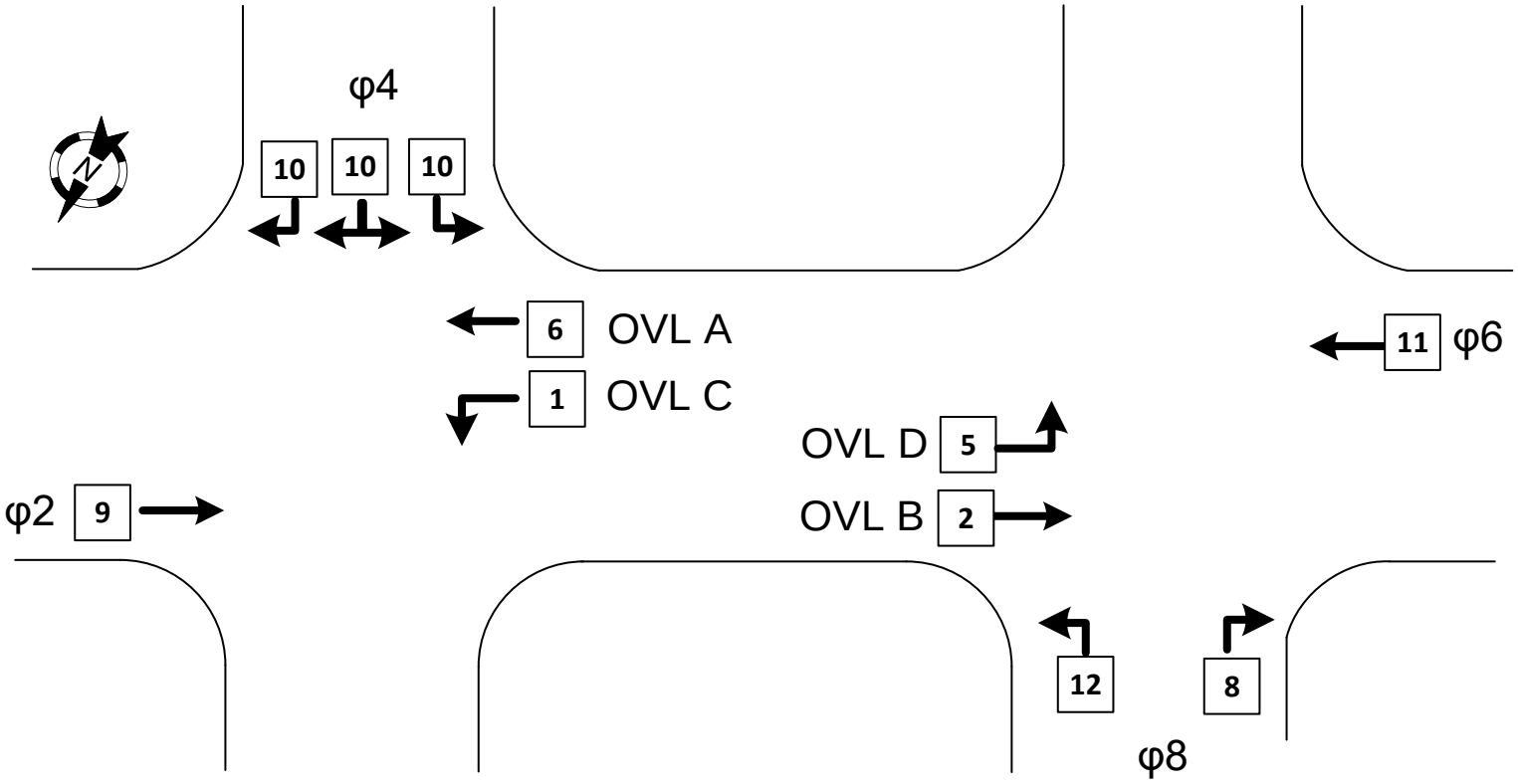
MMU Card Programming

	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2
1					X	X			X	X	X	X		X	
2					X	X		X	X	X	X	X		X	
3						X	X	X		X	X	X	X		
4					X	X	X		X		X	X			
5							X	X		X					
6						X	X	X		X					
7					X	X		X	X						
8					X		X	X							
9					X	X									
10					X	X									
11															
12															
13															
14															
15															

#9982 SR-24 & Williams Field

Detectors (MM-6)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Phase	1,3	6			5,7	2		8	2	4	6	8				
Call	X	X			X	X		X	X	X	X	X				
Passage	X	X			X	X		X	X	X	X	X				
Bike																
Delay																
	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
Phase																
Call																
Passage																
Bike																
Delay																

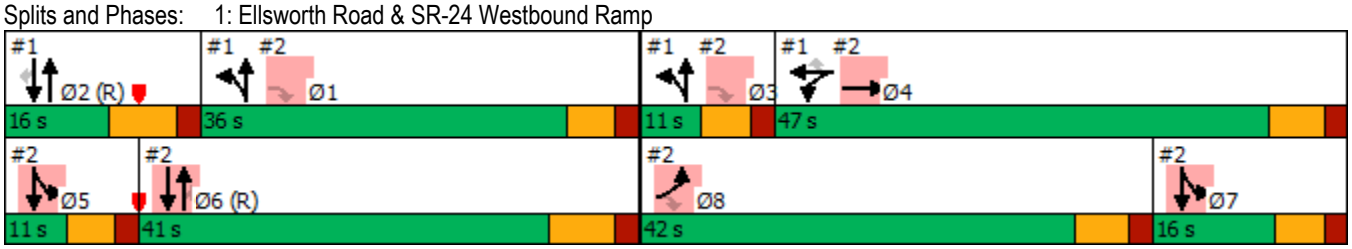


Appendix E – Existing Capacity Analysis

Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	1	0	127	1241	1059	227	443					
Future Volume (vph)	1	0	127	1241	1059	227	443					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	47.0	47.0	47.0			16.0	16.0	36.0	11.0	11.0	41.0	16.0
Total Split (%)	42.7%	42.7%	42.7%			14.5%	14.5%	33%	10%	10%	37%	15%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	31.6	31.6	31.6	41.0	65.9	17.4	17.4					
Actuated g/C Ratio	0.29	0.29	0.29	0.37	0.60	0.16	0.16					
v/c Ratio	0.00	0.07	0.12	1.01	0.52	0.23	0.56					
Control Delay	23.0	0.2	0.5	43.9	6.5	42.5	7.4					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	23.0	0.2	0.5	43.9	6.5	42.5	7.4					
LOS	C	A	A	D	A	D	A					
Approach Delay		0.5			26.7	19.3						
Approach LOS		A			C	B						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 120	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.01	
Intersection Signal Delay: 24.0	Intersection LOS: C
Intersection Capacity Utilization 75.9%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

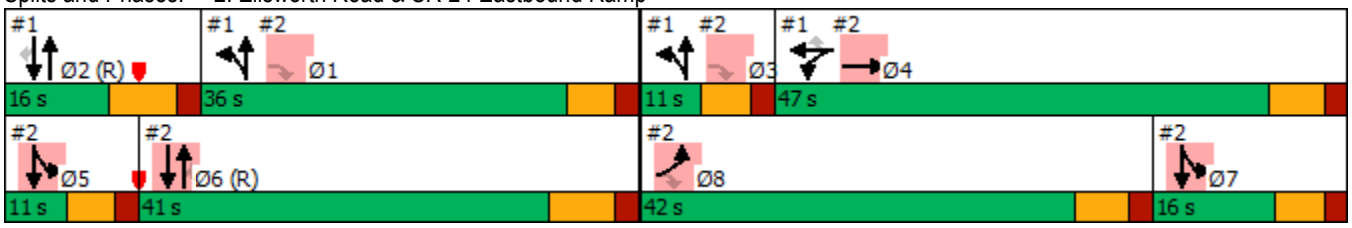


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	342	4	838	1902	5	48	191					
Future Volume (vph)	342	4	838	1902	5	48	191					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	42.0	47.0		41.0	41.0			36.0	16.0	11.0	11.0	16.0
Total Split (%)	38.2%	42.7%		37.3%	37.3%			33%	15%	10%	10%	15%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	18.2	18.2	54.7	42.2	42.2	29.6	79.3					
Actuated g/C Ratio	0.17	0.17	0.50	0.38	0.38	0.27	0.72					
v/c Ratio	0.64	0.63	0.47	0.79	0.01	0.05	0.05					
Control Delay	52.5	51.8	1.7	34.2	0.0	74.4	0.3					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	52.5	51.8	1.7	34.2	0.0	74.4	0.3					
LOS	D	D	A	C	A	E	A					
Approach Delay		16.5		34.1			15.1					
Approach LOS		B		C			B					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 120	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.01	
Intersection Signal Delay: 26.5	Intersection LOS: C
Intersection Capacity Utilization 75.9%	ICU Level of Service D
Analysis Period (min) 15	

! Phase conflict between lane groups.

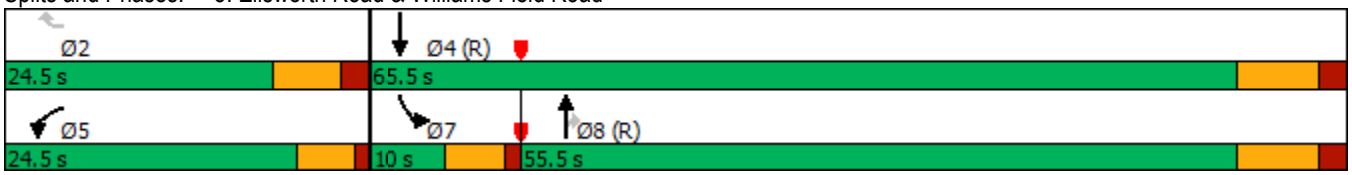
Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	72	6	1913	35	19	985
Future Volume (vph)	72	6	1913	35	19	985
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	5		8		7	4
Permitted Phases		2		8		
Detector Phase	5	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	5.0	15.0	15.0	15.0	5.0	15.0
Minimum Split (s)	10.0	24.5	25.5	25.5	10.0	25.5
Total Split (s)	24.5	24.5	55.5	55.5	10.0	65.5
Total Split (%)	27.2%	27.2%	61.7%	61.7%	11.1%	72.8%
Yellow Time (s)	4.0	4.5	5.5	5.5	4.0	5.5
All-Red Time (s)	1.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	6.5	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	16.7	18.0	54.0	54.0	5.0	58.0
Actuated g/C Ratio	0.19	0.20	0.60	0.60	0.06	0.64
v/c Ratio	0.12	0.01	0.95	0.04	0.11	0.32
Control Delay	35.4	26.5	15.3	4.1	41.7	7.5
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	35.4	26.5	15.3	4.1	41.7	7.5
LOS	D	C	B	A	D	A
Approach Delay	34.7		15.1			8.1
Approach LOS	C		B			A

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.95	
Intersection Signal Delay: 13.3	Intersection LOS: B
Intersection Capacity Utilization 77.0%	ICU Level of Service D
Analysis Period (min) 15	

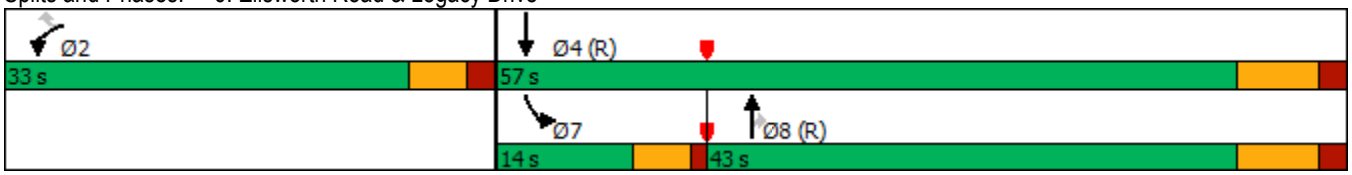
Splits and Phases: 5: Ellsworth Road & Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	5	2	1945	7	3	1045
Future Volume (vph)	5	2	1945	7	3	1045
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	33.0	33.0	43.0	43.0	14.0	57.0
Total Split (%)	36.7%	36.7%	47.8%	47.8%	15.6%	63.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	27.0	27.0	47.3	47.3	5.6	49.5
Actuated g/C Ratio	0.30	0.30	0.53	0.53	0.06	0.55
v/c Ratio	0.00	0.00	1.08	0.01	0.01	0.55
Control Delay	22.2	16.0	63.5	4.6	42.0	12.8
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	22.2	16.0	63.5	4.6	42.0	12.8
LOS	C	B	E	A	D	B
Approach Delay	20.4		63.3			12.8
Approach LOS	C		E			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 120	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.08	
Intersection Signal Delay: 45.6	Intersection LOS: D
Intersection Capacity Utilization 73.3%	ICU Level of Service D
Analysis Period (min) 15	

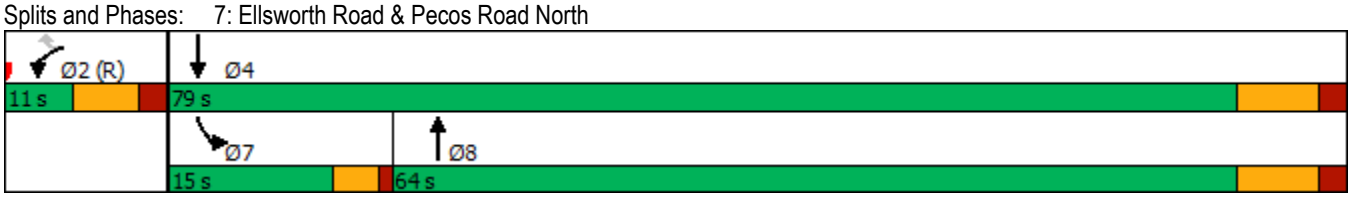
Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	115	20	1919	8	1017
Future Volume (vph)	115	20	1919	8	1017
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	5.0	15.0
Minimum Split (s)	24.5	24.5	25.5	9.0	25.5
Total Split (s)	11.0	11.0	64.0	15.0	79.0
Total Split (%)	12.2%	12.2%	71.1%	16.7%	87.8%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	16.8	16.8	57.0	6.0	59.2
Actuated g/C Ratio	0.19	0.19	0.63	0.07	0.66
v/c Ratio	0.36	0.07	0.91	0.07	0.45
Control Delay	40.8	17.1	21.1	53.4	3.7
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	40.8	17.1	21.1	53.4	3.7
LOS	D	B	C	D	A
Approach Delay	37.3		21.1		4.1
Approach LOS	D		C		A

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.91	
Intersection Signal Delay: 16.2	Intersection LOS: B
Intersection Capacity Utilization 72.5%	ICU Level of Service C
Analysis Period (min) 15	

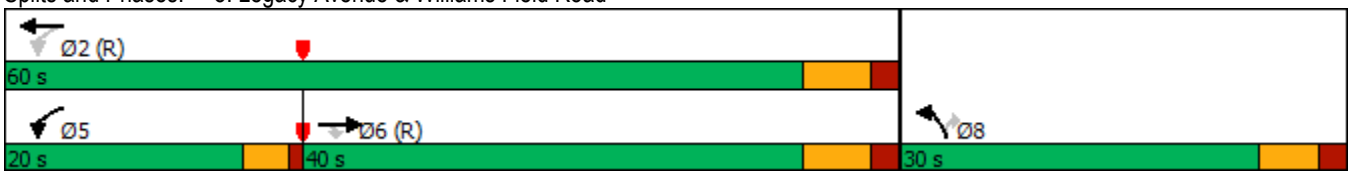
Splits and Phases: 7: Ellsworth Road & Pecos Road North



Lane Group	EBT	EBR	WBL	WBT	NBL
Lane Configurations					
Traffic Volume (vph)	42	7	15	73	1
Future Volume (vph)	42	7	15	73	1
Turn Type	NA	Perm	pm+pt	NA	Prot
Protected Phases	6		5	2	8
Permitted Phases		6	2		
Detector Phase	6	6	5	2	8
Switch Phase					
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0
Lead/Lag	Lag	Lag	Lead		
Lead-Lag Optimize?	Yes	Yes	Yes		
Recall Mode	C-Max	C-Max	None	C-Max	None
Act Effct Green (s)	79.4	79.4	82.8	85.5	10.0
Actuated g/C Ratio	0.88	0.88	0.92	0.95	0.11
v/c Ratio	0.03	0.01	0.02	0.05	0.01
Control Delay	3.6	3.3	1.2	1.2	36.0
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	3.6	3.3	1.2	1.2	36.0
LOS	A	A	A	A	D
Approach Delay	3.6			1.2	36.0
Approach LOS	A			A	D

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.05	
Intersection Signal Delay: 2.3	Intersection LOS: A
Intersection Capacity Utilization 31.3%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	0

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	45	1	0	88	0	0
Future Vol, veh/h	45	1	0	88	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	84	84	84	84	84	84
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	54	1	0	105	0	0

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	55
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	1017
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	1017
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

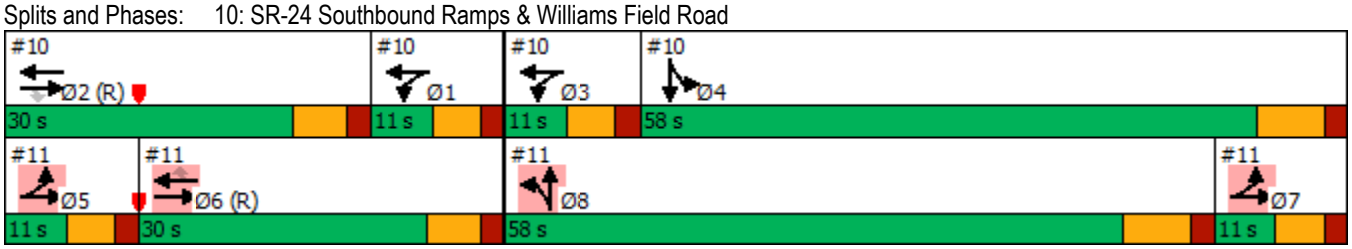
Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-
HCM Control Delay (s)	0	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	-	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	43	4	15	73	178	1083						
Future Volume (vph)	43	4	15	73	178	1083						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	30.0	30.0			58.0	58.0	11.0	11.0	11.0	30.0	11.0	58.0
Total Split (%)	27.3%	27.3%			52.7%	52.7%	10%	10%	10%	27%	10%	53%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	25.7	25.7	16.0	46.0	52.7	52.7						
Actuated g/C Ratio	0.23	0.23	0.15	0.42	0.48	0.48						
v/c Ratio	0.03	0.01	0.03	0.05	0.22	0.72						
Control Delay	34.4	0.0	9.9	1.2	18.4	26.6						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	34.4	0.0	9.9	1.2	18.4	26.6						
LOS	C	A	A	A	B	C						
Approach Delay	31.6			2.7		25.6						
Approach LOS	C			A		C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.27	
Intersection Signal Delay: 24.4	Intersection LOS: C
Intersection Capacity Utilization 109.4%	ICU Level of Service H
Analysis Period (min) 15	

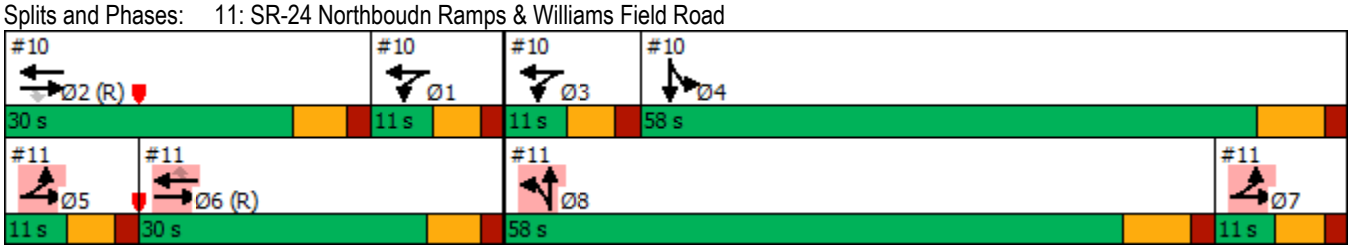
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	13	203	85	547	1	1971						
Future Volume (vph)	13	203	85	547	1	1971						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			30.0	30.0	58.0	58.0	11.0	30.0	11.0	58.0	11.0	11.0
Total Split (%)			27.3%	27.3%	52.7%	52.7%	10%	27%	10%	53%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	16.0	46.0	23.5	23.5	50.5	50.5						
Actuated g/C Ratio	0.15	0.42	0.21	0.21	0.46	0.46						
v/c Ratio	0.03	0.14	0.07	1.09	0.00	1.27						
Control Delay	37.9	22.7	34.7	89.5	16.0	154.1						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.9	22.7	34.7	89.5	16.0	154.1						
LOS	D	C	C	F	B	F						
Approach Delay		23.7	82.1			154.0						
Approach LOS		C	F			F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.27	
Intersection Signal Delay: 127.9	Intersection LOS: F
Intersection Capacity Utilization 109.4%	ICU Level of Service H
Analysis Period (min) 15	

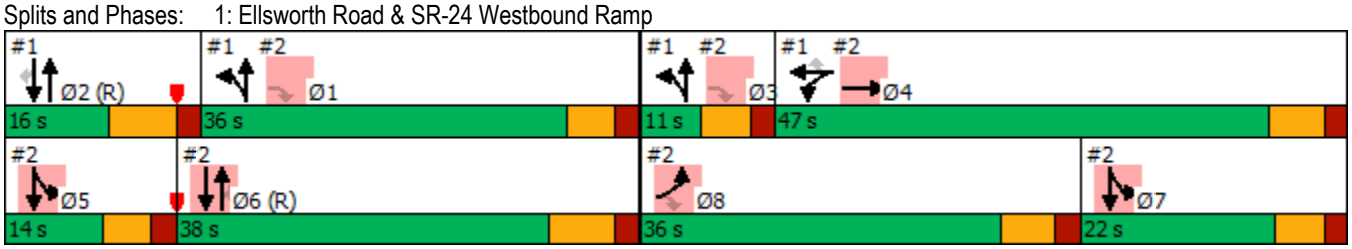
Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	1	1	69	891	1088	314	418					
Future Volume (vph)	1	1	69	891	1088	314	418					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	47.0	47.0	47.0			16.0	16.0	36.0	11.0	14.0	38.0	22.0
Total Split (%)	42.7%	42.7%	42.7%			14.5%	14.5%	33%	10%	13%	35%	20%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	40.5	40.5	40.5	41.0	57.0	8.5	8.5					
Actuated g/C Ratio	0.37	0.37	0.37	0.37	0.52	0.08	0.08					
v/c Ratio	0.00	0.04	0.06	0.77	0.65	0.70	0.72					
Control Delay	22.0	5.0	0.2	25.5	16.2	57.6	11.6					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	22.0	5.0	0.2	25.5	16.2	57.6	11.6					
LOS	C	A	A	C	B	E	B					
Approach Delay		2.9			20.4	31.4						
Approach LOS		A			C	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.94	
Intersection Signal Delay: 22.8	Intersection LOS: C
Intersection Capacity Utilization 65.0%	ICU Level of Service C
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

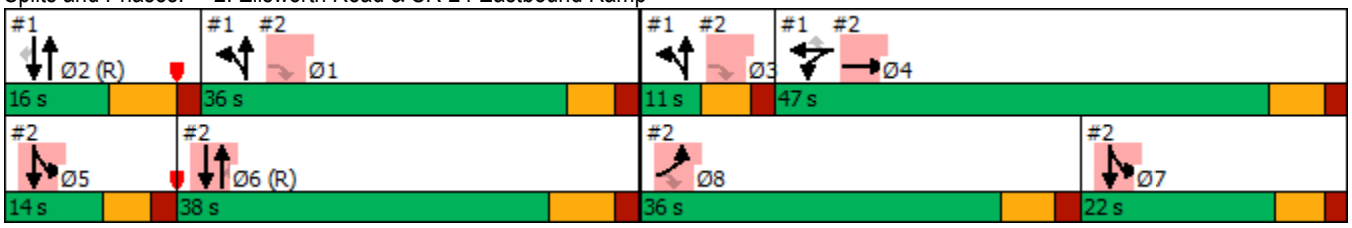


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	718	33	1042	1265	9	91	220					
Future Volume (vph)	718	33	1042	1265	9	91	220					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	36.0	47.0		38.0	38.0			36.0	16.0	11.0	14.0	22.0
Total Split (%)	32.7%	42.7%		34.5%	34.5%			33%	15%	10%	13%	20%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	29.3	29.3	65.8	32.7	32.7	28.0	68.2					
Actuated g/C Ratio	0.27	0.27	0.60	0.30	0.30	0.25	0.62					
v/c Ratio	0.94	0.94	0.55	0.75	0.02	0.12	0.08					
Control Delay	70.4	70.8	1.7	37.8	0.0	76.8	0.1					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	70.4	70.8	1.7	37.8	0.0	76.8	0.1					
LOS	E	E	A	D	A	E	A					
Approach Delay		30.6		37.5			22.5					
Approach LOS		C		D			C					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.94	
Intersection Signal Delay: 32.5	Intersection LOS: C
Intersection Capacity Utilization 65.0%	ICU Level of Service C
Analysis Period (min) 15	

! Phase conflict between lane groups.

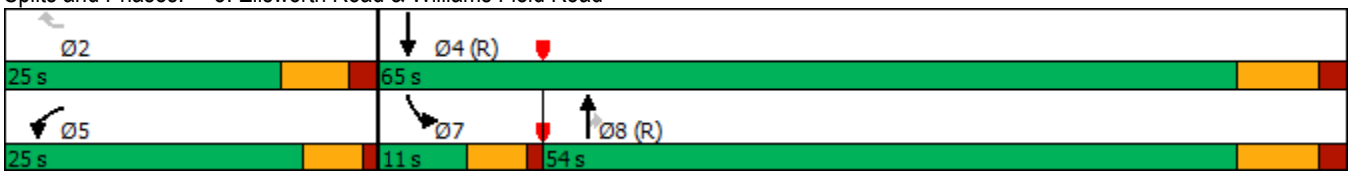
Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	55	48	1046	45	82	986
Future Volume (vph)	55	48	1046	45	82	986
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	5		8		7	4
Permitted Phases		2		8		
Detector Phase	5	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	5.0	15.0	15.0	15.0	5.0	15.0
Minimum Split (s)	10.0	24.5	25.5	25.5	10.0	25.5
Total Split (s)	25.0	25.0	54.0	54.0	11.0	65.0
Total Split (%)	27.8%	27.8%	60.0%	60.0%	12.2%	72.2%
Yellow Time (s)	4.0	4.5	5.5	5.5	4.0	5.5
All-Red Time (s)	1.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	6.5	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	17.1	18.5	48.7	48.7	6.0	57.5
Actuated g/C Ratio	0.19	0.21	0.54	0.54	0.07	0.64
v/c Ratio	0.10	0.09	0.65	0.06	0.43	0.36
Control Delay	20.2	4.5	6.4	3.6	46.6	8.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	20.2	4.5	6.4	3.6	46.6	8.0
LOS	C	A	A	A	D	A
Approach Delay	12.9		6.3			11.0
Approach LOS	B		A			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 70	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.65	
Intersection Signal Delay: 8.8	Intersection LOS: A
Intersection Capacity Utilization 53.1%	ICU Level of Service A
Analysis Period (min) 15	

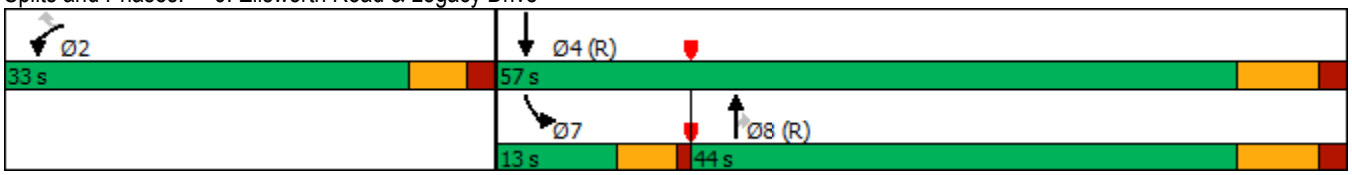
Splits and Phases: 5: Ellsworth Road & Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	89	19	1300	195	6	1061
Future Volume (vph)	89	19	1300	195	6	1061
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	33.0	33.0	44.0	44.0	13.0	57.0
Total Split (%)	36.7%	36.7%	48.9%	48.9%	14.4%	63.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	27.0	27.0	47.3	47.3	5.7	49.5
Actuated g/C Ratio	0.30	0.30	0.53	0.53	0.06	0.55
v/c Ratio	0.10	0.04	0.78	0.24	0.03	0.61
Control Delay	22.6	10.1	18.8	4.2	45.3	13.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	22.6	10.1	18.8	4.2	45.3	13.1
LOS	C	B	B	A	D	B
Approach Delay	20.7		16.9			13.3
Approach LOS	C		B			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.78	
Intersection Signal Delay: 15.6	Intersection LOS: B
Intersection Capacity Utilization 55.5%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	69	15	1455	5	1113
Future Volume (vph)	69	15	1455	5	1113
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	5.0	15.0
Minimum Split (s)	24.5	24.5	25.5	9.0	25.5
Total Split (s)	17.0	17.0	59.0	14.0	73.0
Total Split (%)	18.9%	18.9%	65.6%	15.6%	81.1%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	23.6	23.6	50.3	5.9	52.4
Actuated g/C Ratio	0.26	0.26	0.56	0.07	0.58
v/c Ratio	0.16	0.04	0.83	0.04	0.59
Control Delay	30.5	15.3	20.4	55.4	7.0
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	30.5	15.3	20.4	55.4	7.0
LOS	C	B	C	E	A
Approach Delay	27.9		20.4		7.2
Approach LOS	C		C		A

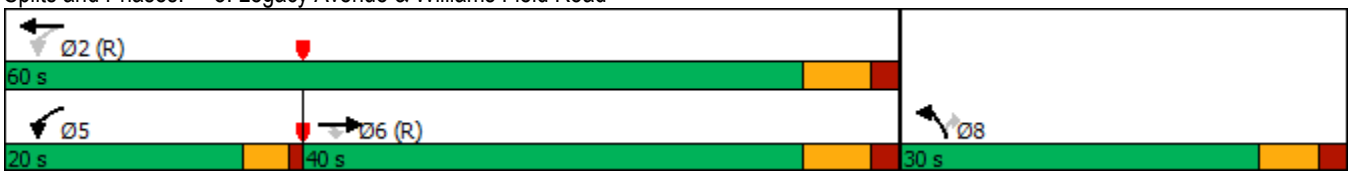
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 80	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.83	
Intersection Signal Delay: 15.2	Intersection LOS: B
Intersection Capacity Utilization 57.6%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Volume (vph)	80	65	122	46	54	40
Future Volume (vph)	80	65	122	46	54	40
Turn Type	NA	Perm	pm+pt	NA	Prot	Perm
Protected Phases	6		5	2	8	
Permitted Phases		6	2			8
Detector Phase	6	6	5	2	8	8
Switch Phase						
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0	6.0
Lead/Lag	Lag	Lag	Lead			
Lead-Lag Optimize?	Yes	Yes	Yes			
Recall Mode	C-Max	C-Max	None	C-Max	None	None
Act Effct Green (s)	58.0	58.0	72.7	71.5	10.5	10.5
Actuated g/C Ratio	0.64	0.64	0.81	0.79	0.12	0.12
v/c Ratio	0.08	0.08	0.15	0.04	0.33	0.22
Control Delay	5.7	1.0	2.8	3.3	41.1	13.3
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	5.7	1.0	2.8	3.3	41.1	13.3
LOS	A	A	A	A	D	B
Approach Delay	3.6			3.0	29.2	
Approach LOS	A			A	C	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.33	
Intersection Signal Delay: 9.3	Intersection LOS: A
Intersection Capacity Utilization 32.2%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	1.2

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	106	126	0	284	0	75
Future Vol, veh/h	106	126	0	284	0	75
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	78	78	78	78	78	78
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	136	162	0	364	0	96

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	217
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	865
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	865
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

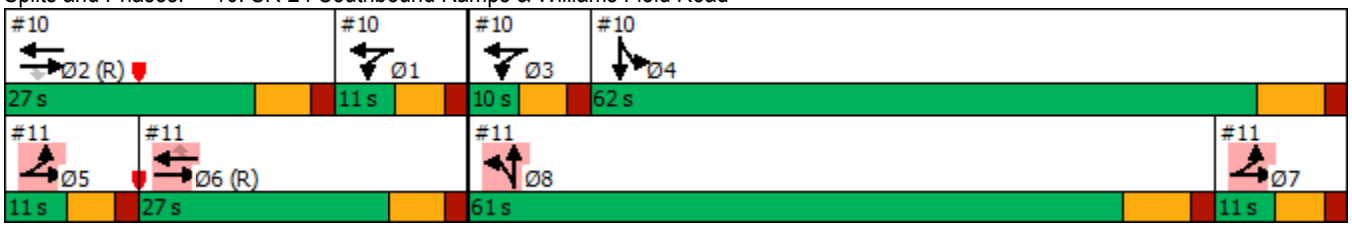
Approach	EB	WB	NB
HCM Control Delay, s	0	0	9.7
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	865	-	-	-
HCM Lane V/C Ratio	0.111	-	-	-
HCM Control Delay (s)	9.7	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	0.4	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	100	6	15	130	235	2141						
Future Volume (vph)	100	6	15	130	235	2141						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	27.0	27.0			62.0	62.0	11.0	10.0	11.0	27.0	11.0	61.0
Total Split (%)	24.5%	24.5%			56.4%	56.4%	10%	9%	10%	25%	10%	55%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	20.5	20.5	15.0	42.0	54.5	54.5						
Actuated g/C Ratio	0.19	0.19	0.14	0.38	0.50	0.50						
v/c Ratio	0.09	0.01	0.03	0.10	0.27	1.49						
Control Delay	37.3	0.0	18.1	8.9	17.4	248.9						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.3	0.0	18.1	8.9	17.4	248.9						
LOS	D	A	B	A	B	F						
Approach Delay	35.2			9.8		230.1						
Approach LOS	D			A		F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.49	
Intersection Signal Delay: 211.8	Intersection LOS: F
Intersection Capacity Utilization 82.3%	ICU Level of Service E
Analysis Period (min) 15	

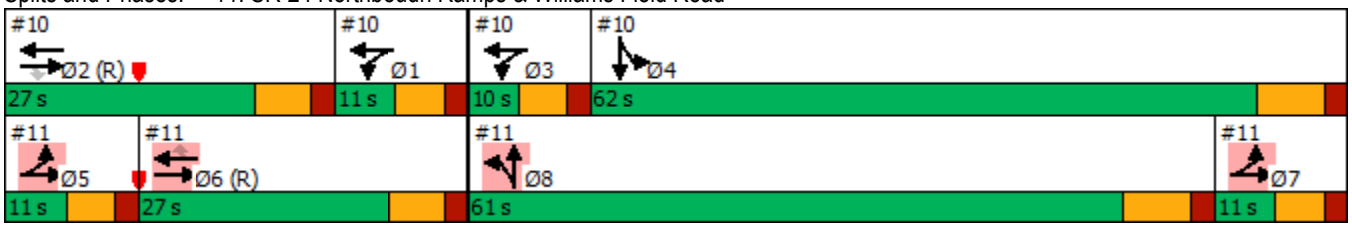
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	51	334	112	239	22	1132						
Future Volume (vph)	51	334	112	239	22	1132						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			27.0	27.0	61.0	61.0	11.0	27.0	10.0	62.0	11.0	11.0
Total Split (%)			24.5%	24.5%	55.5%	55.5%	10%	25%	9%	56%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	21.0	48.0	20.5	20.5	48.5	48.5						
Actuated g/C Ratio	0.19	0.44	0.19	0.19	0.44	0.44						
v/c Ratio	0.09	0.24	0.11	0.55	0.03	0.82						
Control Delay	43.1	19.2	37.4	12.2	15.8	31.7						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	43.1	19.2	37.4	12.2	15.8	31.7						
LOS	D	B	D	B	B	C						
Approach Delay		22.4	20.3			31.4						
Approach LOS		C	C			C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.49	
Intersection Signal Delay: 27.5	Intersection LOS: C
Intersection Capacity Utilization 82.3%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



Appendix F – Trip Generation

Gateway

Completed:

Checked:

Trip Generation Calculations, 11th Edition

Proposed Development

130 Industrial Park

Land Use	ITE Code	Qty	Unit	Weekday Rate	% In	% Out	AM Peak Hour Rate	% In	% Out	PM Peak Hour Rate	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
Industrial Park	**130**	**1,275**	**1000 Sq. Ft. GFA**	**3.37**	**50%**	**50%**	**0.34**	**81%**	**19%**	**0.34**	**22%**	**78%**	**4,297**	**2,148**	**2,149**	**434**	**352**	**82**	**434**	**95**	**339**	**Average**
Industrial Park	130	1,275	1000 Sq. Ft. GFA	1.41	50%	50%	0.06	81%	19%	0.09	22%	78%	1,798	899	899	77	62	15	115	25	90	Minimum
Industrial Park	130	1,275	1000 Sq. Ft. GFA	14.98	50%	50%	2.13	81%	19%	2.85	22%	78%	19,100	9,550	9,550	2,716	2,200	516	3,634	799	2,835	Maximum
Land Use	ITE Code	Qty	Unit	Weekday Equation	% In	% Out	AM Peak Hour Equation	% In	% Out	PM Peak Hour Equation	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
Industrial Park	130	1,275	1000 Sq. Ft. GFA	Ln(T)=0.52Ln(X)+4.45	50%	50%	N/A	N/A	N/A	N/A	N/A	N/A	3,528	1,764	1,764	N/A	N/A	N/A	N/A	N/A	N/A	Equation

Industrial Park	Standard Deviation	2.60	0.33	0.36
	Number of Studies	27	34	35
	Average Size	762	956	899
	R^2	0.58	N/A	N/A

310 Hotel

Land Use	ITE Code	Qty	Unit	Weekday Rate	% In	% Out	AM Peak Hour Rate	% In	% Out	PM Peak Hour Rate	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
Hotel	310	150	Rooms	7.99	50%	50%	0.46	56%	44%	0.59	51%	49%	1,199	600	599	69	39	30	89	45	44	Average
Hotel	310	150	Rooms	5.31	50%	50%	0.20	56%	44%	0.26	51%	49%	797	399	398	30	17	13	39	19	20	Minimum
Hotel	310	150	Rooms	9.53	50%	50%	0.84	56%	44%	1.06	51%	49%	1,430	715	715	126	71	55	159	81	78	Maximum
Land Use	ITE Code	Qty	Unit	Weekday Equation	% In	% Out	AM Peak Hour Equation	% In	% Out	PM Peak Hour Equation	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
Hotel	310	150	Rooms	T=10.84(X)-423.51	50%	50%	T=0.50(X)-7.45	56%	44%	T=0.74(X)-27.89	51%	49%	1,202	601	601	68	38	30	84	42	42	Equation

Hotel	Standard Deviation	1.92	0.14	0.22
	Number of Studies	7	28	31
	Average Size	148	182	186
	R^2	0.85	0.84	0.78

822 Strip Retail Plaza (<40k)

Land Use	ITE Code	Qty	Unit	Weekday Rate	% In	% Out	AM Peak Hour Rate	% In	% Out	PM Peak Hour Rate	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
Strip Retail Plaza (<40k)	**822**	**10**	**1000 SF GLA**	**54.45**	**50%**	**50%**	**2.36**	**60%**	**40%**	**6.59**	**50%**	**50%**	**545**	**272**	**273**	**24**	**15**	**9**	**66**	**32**	**34**	**Average**
Strip Retail Plaza (<40k)	822	10	1000 SF GLA	47.86	50%	50%	1.60	60%	40%	2.81	50%	50%	479	239	240	16	10	6	28	14	14	Minimum
Strip Retail Plaza (<40k)	822	10	1000 SF GLA	65.07	50%	50%	3.73	60%	40%	15.20	50%	50%	651	325	326	37	23	14	152	76	76	Maximum
Land Use	ITE Code	Qty	Unit	Weekday Equation	% In	% Out	AM Peak Hour Equation	% In	% Out	PM Peak Hour Equation	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
Strip Retail Plaza (<40k)	822	10	1000 SF GLA	T=42.20(X)+229.68	50%	50%	Ln(T)=0.66Ln(X)+1.84	60%	40%	Ln(T)=0.71Ln(X)+2.72	50%	50%	652	326	326	29	18	11	78	39	39	Equation

Strip Retail Plaza (<40k)	Standard Deviation	7.81	0.94	2.94
	Number of Studies	4	5	25
	Average Size	19	18	21
	R^2	0.96	0.57	0.56

932 High-Turnover (Sit-Down) Restaurant

Land Use	ITE Code	Qty	Unit	Weekday Rate	% In	% Out	AM Peak Hour Rate	% In	% Out	PM Peak Hour Rate	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
High-Turnover (Sit-Down) Restaurant	**932**	**5**	**1000 SF GFA**	**107.20**	**50%**	**50%**	**9.57**	**55%**	**45%**	**9.05**	**61%**	**39%**	**536**	**268**	**268**	**48**	**26**	**22**	**45**	**27**	**18**	**Average**
High-Turnover (Sit-Down) Restaurant	932	5	1000 SF GFA	13.04	50%	50%	0.76	55%	45%	0.92	61%	39%	65	33	32	4	2	2	5	3	2	Minimum
High-Turnover (Sit-Down) Restaurant	932	5	1000 SF GFA	742.41	50%	50%	102.39	55%	45%	62.00	61%	39%	3,712	1,856	1,856	512	282	230	310	189	121	Maximum
Land Use	ITE Code	Qty	Unit	Weekday Equation	% In	% Out	AM Peak Hour Equation	% In	% Out	PM Peak Hour Equation	% In	% Out	Weekday Total	Weekday In	Weekday Out	AM Peak Hour Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour Total	PM Peak Hour In	PM Peak Hour Out	
High-Turnover (Sit-Down) Restaurant	932	5	1000 SF GFA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Equation

High-Turnover (Sit-Down) Restaurant	Standard Deviation	66.72	11.61	6.18
	Number of Studies	50	37	104
	Average Size	5	5	6
	R^2	N/A	N/A	N/A

Appendix G – MAG Socioeconomic Projections

G

Socioeconomic Projections

Population and Employment

by Municipal Planning Area, Jurisdiction, and Regional Analysis Zone

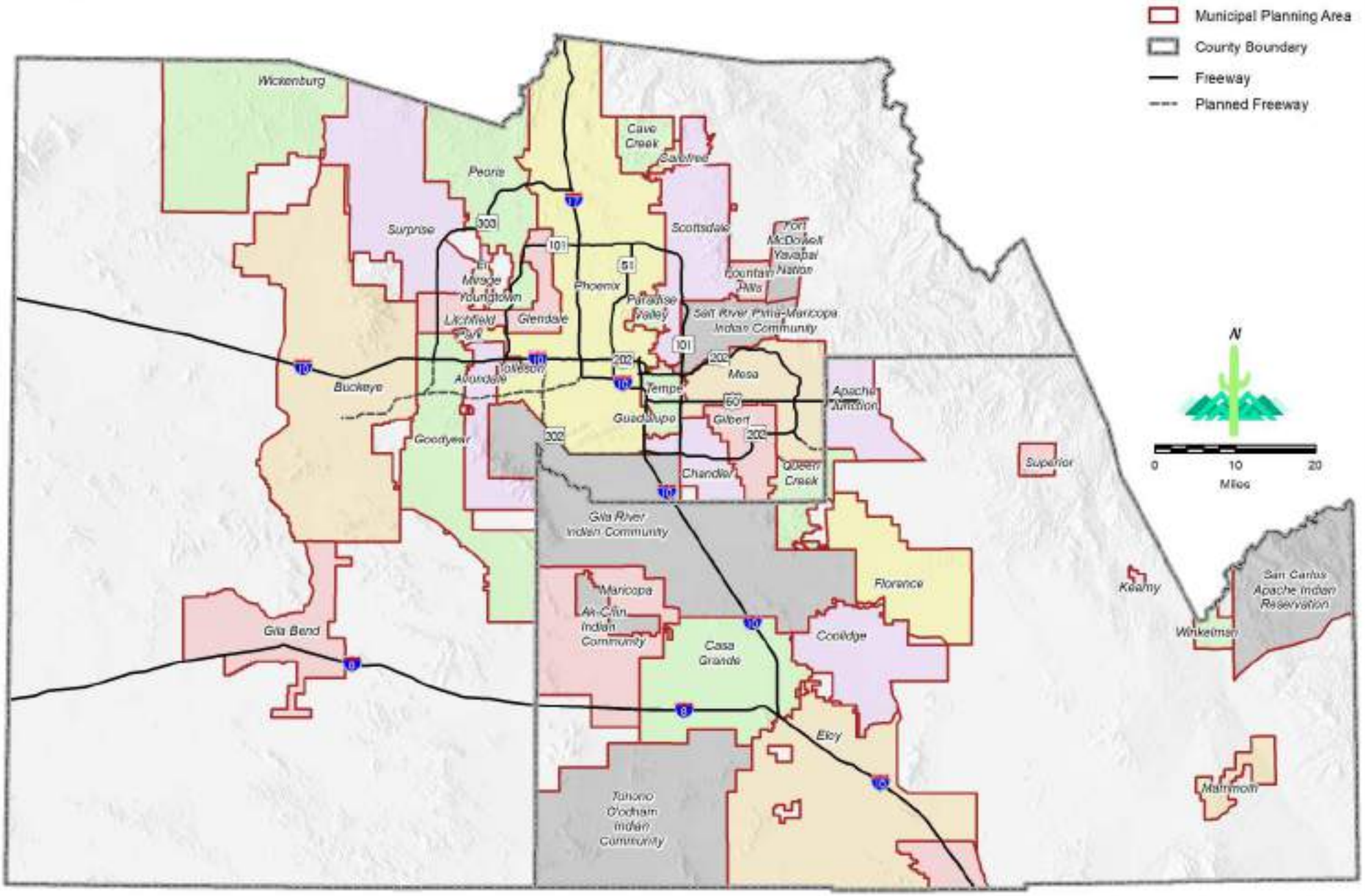
June 2019

MARICOPA
ASSOCIATION of
GOVERNMENTS

302 North 1st Avenue, Suite 300
Phoenix, Arizona 85003
(602) 254-6300

Municipal Planning Areas (MPA), 2019
Maricopa and Pinal Counties, Arizona

MARICOPA ASSOCIATION of GOVERNMENTS



Source: MAG and the MAG member agencies, CAG and the CAG member agencies

Date: May 2019

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Maricopa Association of Governments
Table 1: Total Population by Municipal Planning Area
July 1, 2018 and Projections July 1, 2020 to July 1, 2055

	Total Population					
Municipal Planning Area	**2018**	**2020**	**2030**	**2040**	**2050**	**2055**
Apache Junction	59,000	60,800	70,000	92,000	117,100	132,600
Avondale	84,200	86,700	101,800	111,900	119,000	122,100
Buckeye	89,000	97,700	186,600	305,400	409,900	459,300
Carefree	3,700	3,800	4,100	4,200	4,200	4,300
Cave Creek	5,900	6,000	6,500	7,000	7,200	7,300
Chandler	270,300	279,500	309,100	321,100	329,000	332,400
El Mirage	34,300	35,100	36,500	36,900	37,200	37,200
Florence	79,400	85,500	120,300	160,500	209,900	231,400
Fort McDowell Yavapai Native Nation	1,000	1,100	1,100	1,100	1,100	1,100
Fountain Hills	24,000	24,700	26,200	26,600	26,900	27,000
Gila Bend	2,500	2,700	3,700	3,700	3,900	4,200
Gila River Indian Native Nation	12,000	12,200	12,300	12,300	12,300	12,300
Gilbert	256,500	265,900	293,500	308,800	318,100	321,400
Glendale	272,200	279,100	306,400	323,400	333,200	338,800
Goodyear	87,300	92,100	140,300	192,200	228,600	247,900
Guadalupe	6,300	6,400	6,700	6,800	6,800	6,800
Litchfield Park	13,300	14,000	15,400	15,700	16,100	16,400
Maricopa	59,800	67,000	90,800	106,400	121,600	128,900
Mesa	533,400	552,800	607,500	649,400	680,000	690,300
Paradise Valley	14,000	14,100	14,700	15,100	15,200	15,300
Peoria	188,500	196,600	232,400	273,700	312,600	329,900
Phoenix	1,653,500	1,697,700	1,881,900	2,019,300	2,117,400	2,155,300
Queen Creek	58,700	65,000	90,900	109,000	120,900	128,500
Salt River Pima-Maricopa Native Nation	6,800	6,100	5,700	5,800	5,800	5,800
Scottsdale	245,500	253,800	281,900	299,400	311,400	316,700
Surprise	144,000	150,300	216,700	307,500	383,300	417,200
Tempe	185,300	190,000	217,100	247,000	272,400	282,200
Tolleson	7,000	7,100	8,600	10,300	11,400	11,800
Unicorporated Pinal County	66,800	68,600	79,100	93,700	110,800	122,700
Unincorporated Maricopa County	97,900	101,200	110,500	116,800	137,000	152,600
Wickenburg	8,200	8,500	9,400	9,500	9,800	10,000
Youngtown	6,600	6,800	7,300	7,700	7,800	7,800

Notes: Numbers rounded to the nearest 100. These projections include both the Maricopa County and Pinal County portions for Apache Junction, Queen Creek, and the Gila River Indian Community. Peoria and Wickenburg include only the Maricopa County portion.

Source: Maricopa Association of Governments (MAG) Socioeconomic Projections of Population and Employment by Municipal Planning Area (MPA) and Regional Analysis Zone (RAZ), June 2019

For explanation of variables and complete notation on this series, please refer to the Notes and Caveats in Appendix A.

Maricopa Association of Governments
Table 2: Total Employment by Municipal Planning Area
July 1, 2018 and Projections July 1, 2020 to July 1, 2055

	Total Employment					
Municipal Planning Area	**2018**	**2020**	**2030**	**2040**	**2050**	**2055**
Apache Junction	7,800	8,800	13,100	17,800	26,400	30,500
Avondale	22,400	23,200	30,400	36,200	42,800	45,400
Buckeye	21,600	26,900	42,900	64,500	98,000	128,900
Carefree	1,600	1,600	2,100	2,400	2,500	2,600
Cave Creek	2,200	2,400	2,700	2,900	3,000	3,200
Chandler	145,500	154,700	182,300	202,100	215,200	222,000
El Mirage	5,000	5,100	6,500	7,200	8,000	8,900
Florence	11,000	12,100	17,000	26,400	40,900	51,100
Fort McDowell Yavapai Native Nation	2,200	2,400	2,400	2,500	2,600	2,600
Fountain Hills	7,100	7,700	9,100	9,800	10,200	10,300
Gila Bend	900	900	1,200	1,300	1,500	1,700
Gila River Indian Native Nation	10,500	10,700	11,500	13,100	14,800	15,500
Gilbert	92,800	98,600	120,200	135,900	146,600	152,200
Glendale	103,800	111,400	134,000	153,100	168,900	175,900
Goodyear	35,900	37,200	50,600	69,000	92,600	102,500
Guadalupe	1,300	1,300	1,500	1,600	1,600	1,600
Litchfield Park	3,800	4,400	5,200	5,900	6,400	6,700
Maricopa	6,200	7,100	11,400	18,200	28,200	33,500
Mesa	197,200	205,900	249,000	296,000	333,700	351,000
Paradise Valley	6,300	6,300	6,800	7,100	7,500	7,700
Peoria	58,200	62,400	73,100	84,800	91,900	96,300
Phoenix	897,700	937,600	1,084,000	1,189,200	1,264,900	1,298,900
Queen Creek	15,500	16,400	19,900	24,000	28,900	31,100
Salt River Pima-Maricopa Native Nation	21,200	22,900	28,200	33,900	35,900	36,400
Scottsdale	197,200	207,400	235,500	252,000	261,700	267,000
Surprise	33,600	36,400	59,500	86,400	113,400	130,500
Tempe	190,000	200,500	231,200	257,700	280,000	290,900
Tolleson	17,700	18,300	21,200	23,900	26,000	26,700
Unicorporated Pinal County	3,500	3,900	6,000	8,900	13,500	17,800
Unincorporated Maricopa County	28,600	31,500	35,500	41,100	51,200	58,400
Wickenburg	4,400	4,600	5,200	5,600	6,000	6,200
Youngtown	1,500	1,800	2,200	2,700	2,800	3,100

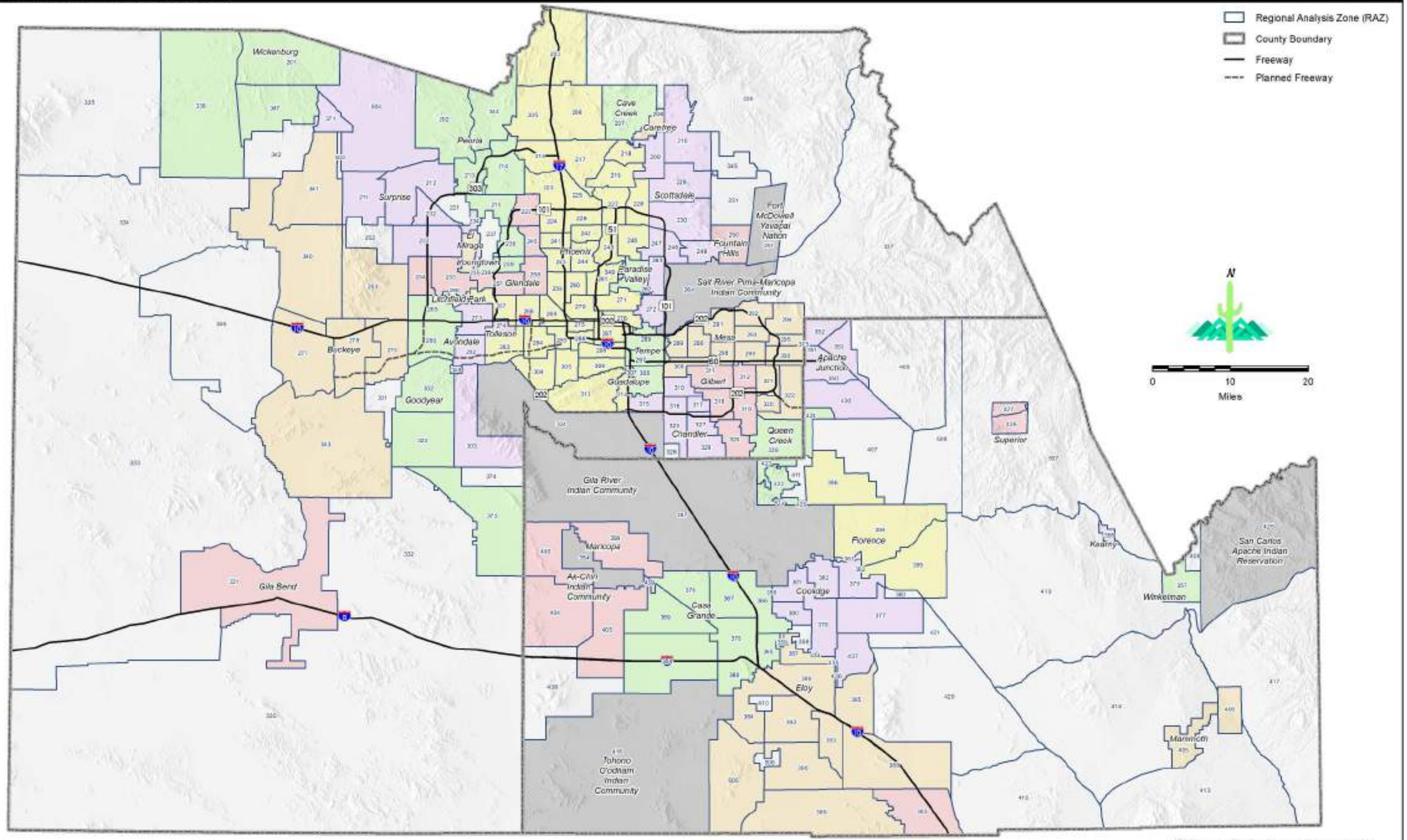
Notes: Numbers rounded to the nearest 100. These projections include both the Maricopa County and Pinal County portions for Apache Junction, Queen Creek, and the Gila River Indian Community. Peoria and Wickenburg include only the Maricopa County portion.

Source: Maricopa Association of Governments (MAG) Socioeconomic Projections of Population and Employment by Municipal Planning Area (MPA) and Regional Analysis Zone (RAZ), June 2019

For explanation of variables and complete notation on this series, please refer to the Notes and Caveats in Appendix A.

Regional Analysis Zones (RAZ), 2019
Maricopa and Pinal Counties, Arizona

MARICOPA ASSOCIATION of GOVERNMENTS



Source: MAG and the MAG member agencies, CAG and the CAG member agencies

Date: May 2019

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Maricopa Association of Governments
Table 4: Population by Regional Analysis Zone (RAZ) by MPA
July 1, 2018 and Projections July 1, 2020 to July 1, 2055

		Total Population					
RAZ	County	2018	2020	2030	2040	2050	2055
Mesa MPA							
289	**Maricopa County**	62,537	64,561	71,065	81,819	86,746	88,261
290	**Maricopa County**	78,389	80,407	85,506	94,807	106,303	109,054
291	**Maricopa County**	47,484	48,483	51,596	54,113	54,931	55,151
292	**Maricopa County**	23,477	24,010	25,594	26,476	26,923	27,104
293	**Maricopa County**	30,536	31,512	32,660	32,733	32,765	32,774
294	**Maricopa County**	11,879	12,276	13,651	14,228	14,367	14,384
295	**Maricopa County**	22,501	23,159	24,434	25,325	25,619	25,699
298	**Maricopa County**	53,809	55,462	58,018	58,921	59,606	60,120
299	**Maricopa County**	42,249	44,291	48,992	49,897	50,412	50,765
300	**Maricopa County**	46,634	48,388	52,826	54,765	55,918	56,323
309	**Maricopa County**	46,061	47,187	49,080	49,403	49,476	49,499
320	**Maricopa County**	1,349	1,402	1,613	2,068	2,464	2,665
321	**Maricopa County**	22,458	22,889	26,310	30,801	33,988	34,896
322	**Maricopa County**	43,996	48,810	66,145	74,050	80,506	83,598
	Total	533,359	552,837	607,490	649,406	680,024	690,293
Paradise Valley MPA							
262	**Maricopa County**	14,011	14,120	14,716	15,118	15,240	15,285
	Total	14,011	14,120	14,716	15,118	15,240	15,285
Peoria MPA							
202	**Maricopa County**	3,590	3,832	8,221	22,334	38,054	44,852
213	**Maricopa County**	15,528	16,863	24,826	32,345	38,165	41,241
214	**Maricopa County**	31,392	32,719	39,317	44,370	50,147	52,886
215	**Maricopa County**	50,522	53,144	59,175	60,555	61,317	61,543
238	**Maricopa County**	52,629	54,150	57,960	60,244	62,747	63,767
239	**Maricopa County**	34,791	35,926	41,694	45,797	47,772	48,666
344	**Maricopa County**	0	0	1,190	8,045	14,415	16,959
	Total	188,452	196,634	232,383	273,690	312,617	329,914

Notes: Numbers rounded to the nearest 100. These projections include both the Maricopa County and Pinal County portions for Apache Junction, Queen Creek, and the Gila River Indian Community. Peoria and Wickenburg include only the Maricopa County portion.

Source: Maricopa Association of Governments (MAG) Socioeconomic Projections of Population and Employment by Municipal Planning Area (MPA) and Regional Analysis Zone (RAZ), May 2019

For explanation of variables and complete notation on this series, please refer to the Notes and Caveats in Appendix A.

Maricopa Association of Governments
Table 5: Employment by Regional Analysis Zone (RAZ) by MPA
July 1, 2018 and Projections July 1, 2020 to July 1, 2055

		Total Employment					
RAZ	County	2018	2020	2030	2040	2050	2055
Mesa MPA							
289	**Maricopa County**	22,838	24,276	29,626	34,970	38,444	39,795
290	**Maricopa County**	25,797	26,939	32,949	37,848	41,668	43,230
291	**Maricopa County**	11,242	11,615	14,059	16,123	17,658	17,945
292	**Maricopa County**	11,140	11,911	13,675	16,720	20,969	22,804
293	**Maricopa County**	10,645	10,834	12,409	13,235	13,672	13,936
294	**Maricopa County**	1,358	1,166	1,295	1,405	1,437	1,513
295	**Maricopa County**	3,043	2,853	3,466	4,012	4,133	4,182
298	**Maricopa County**	12,724	13,259	15,078	16,068	16,840	16,952
299	**Maricopa County**	30,965	32,750	37,192	39,211	40,186	40,444
300	**Maricopa County**	9,741	10,049	12,273	15,829	17,806	18,463
309	**Maricopa County**	38,368	40,075	45,978	49,949	51,913	52,452
320	**Maricopa County**	3,722	3,971	5,427	6,146	6,569	6,874
321	**Maricopa County**	4,701	4,960	9,586	18,204	24,738	28,748
322	**Maricopa County**	10,883	11,239	16,030	26,241	37,712	43,666
	Total	197,167	205,897	249,043	295,961	333,745	351,004
Paradise Valley MPA							
262	**Maricopa County**	6,332	6,253	6,788	7,115	7,512	7,709
	Total	6,332	6,253	6,788	7,115	7,512	7,709
Peoria MPA							
202	**Maricopa County**	578	583	2,047	3,904	3,543	3,389
213	**Maricopa County**	2,394	3,058	4,155	5,800	7,070	7,992
214	**Maricopa County**	7,618	7,100	7,856	9,675	11,368	13,189
215	**Maricopa County**	11,674	12,908	13,644	14,918	15,705	16,175
238	**Maricopa County**	22,430	24,282	28,132	30,090	31,526	32,231
239	**Maricopa County**	13,422	14,370	16,229	19,078	20,388	21,148
344	**Maricopa County**	89	96	1,046	1,301	2,267	2,175
	Total	58,205	62,397	73,109	84,766	91,867	96,299

Notes: Numbers rounded to the nearest 100. These projections include both the Maricopa County and Pinal County portions for Apache Junction, Queen Creek, and the Gila River Indian Community. Peoria and Wickenburg include only the Maricopa County portion.

Source: Maricopa Association of Governments (MAG) Socioeconomic Projections of Population and Employment by Municipal Planning Area (MPA) and Regional Analysis Zone (RAZ), May 2019

For explanation of variables and complete notation on this series, please refer to the Notes and Caveats in Appendix A.

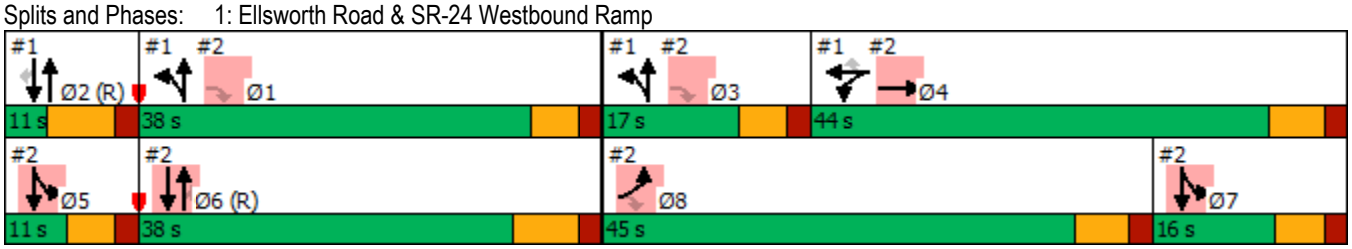
Appendix H – Year 2026 No Build Capacity Analysis

H

Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	1	0	133	1303	1112	238	465					
Future Volume (vph)	1	0	133	1303	1112	238	465					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	44.0	44.0	44.0			11.0	11.0	38.0	17.0	11.0	38.0	16.0
Total Split (%)	40.0%	40.0%	40.0%			10.0%	10.0%	35%	15%	10%	35%	15%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	27.0	27.0	27.0	49.0	70.5	14.0	14.0					
Actuated g/C Ratio	0.25	0.25	0.25	0.45	0.64	0.13	0.13					
v/c Ratio	0.00	0.09	0.15	0.93	0.53	0.32	0.64					
Control Delay	35.0	0.2	0.6	23.3	5.3	43.5	7.6					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	35.0	0.2	0.6	23.3	5.3	43.5	7.6					
LOS	C	A	A	C	A	D	A					
Approach Delay		0.7			15.0	19.8						
Approach LOS		A			B	B						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 130	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.93	
Intersection Signal Delay: 15.4	Intersection LOS: B
Intersection Capacity Utilization 78.4%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

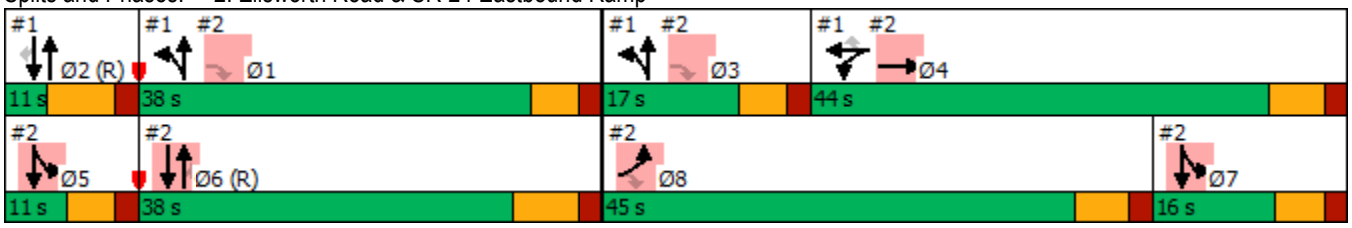


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	359	4	880	1997	5	50	201					
Future Volume (vph)	359	4	880	1997	5	50	201					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	45.0	44.0		38.0	38.0			38.0	11.0	17.0	11.0	16.0
Total Split (%)	40.9%	40.0%		34.5%	34.5%			35%	10%	15%	10%	15%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	19.8	19.8	58.3	40.5	40.5	29.7	77.7					
Actuated g/C Ratio	0.18	0.18	0.53	0.37	0.37	0.27	0.71					
v/c Ratio	0.65	0.66	0.50	0.92	0.01	0.06	0.06					
Control Delay	51.1	51.7	1.6	40.4	0.0	79.4	0.4					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	51.1	51.7	1.6	40.4	0.0	79.4	0.4					
LOS	D	D	A	D	A	E	A					
Approach Delay		16.1		40.3			16.1					
Approach LOS		B		D			B					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 130	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.93	
Intersection Signal Delay: 30.0	Intersection LOS: C
Intersection Capacity Utilization 78.4%	ICU Level of Service D
Analysis Period (min) 15	

! Phase conflict between lane groups.

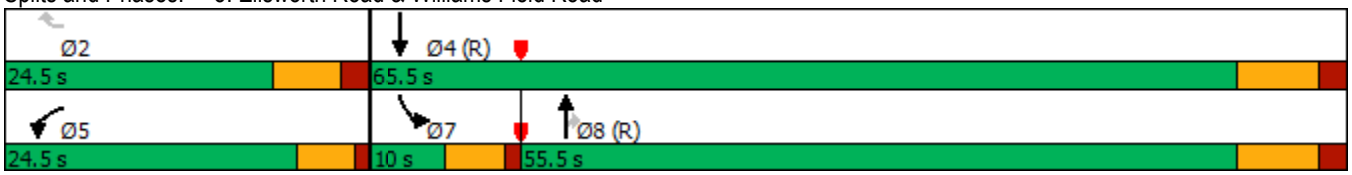
Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	76	6	2009	37	20	1034
Future Volume (vph)	76	6	2009	37	20	1034
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	5		8		7	4
Permitted Phases		2		8		
Detector Phase	5	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	5.0	15.0	15.0	15.0	5.0	15.0
Minimum Split (s)	10.0	24.5	25.5	25.5	10.0	25.5
Total Split (s)	24.5	24.5	55.5	55.5	10.0	65.5
Total Split (%)	27.2%	27.2%	61.7%	61.7%	11.1%	72.8%
Yellow Time (s)	4.0	4.5	5.5	5.5	4.0	5.5
All-Red Time (s)	1.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	6.5	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	16.7	18.0	54.0	54.0	5.0	58.0
Actuated g/C Ratio	0.19	0.20	0.60	0.60	0.06	0.64
v/c Ratio	0.13	0.01	1.03	0.04	0.12	0.34
Control Delay	35.1	25.0	27.5	3.3	41.9	7.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	35.1	25.0	27.5	3.3	41.9	7.7
LOS	D	C	C	A	D	A
Approach Delay	34.3		27.1			8.3
Approach LOS	C		C			A

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.03	
Intersection Signal Delay: 21.0	Intersection LOS: C
Intersection Capacity Utilization 79.7%	ICU Level of Service D
Analysis Period (min) 15	

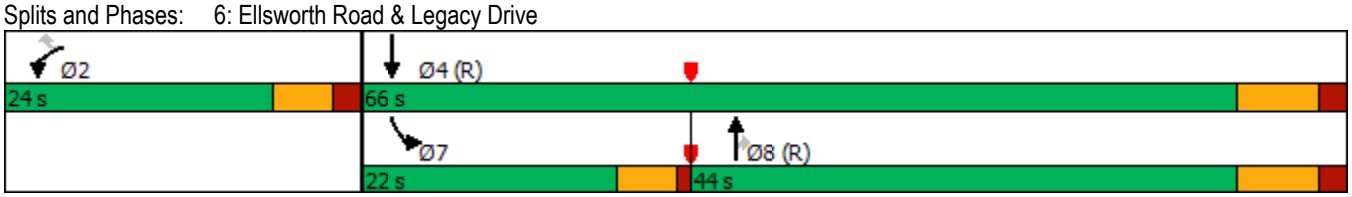
Splits and Phases: 5: Ellsworth Road & Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	5	2	2042	7	3	1097
Future Volume (vph)	5	2	2042	7	3	1097
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	24.0	24.0	44.0	44.0	22.0	66.0
Total Split (%)	26.7%	26.7%	48.9%	48.9%	24.4%	73.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	18.0	18.0	56.3	56.3	5.6	58.5
Actuated g/C Ratio	0.20	0.20	0.63	0.63	0.06	0.65
v/c Ratio	0.01	0.01	1.00	0.01	0.01	0.36
Control Delay	29.0	21.0	25.1	1.0	38.3	6.8
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	29.0	21.0	25.1	1.0	38.3	6.8
LOS	C	C	C	A	D	A
Approach Delay	26.7		25.0			6.9
Approach LOS	C		C			A

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 140	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.00	
Intersection Signal Delay: 18.7	Intersection LOS: B
Intersection Capacity Utilization 76.0%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	121	21	2015	8	1068
Future Volume (vph)	121	21	2015	8	1068
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	17.0	17.0	64.0	9.0	73.0
Total Split (%)	18.9%	18.9%	71.1%	10.0%	81.1%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	10.5	10.5	63.7	5.0	65.5
Actuated g/C Ratio	0.12	0.12	0.71	0.06	0.73
v/c Ratio	0.64	0.11	0.90	0.09	0.31
Control Delay	53.4	16.1	17.8	54.9	0.2
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	53.4	16.1	17.8	54.9	0.2
LOS	D	B	B	D	A
Approach Delay	47.9		17.8		0.6
Approach LOS	D		B		A

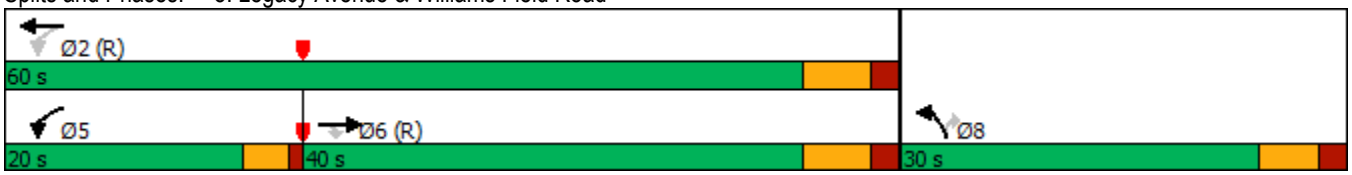
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 120	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.90	
Intersection Signal Delay: 13.5	Intersection LOS: B
Intersection Capacity Utilization 75.6%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL
Lane Configurations					
Traffic Volume (vph)	44	7	16	77	1
Future Volume (vph)	44	7	16	77	1
Turn Type	NA	Perm	pm+pt	NA	Prot
Protected Phases	6		5	2	8
Permitted Phases		6	2		
Detector Phase	6	6	5	2	8
Switch Phase					
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0
Lead/Lag	Lag	Lag	Lead		
Lead-Lag Optimize?	Yes	Yes	Yes		
Recall Mode	C-Max	C-Max	None	C-Max	None
Act Effct Green (s)	79.4	79.4	82.8	85.5	10.0
Actuated g/C Ratio	0.88	0.88	0.92	0.95	0.11
v/c Ratio	0.03	0.01	0.01	0.05	0.01
Control Delay	4.3	4.1	1.2	1.2	36.0
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	4.3	4.1	1.2	1.2	36.0
LOS	A	A	A	A	D
Approach Delay	4.3			1.2	36.0
Approach LOS	A			A	D

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.05	
Intersection Signal Delay: 2.5	Intersection LOS: A
Intersection Capacity Utilization 31.3%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	0

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	47	1	0	92	0	0
Future Vol, veh/h	47	1	0	92	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	51	1	0	100	0	0

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	52
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	1021
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	1021
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

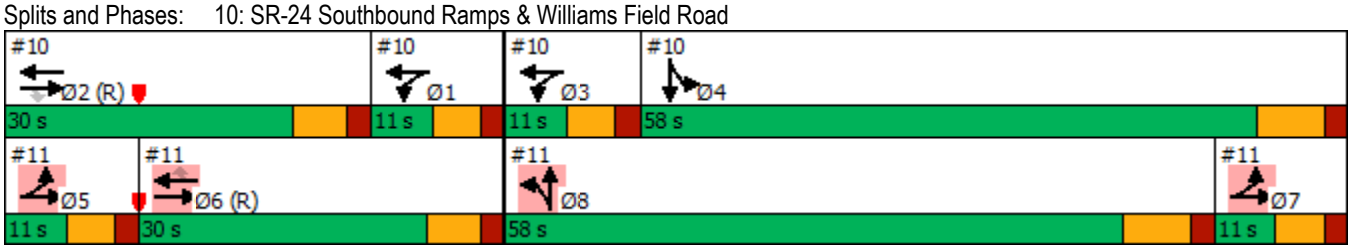
Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-
HCM Control Delay (s)	0	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	-	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	45	4	16	77	187	1137						
Future Volume (vph)	45	4	16	77	187	1137						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	30.0	30.0			58.0	58.0	11.0	11.0	11.0	30.0	11.0	58.0
Total Split (%)	27.3%	27.3%			52.7%	52.7%	10%	10%	10%	27%	10%	53%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	25.7	25.7	16.0	46.0	52.7	52.7						
Actuated g/C Ratio	0.23	0.23	0.15	0.42	0.48	0.48						
v/c Ratio	0.03	0.01	0.03	0.06	0.24	0.79						
Control Delay	34.4	0.0	9.8	1.2	18.7	29.1						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	34.4	0.0	9.8	1.2	18.7	29.1						
LOS	C	A	A	A	B	C						
Approach Delay	31.8			2.6		27.8						
Approach LOS	C			A		C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.39	
Intersection Signal Delay: 26.4	Intersection LOS: C
Intersection Capacity Utilization 113.8%	ICU Level of Service H
Analysis Period (min) 15	

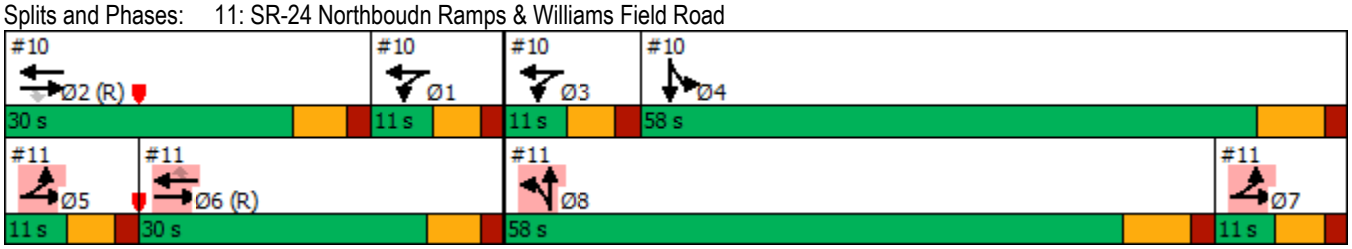
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	14	213	89	574	1	2070						
Future Volume (vph)	14	213	89	574	1	2070						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			30.0	30.0	58.0	58.0	11.0	30.0	11.0	58.0	11.0	11.0
Total Split (%)			27.3%	27.3%	52.7%	52.7%	10%	27%	10%	53%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	16.0	46.0	23.5	23.5	50.5	50.5						
Actuated g/C Ratio	0.15	0.42	0.21	0.21	0.46	0.46						
v/c Ratio	0.03	0.16	0.07	1.19	0.00	1.39						
Control Delay	37.6	22.7	34.8	127.6	16.0	206.8						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.6	22.7	34.8	127.6	16.0	206.8						
LOS	D	C	C	F	B	F						
Approach Delay		23.6	115.1			206.7						
Approach LOS		C	F			F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.39	
Intersection Signal Delay: 172.2	Intersection LOS: F
Intersection Capacity Utilization 113.8%	ICU Level of Service H
Analysis Period (min) 15	

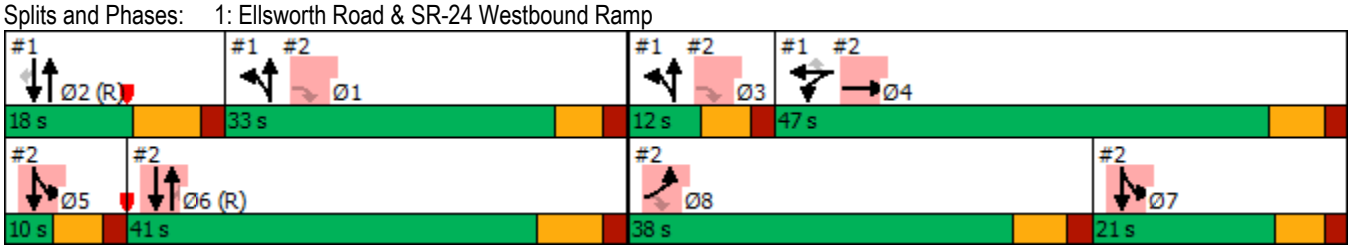
Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	1	1	72	936	1142	330	439					
Future Volume (vph)	1	1	72	936	1142	330	439					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	47.0	47.0	47.0			18.0	18.0	33.0	12.0	10.0	41.0	21.0
Total Split (%)	42.7%	42.7%	42.7%			16.4%	16.4%	30%	11%	9%	37%	19%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	40.5	40.5	40.5	39.0	57.0	10.5	10.5					
Actuated g/C Ratio	0.37	0.37	0.37	0.35	0.52	0.10	0.10					
v/c Ratio	0.00	0.04	0.06	0.84	0.68	0.59	0.68					
Control Delay	22.0	6.2	0.2	30.9	16.6	52.0	9.9					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	22.0	6.2	0.2	30.9	16.6	52.0	9.9					
LOS	C	A	A	C	B	D	A					
Approach Delay		3.5			23.0	28.0						
Approach LOS		A			C	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.92	
Intersection Signal Delay: 23.8	Intersection LOS: C
Intersection Capacity Utilization 67.1%	ICU Level of Service C
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

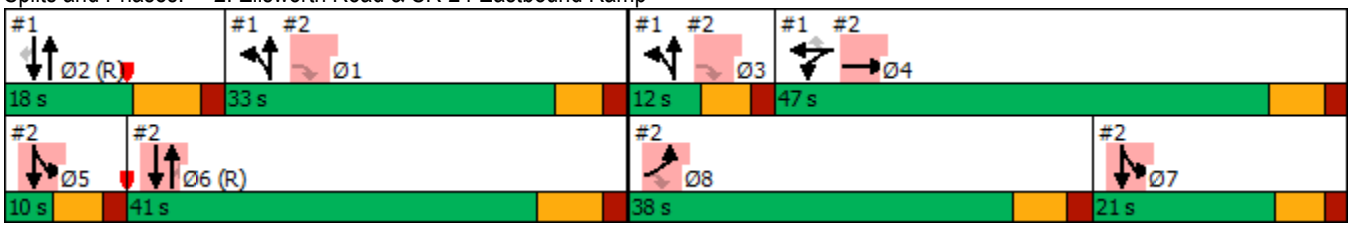


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	754	35	1094	1328	9	96	231					
Future Volume (vph)	754	35	1094	1328	9	96	231					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	38.0	47.0		41.0	41.0			33.0	18.0	12.0	10.0	21.0
Total Split (%)	34.5%	42.7%		37.3%	37.3%			30%	16%	11%	9%	19%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	30.6	30.6	64.1	33.5	33.5	25.9	66.9					
Actuated g/C Ratio	0.28	0.28	0.58	0.30	0.30	0.24	0.61					
v/c Ratio	0.91	0.92	0.57	0.74	0.02	0.13	0.08					
Control Delay	63.5	64.6	2.1	37.1	0.0	78.2	0.1					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	63.5	64.6	2.1	37.1	0.0	78.2	0.1					
LOS	E	E	A	D	A	E	A					
Approach Delay		28.1		36.9			22.9					
Approach LOS		C		D			C					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.92	
Intersection Signal Delay: 30.9	Intersection LOS: C
Intersection Capacity Utilization 67.1%	ICU Level of Service C
Analysis Period (min) 15	

! Phase conflict between lane groups.

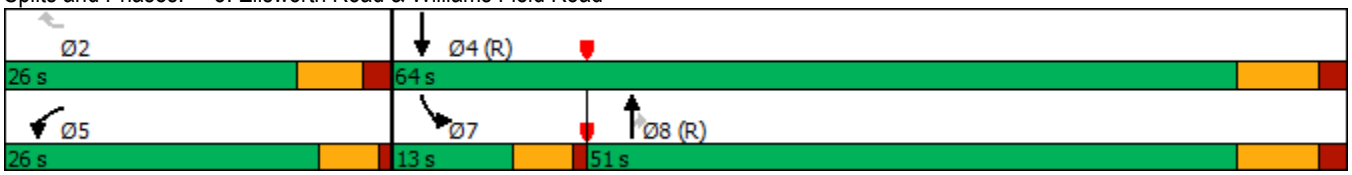
Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	58	50	1098	47	86	1035
Future Volume (vph)	58	50	1098	47	86	1035
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	5		8		7	4
Permitted Phases		2		8		
Detector Phase	5	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	5.0	15.0	15.0	15.0	5.0	15.0
Minimum Split (s)	10.0	24.5	25.5	25.5	10.0	25.5
Total Split (s)	26.0	26.0	51.0	51.0	13.0	64.0
Total Split (%)	28.9%	28.9%	56.7%	56.7%	14.4%	71.1%
Yellow Time (s)	4.0	4.5	5.5	5.5	4.0	5.5
All-Red Time (s)	1.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	6.5	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	17.9	19.5	46.3	46.3	7.3	56.5
Actuated g/C Ratio	0.20	0.22	0.51	0.51	0.08	0.63
v/c Ratio	0.09	0.08	0.65	0.06	0.33	0.35
Control Delay	18.8	4.3	9.9	5.4	42.1	8.4
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	18.8	4.3	9.9	5.4	42.1	8.4
LOS	B	A	A	A	D	A
Approach Delay	12.1		9.7			11.0
Approach LOS	B		A			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.65	
Intersection Signal Delay: 10.4	Intersection LOS: B
Intersection Capacity Utilization 54.5%	ICU Level of Service A
Analysis Period (min) 15	

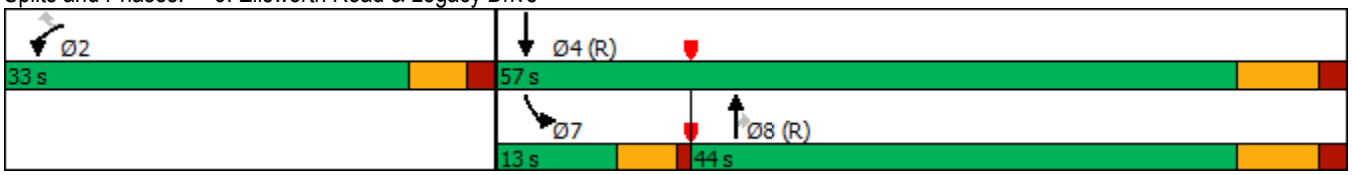
Splits and Phases: 5: Ellsworth Road & Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	93	20	1365	205	6	1114
Future Volume (vph)	93	20	1365	205	6	1114
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	33.0	33.0	44.0	44.0	13.0	57.0
Total Split (%)	36.7%	36.7%	48.9%	48.9%	14.4%	63.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	27.0	27.0	47.3	47.3	5.7	49.5
Actuated g/C Ratio	0.30	0.30	0.53	0.53	0.06	0.55
v/c Ratio	0.10	0.04	0.80	0.25	0.03	0.43
Control Delay	22.7	10.1	21.7	5.5	48.0	10.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	22.7	10.1	21.7	5.5	48.0	10.1
LOS	C	B	C	A	D	B
Approach Delay	20.6		19.6			10.3
Approach LOS	C		B			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.80	
Intersection Signal Delay: 15.9	Intersection LOS: B
Intersection Capacity Utilization 57.3%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	72	16	1528	5	1169
Future Volume (vph)	72	16	1528	5	1169
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	13.0	13.0	64.0	13.0	77.0
Total Split (%)	14.4%	14.4%	71.1%	14.4%	85.6%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	19.1	19.1	54.5	8.0	56.9
Actuated g/C Ratio	0.21	0.21	0.61	0.09	0.63
v/c Ratio	0.21	0.05	0.80	0.03	0.40
Control Delay	35.8	17.0	16.9	53.0	4.1
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	35.8	17.0	16.9	53.0	4.1
LOS	D	B	B	D	A
Approach Delay	32.4		16.9		4.3
Approach LOS	C		B		A

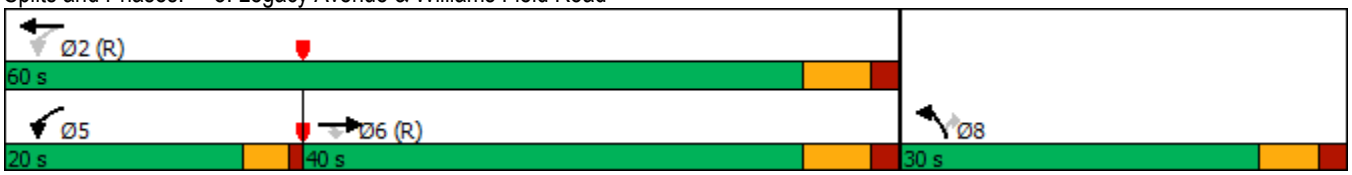
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.80	
Intersection Signal Delay: 12.2	Intersection LOS: B
Intersection Capacity Utilization 59.8%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Volume (vph)	84	68	128	48	57	42
Future Volume (vph)	84	68	128	48	57	42
Turn Type	NA	Perm	pm+pt	NA	Prot	Perm
Protected Phases	6		5	2	8	
Permitted Phases		6	2			8
Detector Phase	6	6	5	2	8	8
Switch Phase						
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0	6.0
Lead/Lag	Lag	Lag	Lead			
Lead-Lag Optimize?	Yes	Yes	Yes			
Recall Mode	C-Max	C-Max	None	C-Max	None	None
Act Effct Green (s)	58.2	58.2	72.9	71.7	10.3	10.3
Actuated g/C Ratio	0.65	0.65	0.81	0.80	0.11	0.11
v/c Ratio	0.08	0.07	0.13	0.04	0.31	0.21
Control Delay	5.3	0.9	2.7	3.2	40.7	13.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	5.3	0.9	2.7	3.2	40.7	13.7
LOS	A	A	A	A	D	B
Approach Delay	3.3			2.9	29.2	
Approach LOS	A			A	C	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.31	
Intersection Signal Delay: 9.1	Intersection LOS: A
Intersection Capacity Utilization 32.5%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	1.2

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	111	132	0	298	0	79
Future Vol, veh/h	111	132	0	298	0	79
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	121	143	0	324	0	86

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	193
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	894
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	894
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

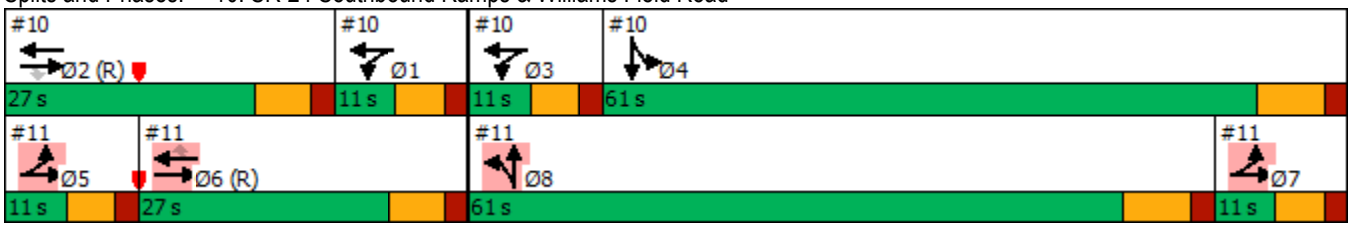
Approach	EB	WB	NB
HCM Control Delay, s	0	0	9.5
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	894	-	-	-
HCM Lane V/C Ratio	0.096	-	-	-
HCM Control Delay (s)	9.5	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	0.3	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	105	6	16	137	247	2248						
Future Volume (vph)	105	6	16	137	247	2248						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	27.0	27.0			61.0	61.0	11.0	11.0	11.0	27.0	11.0	61.0
Total Split (%)	24.5%	24.5%			55.5%	55.5%	10%	10%	10%	25%	10%	55%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	20.5	20.5	16.0	43.0	53.5	53.5						
Actuated g/C Ratio	0.19	0.19	0.15	0.39	0.49	0.49						
v/c Ratio	0.10	0.01	0.03	0.11	0.31	1.68						
Control Delay	37.4	0.0	19.6	9.6	18.4	332.5						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.4	0.0	19.6	9.6	18.4	332.5						
LOS	D	A	B	A	B	F						
Approach Delay	35.2			10.7		307.1						
Approach LOS	D			B		F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.68	
Intersection Signal Delay: 282.0	Intersection LOS: F
Intersection Capacity Utilization 84.8%	ICU Level of Service E
Analysis Period (min) 15	

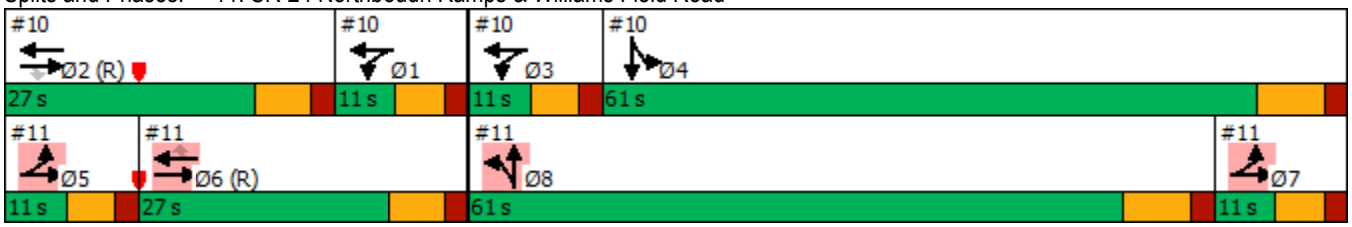
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	54	351	118	251	23	1189						
Future Volume (vph)	54	351	118	251	23	1189						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			27.0	27.0	61.0	61.0	11.0	27.0	11.0	61.0	11.0	11.0
Total Split (%)			24.5%	24.5%	55.5%	55.5%	10%	25%	10%	55%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	20.5	47.5	20.5	20.5	49.0	49.0						
Actuated g/C Ratio	0.19	0.43	0.19	0.19	0.45	0.45						
v/c Ratio	0.09	0.25	0.11	0.56	0.03	0.82						
Control Delay	43.4	18.9	37.5	12.7	15.7	31.6						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	43.4	18.9	37.5	12.7	15.7	31.6						
LOS	D	B	D	B	B	C						
Approach Delay		22.1	20.6			31.3						
Approach LOS		C	C			C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.68	
Intersection Signal Delay: 27.4	Intersection LOS: C
Intersection Capacity Utilization 84.8%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road

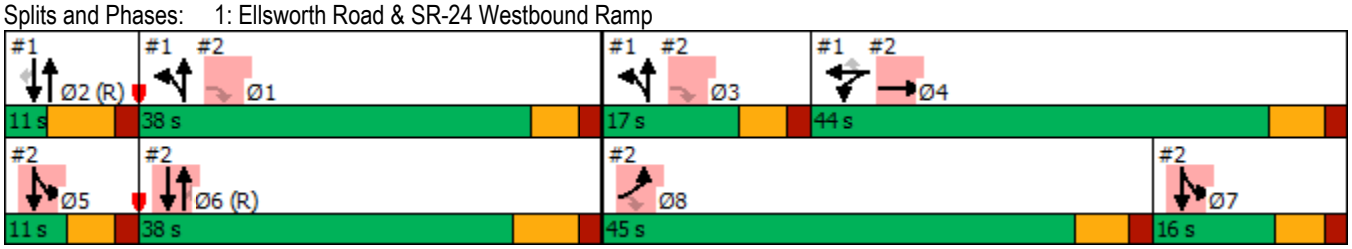


Appendix I – Year 2026 Build Capacity Analysis

Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	23	0	133	1354	1126	281	465					
Future Volume (vph)	23	0	133	1354	1126	281	465					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	44.0	44.0	44.0			11.0	11.0	38.0	17.0	11.0	38.0	16.0
Total Split (%)	40.0%	40.0%	40.0%			10.0%	10.0%	35%	15%	10%	35%	15%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	28.2	28.2	28.2	49.0	69.3	12.8	12.8					
Actuated g/C Ratio	0.26	0.26	0.26	0.45	0.63	0.12	0.12					
v/c Ratio	0.05	0.09	0.14	0.96	0.55	0.41	0.65					
Control Delay	34.5	0.2	0.6	25.6	5.3	45.9	8.3					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	34.5	0.2	0.6	25.6	5.3	45.9	8.3					
LOS	C	A	A	C	A	D	A					
Approach Delay		4.8			16.4	22.5						
Approach LOS		A			B	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 130	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.98	
Intersection Signal Delay: 17.2	Intersection LOS: B
Intersection Capacity Utilization 79.9%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

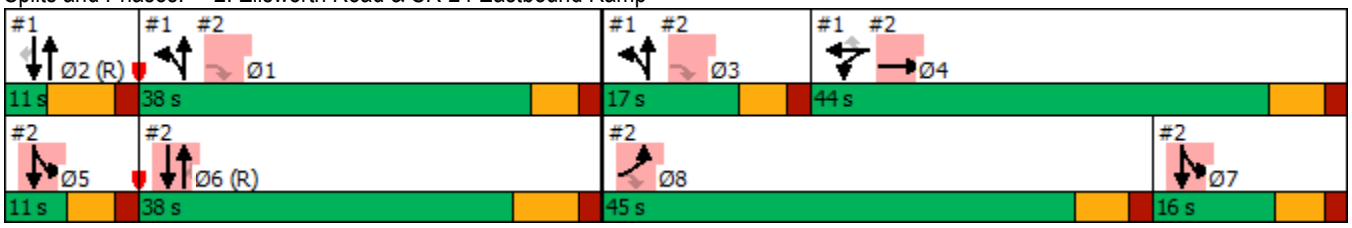


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	359	4	1074	2062	5	50	266					
Future Volume (vph)	359	4	1074	2062	5	50	266					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	45.0	44.0		38.0	38.0			38.0	11.0	17.0	11.0	16.0
Total Split (%)	40.9%	40.0%		34.5%	34.5%			35%	10%	15%	10%	15%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	20.7	20.7	59.2	39.3	39.3	30.0	76.8					
Actuated g/C Ratio	0.19	0.19	0.54	0.36	0.36	0.27	0.70					
v/c Ratio	0.62	0.63	0.60	0.98	0.01	0.06	0.08					
Control Delay	48.5	48.9	3.6	49.5	0.0	74.2	0.7					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	48.5	48.9	3.6	49.5	0.0	74.2	0.7					
LOS	D	D	A	D	A	E	A					
Approach Delay		15.0		49.4			12.3					
Approach LOS		B		D			B					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 130	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.98	
Intersection Signal Delay: 33.4	Intersection LOS: C
Intersection Capacity Utilization 79.9%	ICU Level of Service D
Analysis Period (min) 15	

! Phase conflict between lane groups.

Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Volume (vph)	33	20	65	2048	1222	116
Future Volume (vph)	33	20	65	2048	1222	116
Turn Type	Split	Perm	Prot	NA	NA	Perm
Protected Phases	4		5	2	6	
Permitted Phases		4				6
Detector Phase	4	4	5	2	6	6
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0	5.0	5.0	5.0
Minimum Split (s)	22.5	22.5	9.5	22.5	22.5	22.5
Total Split (s)	34.5	34.5	21.5	55.5	34.0	34.0
Total Split (%)	38.3%	38.3%	23.9%	61.7%	37.8%	37.8%
Yellow Time (s)	3.5	3.5	3.5	3.5	3.5	3.5
All-Red Time (s)	1.0	1.0	1.0	1.0	1.0	1.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	4.5	4.5	4.5	4.5	4.5	4.5
Lead/Lag			Lead		Lag	Lag
Lead-Lag Optimize?			Yes		Yes	Yes
Recall Mode	None	None	None	C-Max	C-Max	C-Max
Act Effct Green (s)	7.4	7.4	9.0	79.6	67.2	67.2
Actuated g/C Ratio	0.08	0.08	0.10	0.88	0.75	0.75
v/c Ratio	0.25	0.04	0.40	0.71	0.35	0.10
Control Delay	42.3	0.1	33.6	14.0	6.2	1.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	42.3	0.1	33.6	14.0	6.2	1.6
LOS	D	A	C	B	A	A
Approach Delay				14.6	5.8	
Approach LOS				B	A	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:NBT and 6:SBT, Start of Green	
Natural Cycle: 80	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.71	
Intersection Signal Delay: 11.4	Intersection LOS: B
Intersection Capacity Utilization 68.3%	ICU Level of Service C
Analysis Period (min) 15	

Splits and Phases: 3: Ellsworth Road & Tesla Drive

Intersection	
Int Delay, s/veh	0.1

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations		↱		↑↑	↑↑↑	↱
Traffic Vol, veh/h	0	26	0	2112	1171	71
Future Vol, veh/h	0	26	0	2112	1171	71
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	-	0	-	-	-	150
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	28	0	2296	1273	77

Major/Minor	Minor2		Major1		Major2	
Conflicting Flow All	-	637	-	0	-	0
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	7.14	-	-	-	-
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	3.92	-	-	-	-
Pot Cap-1 Maneuver	0	*651	0	-	-	-
Stage 1	0	-	0	-	-	-
Stage 2	0	-	0	-	-	-
Platoon blocked, %		1		-	-	-
Mov Cap-1 Maneuver	-	*651	-	-	-	-
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	10.8	0	0
HCM LOS	B		

Minor Lane/Major Mvmt	NBT	EBLn1	SBT	SBR
Capacity (veh/h)	-	651	-	-
HCM Lane V/C Ratio	-	0.043	-	-
HCM Control Delay (s)	-	10.8	-	-
HCM Lane LOS	-	B	-	-
HCM 95th %tile Q(veh)	-	0.1	-	-

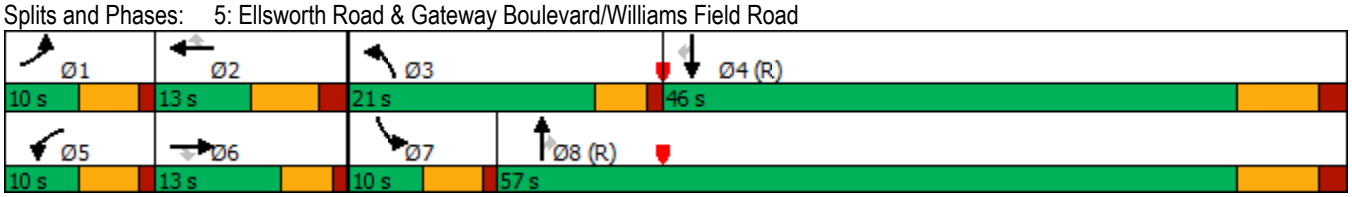
Notes

~: Volume exceeds capacity $: Delay exceeds 300s +: Computation Not Defined *: All major volume in platoon

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Traffic Volume (vph)	33	21	12	76	65	28	43	2052	37	48	1051	71
Future Volume (vph)	33	21	12	76	65	28	43	2052	37	48	1051	71
Turn Type	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm
Protected Phases	1	6		5	2		3	8		7	4	
Permitted Phases			6			2			8			4
Detector Phase	1	6	6	5	2	2	3	8	8	7	4	4
Switch Phase												
Minimum Initial (s)	5.0	5.0	5.0	5.0	15.0	15.0	5.0	15.0	15.0	5.0	15.0	15.0
Minimum Split (s)	10.0	22.5	22.5	10.0	24.5	24.5	9.5	25.5	25.5	10.0	25.5	25.5
Total Split (s)	10.0	13.0	13.0	10.0	13.0	13.0	21.0	57.0	57.0	10.0	46.0	46.0
Total Split (%)	11.1%	14.4%	14.4%	11.1%	14.4%	14.4%	23.3%	63.3%	63.3%	11.1%	51.1%	51.1%
Yellow Time (s)	4.0	3.5	3.5	4.0	4.5	4.5	3.5	5.5	5.5	4.0	5.5	5.5
All-Red Time (s)	1.0	1.0	1.0	1.0	2.0	2.0	1.0	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	4.5	4.5	5.0	6.5	6.5	4.5	7.5	7.5	5.0	7.5	7.5
Lead/Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None	None	Max	Max	None	C-Max	C-Max	None	C-Max	C-Max
Act Effct Green (s)	5.0	9.9	9.9	7.6	10.5	10.5	6.7	53.5	53.5	5.0	52.4	52.4
Actuated g/C Ratio	0.06	0.11	0.11	0.08	0.12	0.12	0.07	0.59	0.59	0.06	0.58	0.58
v/c Ratio	0.19	0.06	0.03	0.29	0.17	0.08	0.18	1.06	0.04	0.27	0.39	0.08
Control Delay	43.1	37.8	0.2	41.3	41.8	0.7	37.3	47.0	0.1	45.3	8.9	0.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	43.1	37.8	0.2	41.3	41.8	0.7	37.3	47.0	0.1	45.3	8.9	0.1
LOS	D	D	A	D	D	A	D	D	A	D	A	A
Approach Delay		33.6			34.9			46.0			9.9	
Approach LOS		C			C			D			A	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 140	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.06	
Intersection Signal Delay: 33.3	Intersection LOS: C
Intersection Capacity Utilization 88.8%	ICU Level of Service E
Analysis Period (min) 15	

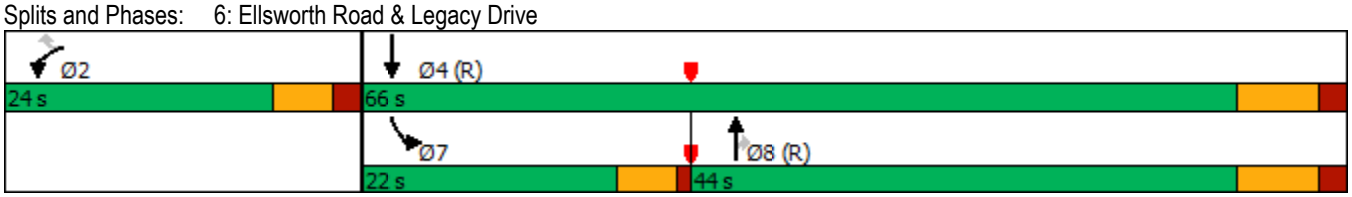
Splits and Phases: 5: Ellsworth Road & Gateway Boulevard/Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	5	2	2128	7	3	1126
Future Volume (vph)	5	2	2128	7	3	1126
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	24.0	24.0	44.0	44.0	22.0	66.0
Total Split (%)	26.7%	26.7%	48.9%	48.9%	24.4%	73.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	18.0	18.0	56.3	56.3	5.6	58.5
Actuated g/C Ratio	0.20	0.20	0.63	0.63	0.06	0.65
v/c Ratio	0.01	0.01	1.04	0.01	0.01	0.37
Control Delay	29.0	21.0	37.5	0.9	33.0	11.4
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	29.0	21.0	37.5	0.9	33.0	11.4
LOS	C	C	D	A	C	B
Approach Delay	26.7		37.4			11.5
Approach LOS	C		D			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 150	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.04	
Intersection Signal Delay: 28.4	Intersection LOS: C
Intersection Capacity Utilization 78.4%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	121	21	2101	8	1097
Future Volume (vph)	121	21	2101	8	1097
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	17.0	17.0	63.0	10.0	73.0
Total Split (%)	18.9%	18.9%	70.0%	11.1%	81.1%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	10.5	10.5	63.5	6.0	65.5
Actuated g/C Ratio	0.12	0.12	0.71	0.07	0.73
v/c Ratio	0.64	0.11	0.94	0.08	0.32
Control Delay	53.4	16.1	21.6	54.8	0.2
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	53.4	16.1	21.6	54.8	0.2
LOS	D	B	C	D	A
Approach Delay	47.9		21.6		0.6
Approach LOS	D		C		A

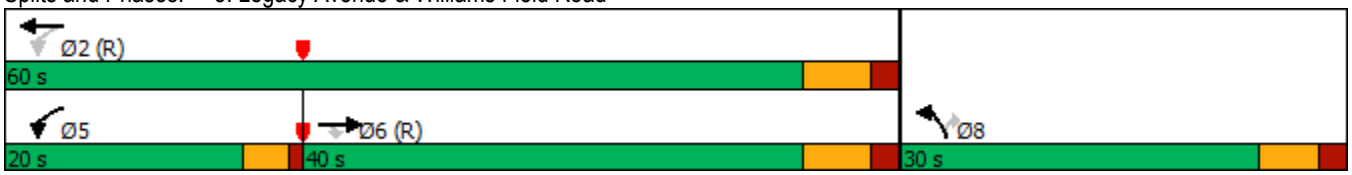
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 130	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.94	
Intersection Signal Delay: 15.9	Intersection LOS: B
Intersection Capacity Utilization 77.9%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL
Lane Configurations					
Traffic Volume (vph)	93	7	16	163	1
Future Volume (vph)	93	7	16	163	1
Turn Type	NA	Perm	pm+pt	NA	Prot
Protected Phases	6		5	2	8
Permitted Phases		6	2		
Detector Phase	6	6	5	2	8
Switch Phase					
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0
Lead/Lag	Lag	Lag	Lead		
Lead-Lag Optimize?	Yes	Yes	Yes		
Recall Mode	C-Max	C-Max	None	C-Max	None
Act Effct Green (s)	79.4	79.4	82.8	85.5	10.0
Actuated g/C Ratio	0.88	0.88	0.92	0.95	0.11
v/c Ratio	0.06	0.01	0.01	0.10	0.01
Control Delay	2.3	1.6	1.2	1.2	36.0
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	2.3	1.6	1.2	1.2	36.0
LOS	A	A	A	A	D
Approach Delay	2.2			1.2	36.0
Approach LOS	A			A	D

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.10	
Intersection Signal Delay: 1.7	Intersection LOS: A
Intersection Capacity Utilization 31.3%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	0

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	96	1	0	178	0	0
Future Vol, veh/h	96	1	0	178	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	104	1	0	193	0	0

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	105
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	980
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	980
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

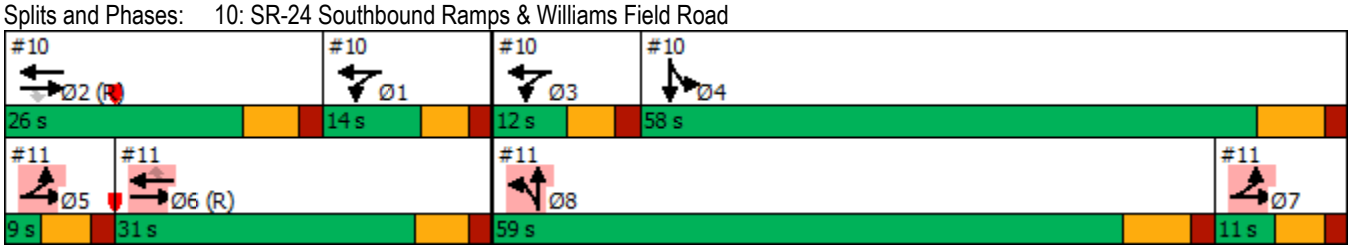
Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-
HCM Control Delay (s)	0	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	-	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	65	33	16	163	187	1137						
Future Volume (vph)	65	33	16	163	187	1137						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	26.0	26.0			58.0	58.0	14.0	12.0	9.0	31.0	11.0	59.0
Total Split (%)	23.6%	23.6%			52.7%	52.7%	13%	11%	8%	28%	10%	54%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	19.5	19.5	19.8	45.8	50.7	50.7						
Actuated g/C Ratio	0.18	0.18	0.18	0.42	0.46	0.46						
v/c Ratio	0.06	0.07	0.03	0.12	0.25	0.82						
Control Delay	37.9	0.3	33.8	20.1	19.2	31.2						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.9	0.3	33.8	20.1	19.2	31.2						
LOS	D	A	C	C	B	C						
Approach Delay	25.2			21.3		29.7						
Approach LOS	C			C		C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.37	
Intersection Signal Delay: 28.5	Intersection LOS: C
Intersection Capacity Utilization 114.5%	ICU Level of Service H
Analysis Period (min) 15	

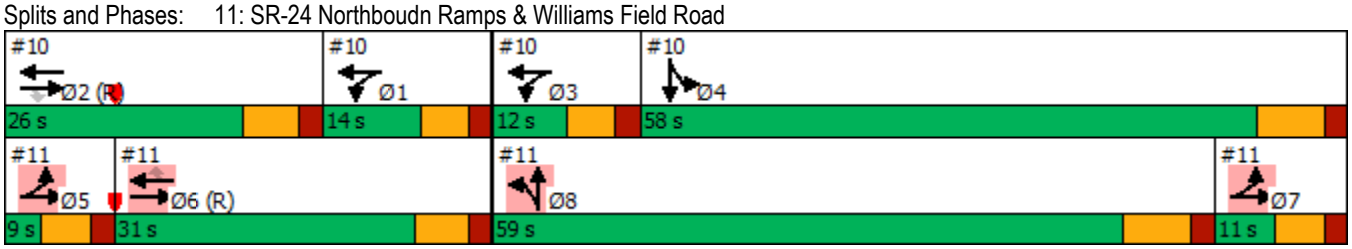
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	27	220	107	578	70	2087						
Future Volume (vph)	27	220	107	578	70	2087						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			31.0	31.0	59.0	59.0	14.0	26.0	12.0	58.0	9.0	11.0
Total Split (%)			28.2%	28.2%	53.6%	53.6%	13%	24%	11%	53%	8%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	14.0	45.0	24.5	24.5	51.5	51.5						
Actuated g/C Ratio	0.13	0.41	0.22	0.22	0.47	0.47						
v/c Ratio	0.07	0.17	0.08	1.17	0.09	1.37						
Control Delay	41.6	20.1	34.1	119.9	16.7	199.5						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	41.6	20.1	34.1	119.9	16.7	199.5						
LOS	D	C	C	F	B	F						
Approach Delay		22.4	106.5			193.6						
Approach LOS		C	F			F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.37	
Intersection Signal Delay: 160.7	Intersection LOS: F
Intersection Capacity Utilization 114.5%	ICU Level of Service H
Analysis Period (min) 15	

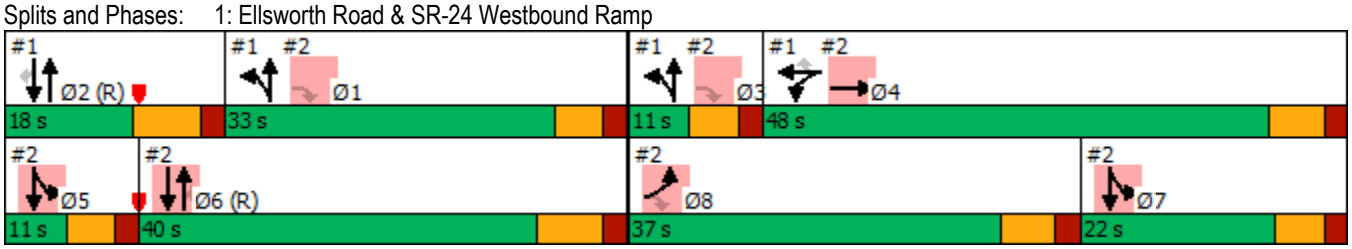
Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	11	1	72	1091	1185	350	439					
Future Volume (vph)	11	1	72	1091	1185	350	439					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	48.0	48.0	48.0			18.0	18.0	33.0	11.0	11.0	40.0	22.0
Total Split (%)	43.6%	43.6%	43.6%			16.4%	16.4%	30%	10%	10%	36%	20%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	41.5	41.5	41.5	38.0	56.0	10.5	10.5					
Actuated g/C Ratio	0.38	0.38	0.38	0.35	0.51	0.10	0.10					
v/c Ratio	0.02	0.04	0.06	1.00	0.72	0.62	0.68					
Control Delay	21.7	8.4	0.2	43.8	15.1	52.7	9.9					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	21.7	8.4	0.2	43.8	15.1	52.7	9.9					
LOS	C	A	A	D	B	D	A					
Approach Delay		6.5			28.9	28.9						
Approach LOS		A			C	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.00	
Intersection Signal Delay: 28.3	Intersection LOS: C
Intersection Capacity Utilization 71.5%	ICU Level of Service C
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

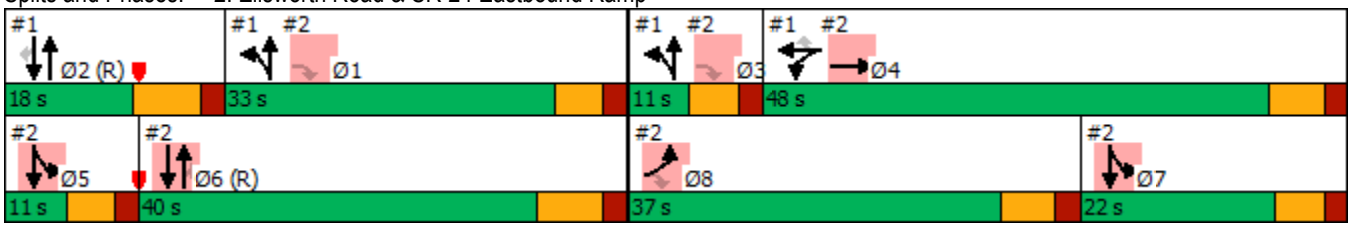


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	754	35	1182	1526	9	96	261					
Future Volume (vph)	754	35	1182	1526	9	96	261					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	37.0	48.0		40.0	40.0			33.0	18.0	11.0	11.0	22.0
Total Split (%)	33.6%	43.6%		36.4%	36.4%			30%	16%	10%	10%	20%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	30.1	30.1	63.6	32.5	32.5	27.4	67.4					
Actuated g/C Ratio	0.27	0.27	0.58	0.30	0.30	0.25	0.61					
v/c Ratio	0.93	0.93	0.62	0.88	0.02	0.12	0.09					
Control Delay	66.7	67.9	3.7	43.2	0.0	75.3	0.4					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	66.7	67.9	3.7	43.2	0.0	75.3	0.4					
LOS	E	E	A	D	A	E	A					
Approach Delay		29.1		42.9			20.4					
Approach LOS		C		D			C					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.00	
Intersection Signal Delay: 33.8	Intersection LOS: C
Intersection Capacity Utilization 71.5%	ICU Level of Service C
Analysis Period (min) 15	

! Phase conflict between lane groups.

Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Volume (vph)	99	59	29	1248	1390	53
Future Volume (vph)	99	59	29	1248	1390	53
Turn Type	Split	Perm	Perm	NA	NA	Perm
Protected Phases	4			2	6	
Permitted Phases		4	2			6
Detector Phase	4	4	2	2	6	6
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0	5.0	5.0	5.0
Minimum Split (s)	22.5	22.5	22.5	22.5	22.5	22.5
Total Split (s)	26.0	26.0	64.0	64.0	64.0	64.0
Total Split (%)	28.9%	28.9%	71.1%	71.1%	71.1%	71.1%
Yellow Time (s)	3.5	3.5	3.5	3.5	3.5	3.5
All-Red Time (s)	1.0	1.0	1.0	1.0	1.0	1.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	4.5	4.5	4.5	4.5	4.5	4.5
Lead/Lag						
Lead-Lag Optimize?						
Recall Mode	None	None	C-Max	C-Max	C-Max	C-Max
Act Effct Green (s)	10.8	10.8	73.3	73.3	73.3	73.3
Actuated g/C Ratio	0.12	0.12	0.81	0.81	0.81	0.81
v/c Ratio	0.51	0.27	0.14	0.47	0.36	0.04
Control Delay	44.8	16.5	11.9	15.4	3.4	1.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	44.8	16.5	11.9	15.4	3.4	1.0
LOS	D	B	B	B	A	A
Approach Delay				15.3	3.3	
Approach LOS				B	A	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:NBTL and 6:SBT, Start of Green	
Natural Cycle: 60	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.51	
Intersection Signal Delay: 10.3	Intersection LOS: B
Intersection Capacity Utilization 47.5%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 3: Ellsworth Road & Tesla Drive

Intersection	
Int Delay, s/veh	0.3

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Vol, veh/h	0	78	0	1277	1416	32
Future Vol, veh/h	0	78	0	1277	1416	32
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	-	0	-	-	-	150
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	85	0	1388	1539	35

Major/Minor	Minor2		Major1		Major2	
Conflicting Flow All	-	770	-	0	-	0
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	7.14	-	-	-	-
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	3.92	-	-	-	-
Pot Cap-1 Maneuver	0	*585	0	-	-	-
Stage 1	0	-	0	-	-	-
Stage 2	0	-	0	-	-	-
Platoon blocked, %		1		-	-	-
Mov Cap-1 Maneuver	-	*585	-	-	-	-
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	12.2	0	0
HCM LOS	B		

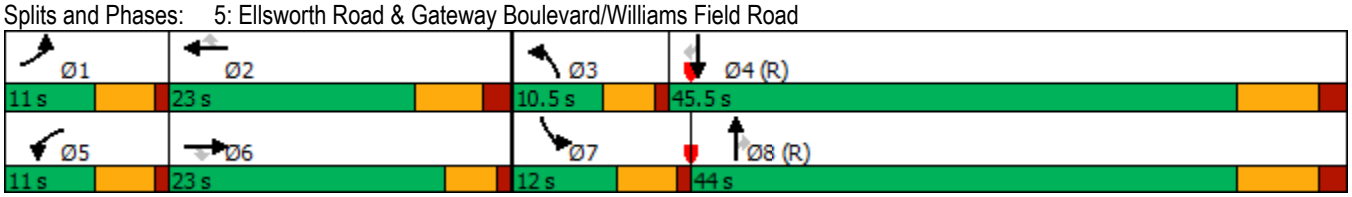
Minor Lane/Major Mvmt	NBT	EBLn1	SBT	SBR
Capacity (veh/h)	-	585	-	-
HCM Lane V/C Ratio	-	0.145	-	-
HCM Control Delay (s)	-	12.2	-	-
HCM Lane LOS	-	B	-	-
HCM 95th %tile Q(veh)	-	0.5	-	-

Notes			
~: Volume exceeds capacity	$: Delay exceeds 300s	+: Computation Not Defined	*: All major volume in platoon

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Traffic Volume (vph)	99	63	35	58	29	60	20	1118	47	171	1087	32
Future Volume (vph)	99	63	35	58	29	60	20	1118	47	171	1087	32
Turn Type	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm
Protected Phases	1	6		5	2		3	8		7	4	
Permitted Phases			6			2			8			4
Detector Phase	1	6	6	5	2	2	3	8	8	7	4	4
Switch Phase												
Minimum Initial (s)	5.0	5.0	5.0	5.0	15.0	15.0	5.0	15.0	15.0	5.0	15.0	15.0
Minimum Split (s)	10.0	22.5	22.5	10.0	24.5	24.5	9.5	25.5	25.5	10.0	25.5	25.5
Total Split (s)	11.0	23.0	23.0	11.0	23.0	23.0	10.5	44.0	44.0	12.0	45.5	45.5
Total Split (%)	12.2%	25.6%	25.6%	12.2%	25.6%	25.6%	11.7%	48.9%	48.9%	13.3%	50.6%	50.6%
Yellow Time (s)	4.0	3.5	3.5	4.0	4.5	4.5	3.5	5.5	5.5	4.0	5.5	5.5
All-Red Time (s)	1.0	1.0	1.0	1.0	2.0	2.0	1.0	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	4.5	4.5	5.0	6.5	6.5	4.5	7.5	7.5	5.0	7.5	7.5
Lead/Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None	None	Max	Max	None	C-Max	C-Max	None	C-Max	C-Max
Act Effct Green (s)	6.0	20.7	20.7	5.9	18.7	18.7	5.8	36.5	36.5	7.0	44.3	44.3
Actuated g/C Ratio	0.07	0.23	0.23	0.07	0.21	0.21	0.06	0.41	0.41	0.08	0.49	0.49
v/c Ratio	0.47	0.08	0.08	0.28	0.04	0.14	0.10	0.85	0.07	0.70	0.47	0.04
Control Delay	47.7	29.4	0.3	54.5	27.0	1.5	44.1	24.1	2.0	52.0	20.9	0.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	47.7	29.4	0.3	54.5	27.0	1.5	44.1	24.1	2.0	52.0	20.9	0.6
LOS	D	C	A	D	C	A	D	C	A	D	C	A
Approach Delay		33.5			27.5			23.6			24.5	
Approach LOS		C			C			C			C	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 80	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.85	
Intersection Signal Delay: 24.9	Intersection LOS: C
Intersection Capacity Utilization 64.1%	ICU Level of Service C
Analysis Period (min) 15	

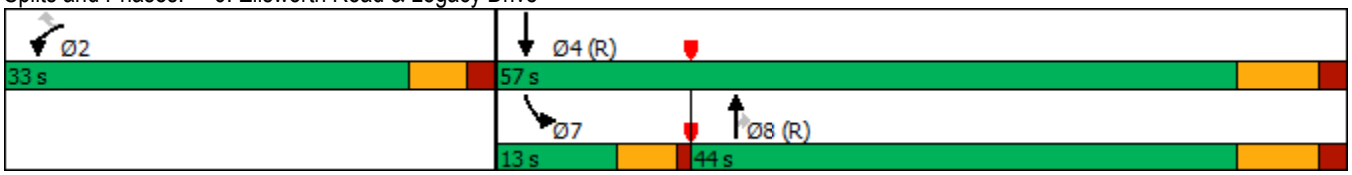
Splits and Phases: 5: Ellsworth Road & Gateway Boulevard/Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	93	20	1404	205	6	1201
Future Volume (vph)	93	20	1404	205	6	1201
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	33.0	33.0	44.0	44.0	13.0	57.0
Total Split (%)	36.7%	36.7%	48.9%	48.9%	14.4%	63.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	27.0	27.0	47.3	47.3	5.7	49.5
Actuated g/C Ratio	0.30	0.30	0.53	0.53	0.06	0.55
v/c Ratio	0.10	0.04	0.82	0.25	0.03	0.47
Control Delay	22.7	10.1	22.2	5.4	43.3	11.8
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	22.7	10.1	22.2	5.4	43.3	11.8
LOS	C	B	C	A	D	B
Approach Delay	20.6		20.0			12.0
Approach LOS	C		C			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.82	
Intersection Signal Delay: 16.7	Intersection LOS: B
Intersection Capacity Utilization 58.4%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	72	16	1567	5	1256
Future Volume (vph)	72	16	1567	5	1256
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	13.0	13.0	64.0	13.0	77.0
Total Split (%)	14.4%	14.4%	71.1%	14.4%	85.6%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	18.8	18.8	54.8	8.0	57.2
Actuated g/C Ratio	0.21	0.21	0.61	0.09	0.64
v/c Ratio	0.21	0.05	0.82	0.03	0.42
Control Delay	35.8	16.9	17.4	48.6	5.9
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	35.8	16.9	17.4	48.6	5.9
LOS	D	B	B	D	A
Approach Delay	32.5		17.4		6.0
Approach LOS	C		B		A

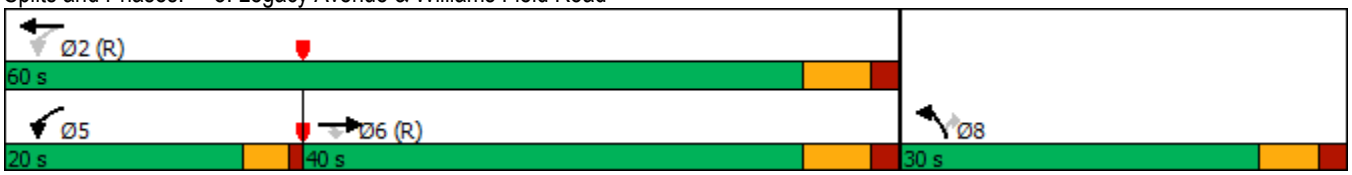
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.82	
Intersection Signal Delay: 13.0	Intersection LOS: B
Intersection Capacity Utilization 60.8%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Volume (vph)	232	68	128	87	57	42
Future Volume (vph)	232	68	128	87	57	42
Turn Type	NA	Perm	pm+pt	NA	Prot	Perm
Protected Phases	6		5	2	8	
Permitted Phases		6	2			8
Detector Phase	6	6	5	2	8	8
Switch Phase						
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0	6.0
Lead/Lag	Lag	Lag	Lead			
Lead-Lag Optimize?	Yes	Yes	Yes			
Recall Mode	C-Max	C-Max	None	C-Max	None	None
Act Effct Green (s)	58.2	58.2	72.9	71.7	10.3	10.3
Actuated g/C Ratio	0.65	0.65	0.81	0.80	0.11	0.11
v/c Ratio	0.21	0.07	0.15	0.06	0.31	0.21
Control Delay	3.7	0.1	2.8	3.2	40.7	13.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	3.7	0.1	2.8	3.2	40.7	13.7
LOS	A	A	A	A	D	B
Approach Delay	2.9			3.0	29.2	
Approach LOS	A			A	C	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.31	
Intersection Signal Delay: 7.2	Intersection LOS: A
Intersection Capacity Utilization 41.7%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	1

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	259	132	0	337	0	79
Future Vol, veh/h	259	132	0	337	0	79
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	282	143	0	366	0	86

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	354
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	769
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	769
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

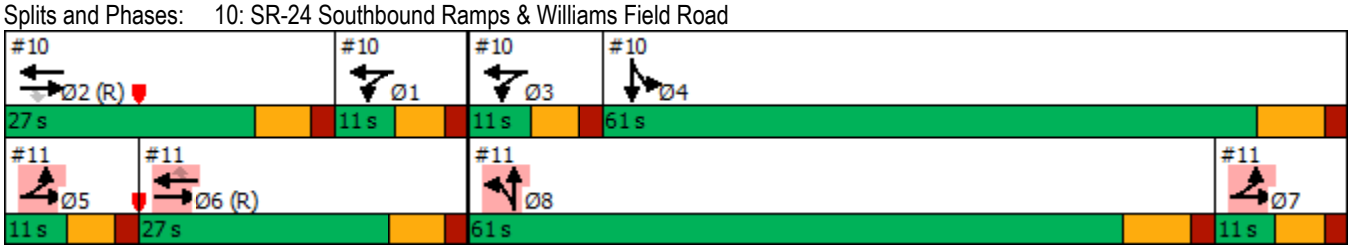
Approach	EB	WB	NB
HCM Control Delay, s	0	0	10.3
HCM LOS			B

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	769	-	-	-
HCM Lane V/C Ratio	0.112	-	-	-
HCM Control Delay (s)	10.3	-	-	-
HCM Lane LOS	B	-	-	-
HCM 95th %tile Q(veh)	0.4	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	166	93	16	176	247	2248						
Future Volume (vph)	166	93	16	176	247	2248						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	27.0	27.0			61.0	61.0	11.0	11.0	11.0	27.0	11.0	61.0
Total Split (%)	24.5%	24.5%			55.5%	55.5%	10%	10%	10%	25%	10%	55%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	20.5	20.5	16.0	43.0	53.5	53.5						
Actuated g/C Ratio	0.19	0.19	0.15	0.39	0.49	0.49						
v/c Ratio	0.15	0.21	0.03	0.14	0.31	1.68						
Control Delay	37.9	0.9	28.2	17.0	18.4	332.5						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.9	0.9	28.2	17.0	18.4	332.5						
LOS	D	A	C	B	B	F						
Approach Delay	24.6			17.9		307.1						
Approach LOS	C			B		F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.68	
Intersection Signal Delay: 266.9	Intersection LOS: F
Intersection Capacity Utilization 84.8%	ICU Level of Service E
Analysis Period (min) 15	

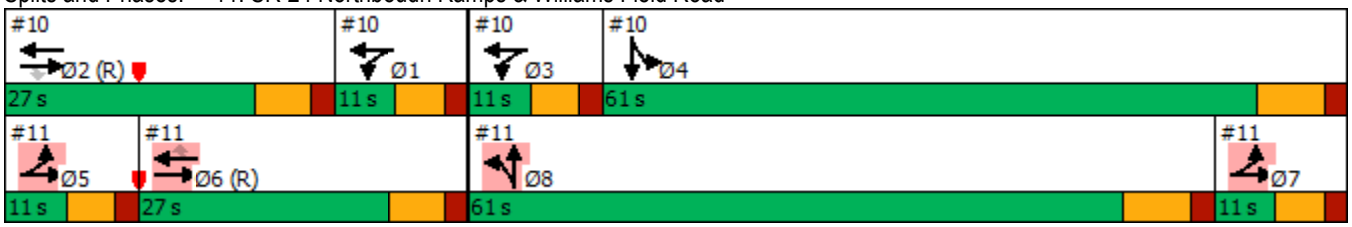
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	93	373	126	253	54	1197						
Future Volume (vph)	93	373	126	253	54	1197						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			27.0	27.0	61.0	61.0	11.0	27.0	11.0	61.0	11.0	11.0
Total Split (%)			24.5%	24.5%	55.5%	55.5%	10%	25%	10%	55%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	20.3	47.3	20.5	20.5	49.2	49.2						
Actuated g/C Ratio	0.18	0.43	0.19	0.19	0.45	0.45						
v/c Ratio	0.16	0.27	0.11	0.56	0.07	0.83						
Control Delay	49.0	16.5	37.5	12.9	16.3	31.5						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	49.0	16.5	37.5	12.9	16.3	31.5						
LOS	D	B	D	B	B	C						
Approach Delay		23.0	21.1			30.9						
Approach LOS		C	C			C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.68	
Intersection Signal Delay: 27.4	Intersection LOS: C
Intersection Capacity Utilization 84.8%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



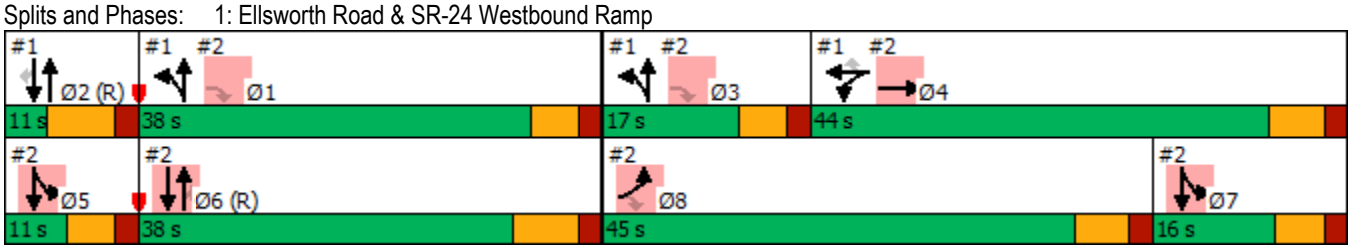
Appendix J – Year 2031 No Build Capacity Analysis

J

Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	1	0	144	1402	1197	257	501					
Future Volume (vph)	1	0	144	1402	1197	257	501					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	44.0	44.0	44.0			11.0	11.0	38.0	17.0	11.0	38.0	16.0
Total Split (%)	40.0%	40.0%	40.0%			10.0%	10.0%	35%	15%	10%	35%	15%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	28.2	28.2	28.2	49.0	69.3	12.8	12.8					
Actuated g/C Ratio	0.26	0.26	0.26	0.45	0.63	0.12	0.12					
v/c Ratio	0.00	0.09	0.16	1.00	0.58	0.38	0.68					
Control Delay	33.0	0.2	0.7	31.1	5.6	45.5	8.4					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	33.0	0.2	0.7	31.1	5.6	45.5	8.4					
LOS	C	A	A	C	A	D	A					
Approach Delay		0.6			19.4	21.0						
Approach LOS		A			B	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 130	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.02	
Intersection Signal Delay: 18.9	Intersection LOS: B
Intersection Capacity Utilization 82.5%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

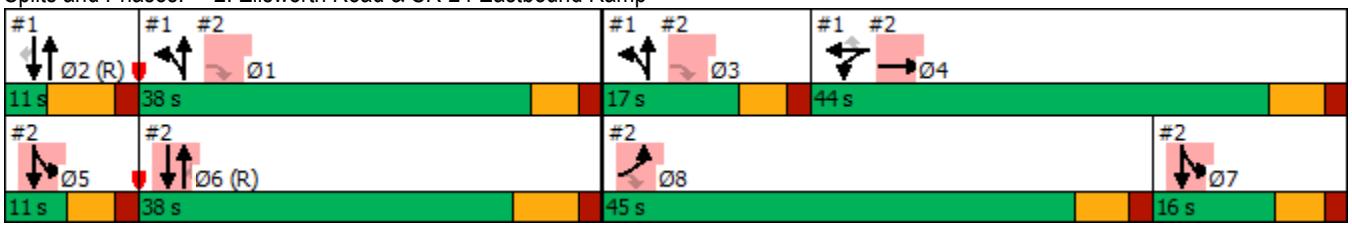


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	386	5	947	2149	6	54	216					
Future Volume (vph)	386	5	947	2149	6	54	216					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	45.0	44.0		38.0	38.0			38.0	11.0	17.0	11.0	16.0
Total Split (%)	40.9%	40.0%		34.5%	34.5%			35%	10%	15%	10%	15%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	21.5	21.5	60.0	39.3	39.3	29.2	76.0					
Actuated g/C Ratio	0.20	0.20	0.55	0.36	0.36	0.27	0.69					
v/c Ratio	0.65	0.64	0.52	1.02	0.01	0.06	0.07					
Control Delay	49.5	48.9	1.6	59.4	0.0	79.8	0.4					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	49.5	48.9	1.6	59.4	0.0	79.8	0.4					
LOS	D	D	A	E	A	E	A					
Approach Delay		15.5		59.3			16.4					
Approach LOS		B		E			B					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 130	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.02	
Intersection Signal Delay: 40.6	Intersection LOS: D
Intersection Capacity Utilization 82.5%	ICU Level of Service E
Analysis Period (min) 15	

! Phase conflict between lane groups.

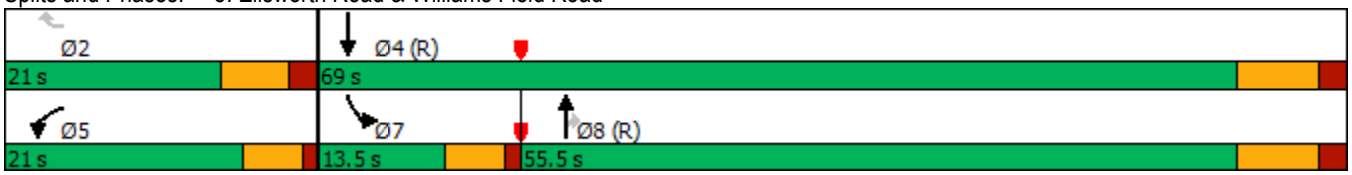
Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	81	7	2162	40	21	1113
Future Volume (vph)	81	7	2162	40	21	1113
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	5		8		7	4
Permitted Phases		2		8		
Detector Phase	5	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	5.0	15.0	15.0	15.0	5.0	15.0
Minimum Split (s)	10.0	24.5	25.5	25.5	10.0	25.5
Total Split (s)	21.0	21.0	55.5	55.5	13.5	69.0
Total Split (%)	23.3%	23.3%	61.7%	61.7%	15.0%	76.7%
Yellow Time (s)	4.0	4.5	5.5	5.5	4.0	5.5
All-Red Time (s)	1.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	6.5	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	14.0	14.5	56.8	56.8	6.1	61.5
Actuated g/C Ratio	0.16	0.16	0.63	0.63	0.07	0.68
v/c Ratio	0.17	0.02	1.05	0.04	0.10	0.35
Control Delay	37.1	25.0	37.7	3.5	40.0	6.3
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	37.1	25.0	37.7	3.5	40.0	6.3
LOS	D	C	D	A	D	A
Approach Delay	36.1		37.0			6.9
Approach LOS	D		D			A

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 120	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.05	
Intersection Signal Delay: 27.0	Intersection LOS: C
Intersection Capacity Utilization 83.9%	ICU Level of Service E
Analysis Period (min) 15	

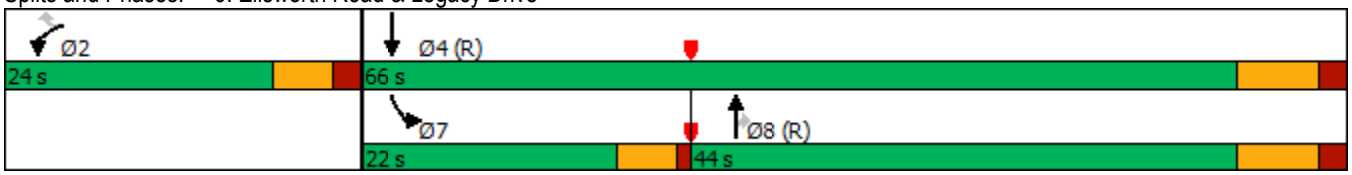
Splits and Phases: 5: Ellsworth Road & Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	6	2	2198	8	3	1181
Future Volume (vph)	6	2	2198	8	3	1181
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	24.0	24.0	44.0	44.0	22.0	66.0
Total Split (%)	26.7%	26.7%	48.9%	48.9%	24.4%	73.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	18.0	18.0	56.3	56.3	5.6	58.5
Actuated g/C Ratio	0.20	0.20	0.63	0.63	0.06	0.65
v/c Ratio	0.01	0.01	1.08	0.01	0.01	0.39
Control Delay	29.0	21.0	49.9	0.6	39.3	7.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	29.0	21.0	49.9	0.6	39.3	7.0
LOS	C	C	D	A	D	A
Approach Delay	27.2		49.7			7.0
Approach LOS	C		D			A

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 150	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.08	
Intersection Signal Delay: 34.8	Intersection LOS: C
Intersection Capacity Utilization 80.3%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	130	23	2168	9	1149
Future Volume (vph)	130	23	2168	9	1149
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	18.0	18.0	59.0	13.0	72.0
Total Split (%)	20.0%	20.0%	65.6%	14.4%	80.0%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	11.5	11.5	62.1	8.0	64.5
Actuated g/C Ratio	0.13	0.13	0.69	0.09	0.72
v/c Ratio	0.62	0.11	0.99	0.06	0.34
Control Delay	50.5	15.4	31.4	42.9	0.3
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	50.5	15.4	31.4	42.9	0.3
LOS	D	B	C	D	A
Approach Delay	45.2		31.4		0.6
Approach LOS	D		C		A

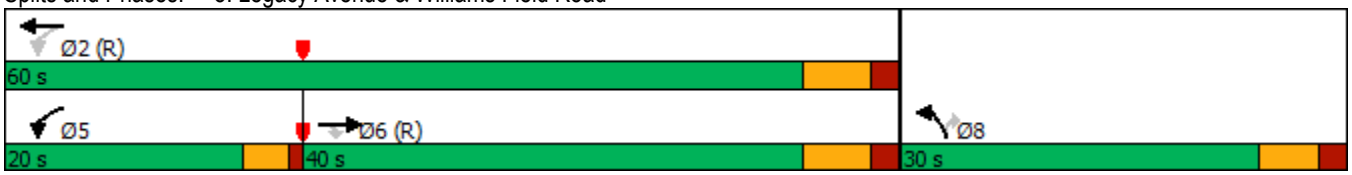
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 140	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.99	
Intersection Signal Delay: 21.9	Intersection LOS: C
Intersection Capacity Utilization 80.4%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL
Lane Configurations					
Traffic Volume (vph)	47	8	17	82	1
Future Volume (vph)	47	8	17	82	1
Turn Type	NA	Perm	pm+pt	NA	Prot
Protected Phases	6		5	2	8
Permitted Phases		6	2		
Detector Phase	6	6	5	2	8
Switch Phase					
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0
Lead/Lag	Lag	Lag	Lead		
Lead-Lag Optimize?	Yes	Yes	Yes		
Recall Mode	C-Max	C-Max	None	C-Max	None
Act Effct Green (s)	79.4	79.4	82.8	85.5	10.0
Actuated g/C Ratio	0.88	0.88	0.92	0.95	0.11
v/c Ratio	0.03	0.01	0.01	0.05	0.01
Control Delay	4.3	3.9	1.2	1.2	36.0
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	4.3	3.9	1.2	1.2	36.0
LOS	A	A	A	A	D
Approach Delay	4.3			1.2	36.0
Approach LOS	A			A	D

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.05	
Intersection Signal Delay: 2.5	Intersection LOS: A
Intersection Capacity Utilization 31.3%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	0

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	51	1	0	99	0	0
Future Vol, veh/h	51	1	0	99	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	55	1	0	108	0	0

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	56
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	1016
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	1016
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

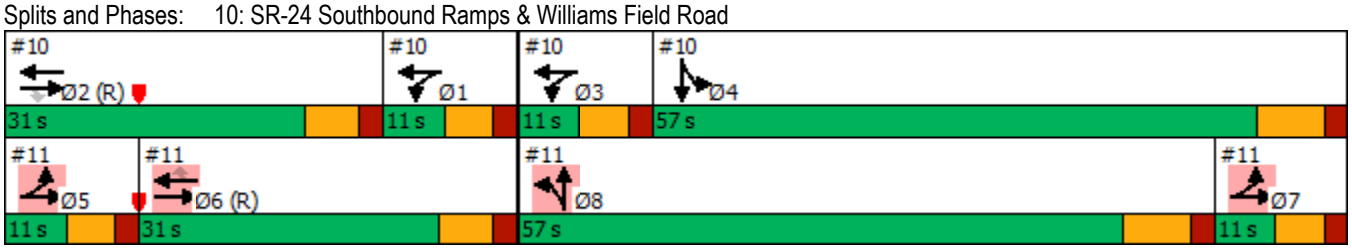
Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-
HCM Control Delay (s)	0	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	-	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	49	5	17	82	201	1224						
Future Volume (vph)	49	5	17	82	201	1224						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	31.0	31.0			57.0	57.0	11.0	11.0	11.0	31.0	11.0	57.0
Total Split (%)	28.2%	28.2%			51.8%	51.8%	10%	10%	10%	28%	10%	52%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	26.7	26.7	16.0	47.0	51.7	51.7						
Actuated g/C Ratio	0.24	0.24	0.15	0.43	0.47	0.47						
v/c Ratio	0.03	0.01	0.04	0.06	0.26	0.87						
Control Delay	33.7	0.0	10.2	0.9	19.6	34.0						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	33.7	0.0	10.2	0.9	19.6	34.0						
LOS	C	A	B	A	B	C						
Approach Delay	30.8			2.5		32.2						
Approach LOS	C			A		C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.53	
Intersection Signal Delay: 30.3	Intersection LOS: C
Intersection Capacity Utilization 120.9%	ICU Level of Service H
Analysis Period (min) 15	

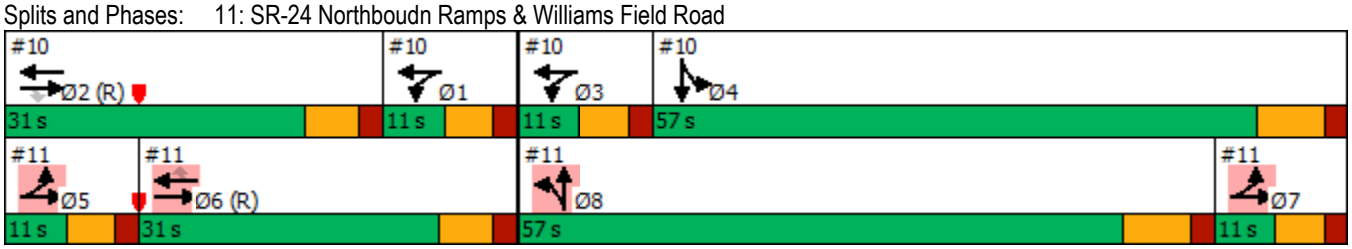
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	15	229	96	618	1	2227						
Future Volume (vph)	15	229	96	618	1	2227						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			31.0	31.0	57.0	57.0	11.0	31.0	11.0	57.0	11.0	11.0
Total Split (%)			28.2%	28.2%	51.8%	51.8%	10%	28%	10%	52%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	16.0	47.0	24.5	24.5	49.5	49.5						
Actuated g/C Ratio	0.15	0.43	0.22	0.22	0.45	0.45						
v/c Ratio	0.03	0.16	0.07	1.25	0.00	1.53						
Control Delay	36.4	22.2	34.0	152.8	17.0	266.4						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	36.4	22.2	34.0	152.8	17.0	266.4						
LOS	D	C	C	F	B	F						
Approach Delay		23.0	136.9			266.3						
Approach LOS		C	F			F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.53	
Intersection Signal Delay: 218.8	Intersection LOS: F
Intersection Capacity Utilization 120.9%	ICU Level of Service H
Analysis Period (min) 15	

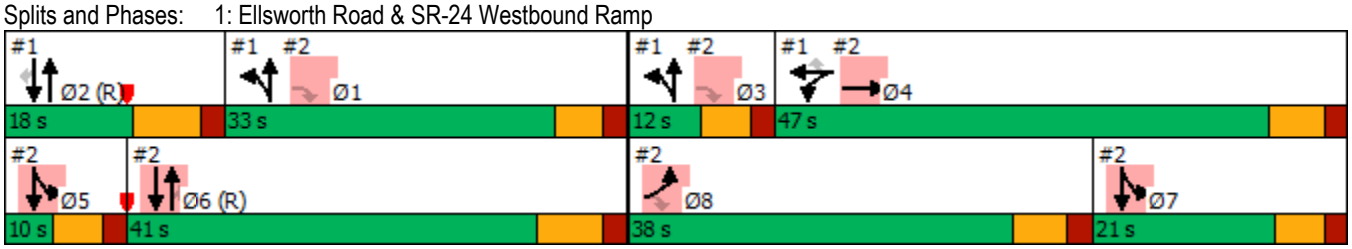
Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	1	1	78	1007	1229	355	472					
Future Volume (vph)	1	1	78	1007	1229	355	472					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	47.0	47.0	47.0			18.0	18.0	33.0	12.0	10.0	41.0	21.0
Total Split (%)	42.7%	42.7%	42.7%			16.4%	16.4%	30%	11%	9%	37%	19%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	40.5	40.5	40.5	39.0	57.0	10.5	10.5					
Actuated g/C Ratio	0.37	0.37	0.37	0.35	0.52	0.10	0.10					
v/c Ratio	0.00	0.04	0.06	0.90	0.73	0.63	0.70					
Control Delay	22.0	9.9	0.2	33.2	16.7	53.0	10.0					
Queue Delay	0.0	0.0	0.0	0.0	0.3	0.0	0.0					
Total Delay	22.0	9.9	0.2	33.2	17.0	53.0	10.0					
LOS	C	A	A	C	B	D	A					
Approach Delay		5.3			24.3	28.4						
Approach LOS		A			C	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.96	
Intersection Signal Delay: 24.9	Intersection LOS: C
Intersection Capacity Utilization 70.2%	ICU Level of Service C
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

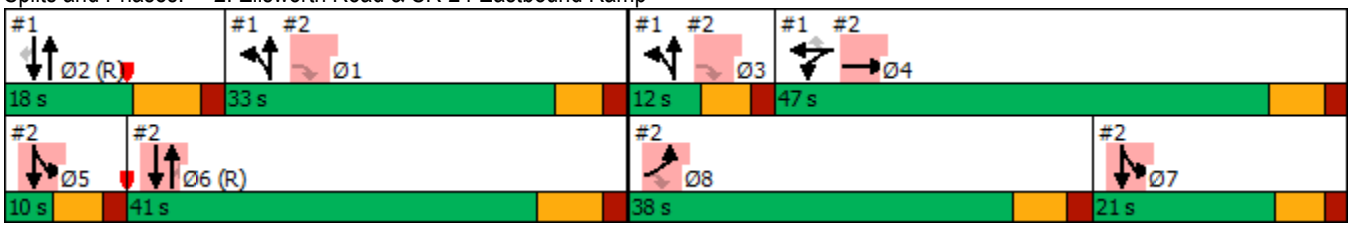


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	811	37	1177	1429	10	103	249					
Future Volume (vph)	811	37	1177	1429	10	103	249					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	38.0	47.0		41.0	41.0			33.0	18.0	12.0	10.0	21.0
Total Split (%)	34.5%	42.7%		37.3%	37.3%			30%	16%	11%	9%	19%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	31.5	31.5	65.0	33.5	33.5	25.0	66.0					
Actuated g/C Ratio	0.29	0.29	0.59	0.30	0.30	0.23	0.60					
v/c Ratio	0.95	0.96	0.61	0.80	0.02	0.14	0.09					
Control Delay	70.7	71.0	3.3	38.8	0.1	78.4	0.1					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	70.7	71.0	3.3	38.8	0.1	78.4	0.1					
LOS	E	E	A	D	A	E	A					
Approach Delay		31.6		38.5			23.0					
Approach LOS		C		D			C					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 110	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.96	
Intersection Signal Delay: 33.4	Intersection LOS: C
Intersection Capacity Utilization 70.2%	ICU Level of Service C
Analysis Period (min) 15	

! Phase conflict between lane groups.

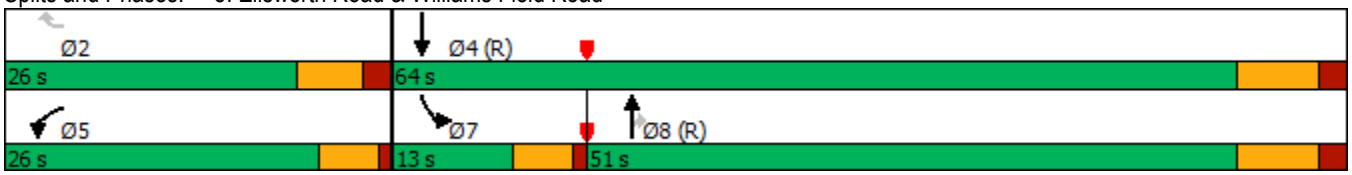
Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	62	54	1182	51	93	1114
Future Volume (vph)	62	54	1182	51	93	1114
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	5		8		7	4
Permitted Phases		2		8		
Detector Phase	5	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	5.0	15.0	15.0	15.0	5.0	15.0
Minimum Split (s)	10.0	24.5	25.5	25.5	10.0	25.5
Total Split (s)	26.0	26.0	51.0	51.0	13.0	64.0
Total Split (%)	28.9%	28.9%	56.7%	56.7%	14.4%	71.1%
Yellow Time (s)	4.0	4.5	5.5	5.5	4.0	5.5
All-Red Time (s)	1.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	6.5	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	17.9	19.5	46.3	46.3	7.4	56.5
Actuated g/C Ratio	0.20	0.22	0.51	0.51	0.08	0.63
v/c Ratio	0.10	0.09	0.71	0.07	0.36	0.38
Control Delay	19.0	4.3	12.0	5.6	42.5	8.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	19.0	4.3	12.0	5.6	42.5	8.6
LOS	B	A	B	A	D	A
Approach Delay	12.1		11.7			11.2
Approach LOS	B		B			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 70	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.71	
Intersection Signal Delay: 11.5	Intersection LOS: B
Intersection Capacity Utilization 56.8%	ICU Level of Service B
Analysis Period (min) 15	

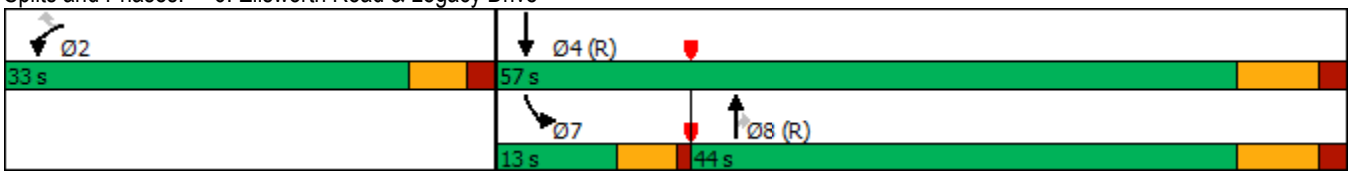
Splits and Phases: 5: Ellsworth Road & Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	101	21	1469	220	7	1199
Future Volume (vph)	101	21	1469	220	7	1199
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	33.0	33.0	44.0	44.0	13.0	57.0
Total Split (%)	36.7%	36.7%	48.9%	48.9%	14.4%	63.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	27.0	27.0	47.3	47.3	5.8	49.5
Actuated g/C Ratio	0.30	0.30	0.53	0.53	0.06	0.55
v/c Ratio	0.11	0.05	0.86	0.27	0.04	0.47
Control Delay	22.8	9.9	22.9	5.2	47.7	10.3
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	22.8	9.9	22.9	5.2	47.7	10.3
LOS	C	A	C	A	D	B
Approach Delay	20.8		20.6			10.5
Approach LOS	C		C			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.86	
Intersection Signal Delay: 16.6	Intersection LOS: B
Intersection Capacity Utilization 60.2%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	78	17	1644	6	1258
Future Volume (vph)	78	17	1644	6	1258
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	13.0	13.0	64.0	13.0	77.0
Total Split (%)	14.4%	14.4%	71.1%	14.4%	85.6%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	18.5	18.5	55.1	8.0	57.5
Actuated g/C Ratio	0.21	0.21	0.61	0.09	0.64
v/c Ratio	0.23	0.05	0.86	0.04	0.42
Control Delay	35.9	16.4	19.2	53.5	4.0
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	35.9	16.4	19.2	53.5	4.0
LOS	D	B	B	D	A
Approach Delay	32.5		19.2		4.2
Approach LOS	C		B		A

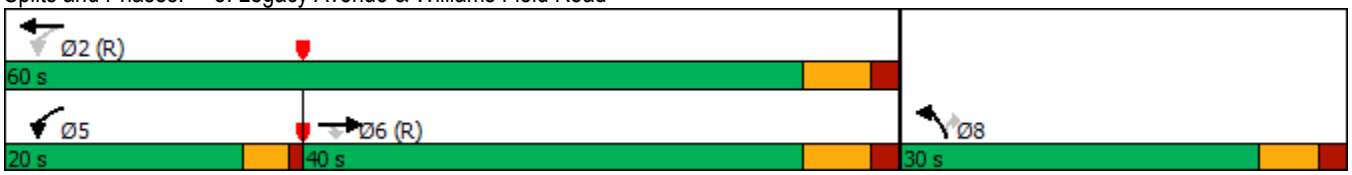
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.86	
Intersection Signal Delay: 13.4	Intersection LOS: B
Intersection Capacity Utilization 63.2%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Volume (vph)	90	73	138	52	61	45
Future Volume (vph)	90	73	138	52	61	45
Turn Type	NA	Perm	pm+pt	NA	Prot	Perm
Protected Phases	6		5	2	8	
Permitted Phases		6	2			8
Detector Phase	6	6	5	2	8	8
Switch Phase						
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0	6.0
Lead/Lag	Lag	Lag	Lead			
Lead-Lag Optimize?	Yes	Yes	Yes			
Recall Mode	C-Max	C-Max	None	C-Max	None	None
Act Effct Green (s)	58.1	58.1	72.8	71.6	10.4	10.4
Actuated g/C Ratio	0.65	0.65	0.81	0.80	0.12	0.12
v/c Ratio	0.08	0.08	0.15	0.04	0.32	0.22
Control Delay	5.1	0.8	2.8	3.2	41.0	13.4
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	5.1	0.8	2.8	3.2	41.0	13.4
LOS	A	A	A	A	D	B
Approach Delay	3.2			2.9	29.2	
Approach LOS	A			A	C	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.32	
Intersection Signal Delay: 9.1	Intersection LOS: A
Intersection Capacity Utilization 33.1%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	1.2

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	120	142	0	321	0	85
Future Vol, veh/h	120	142	0	321	0	85
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	130	154	0	349	0	92

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	207
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	877
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	877
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

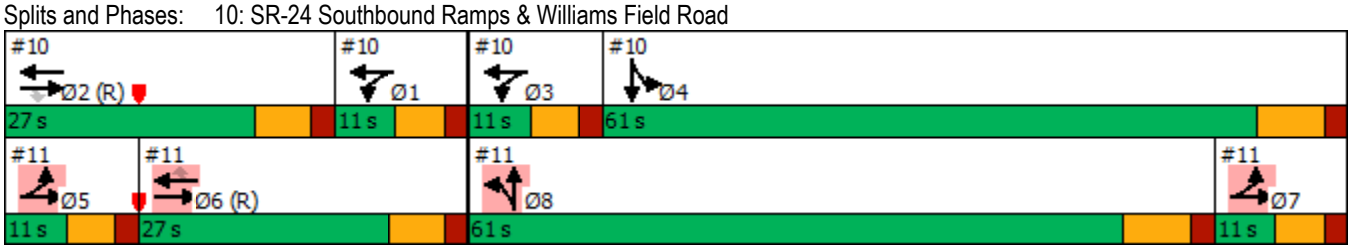
Approach	EB	WB	NB
HCM Control Delay, s	0	0	9.6
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	877	-	-	-
HCM Lane V/C Ratio	0.105	-	-	-
HCM Control Delay (s)	9.6	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	0.4	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	113	7	17	147	266	2419						
Future Volume (vph)	113	7	17	147	266	2419						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	27.0	27.0			61.0	61.0	11.0	11.0	11.0	27.0	11.0	61.0
Total Split (%)	24.5%	24.5%			55.5%	55.5%	10%	10%	10%	25%	10%	55%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	20.5	20.5	16.0	43.0	53.5	53.5						
Actuated g/C Ratio	0.19	0.19	0.15	0.39	0.49	0.49						
v/c Ratio	0.10	0.02	0.04	0.12	0.33	1.81						
Control Delay	37.4	0.0	19.6	9.6	18.8	388.9						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.4	0.0	19.6	9.6	18.8	388.9						
LOS	D	A	B	A	B	F						
Approach Delay	35.1			10.6		358.9						
Approach LOS	D			B		F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.81	
Intersection Signal Delay: 329.2	Intersection LOS: F
Intersection Capacity Utilization 88.7%	ICU Level of Service E
Analysis Period (min) 15	

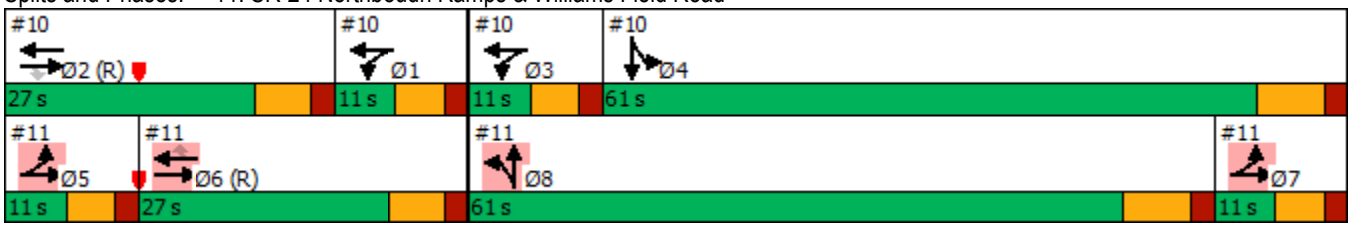
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	58	377	127	270	25	1279						
Future Volume (vph)	58	377	127	270	25	1279						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			27.0	27.0	61.0	61.0	11.0	27.0	11.0	61.0	11.0	11.0
Total Split (%)			24.5%	24.5%	55.5%	55.5%	10%	25%	10%	55%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	18.8	45.8	20.5	20.5	50.7	50.7						
Actuated g/C Ratio	0.17	0.42	0.19	0.19	0.46	0.46						
v/c Ratio	0.11	0.28	0.12	0.60	0.03	0.86						
Control Delay	43.9	19.9	37.5	15.0	15.2	32.4						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	43.9	19.9	37.5	15.0	15.2	32.4						
LOS	D	B	D	B	B	C						
Approach Delay		23.1	22.2			32.1						
Approach LOS		C	C			C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.81	
Intersection Signal Delay: 28.4	Intersection LOS: C
Intersection Capacity Utilization 88.7%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



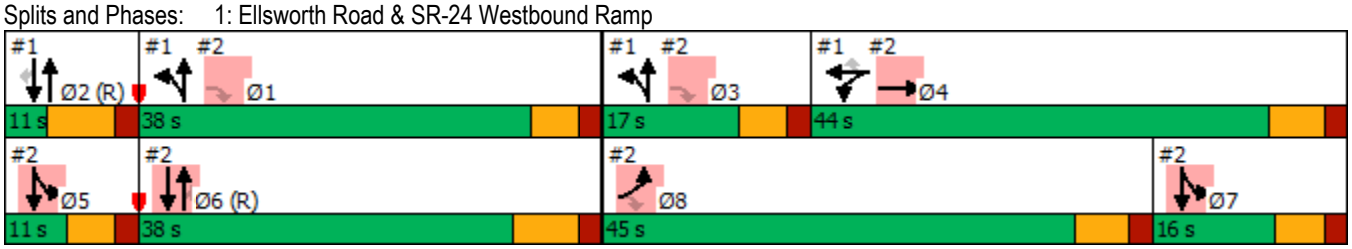
Appendix K – Year 2031 Build Capacity Analysis

K

Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	23	0	144	1453	1211	300	501					
Future Volume (vph)	23	0	144	1453	1211	300	501					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	44.0	44.0	44.0			11.0	11.0	38.0	17.0	11.0	38.0	16.0
Total Split (%)	40.0%	40.0%	40.0%			10.0%	10.0%	35%	15%	10%	35%	15%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	29.1	29.1	29.1	49.0	68.4	11.9	11.9					
Actuated g/C Ratio	0.26	0.26	0.26	0.45	0.62	0.11	0.11					
v/c Ratio	0.05	0.10	0.15	1.03	0.60	0.47	0.69					
Control Delay	33.4	0.2	0.6	39.3	5.8	47.9	9.0					
Queue Delay	0.0	0.0	0.0	0.0	0.3	0.0	0.0					
Total Delay	33.4	0.2	0.6	39.3	6.1	47.9	9.0					
LOS	C	A	A	D	A	D	A					
Approach Delay		4.4			24.2	23.5						
Approach LOS		A			C	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 140	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.08	
Intersection Signal Delay: 23.2	Intersection LOS: C
Intersection Capacity Utilization 84.0%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

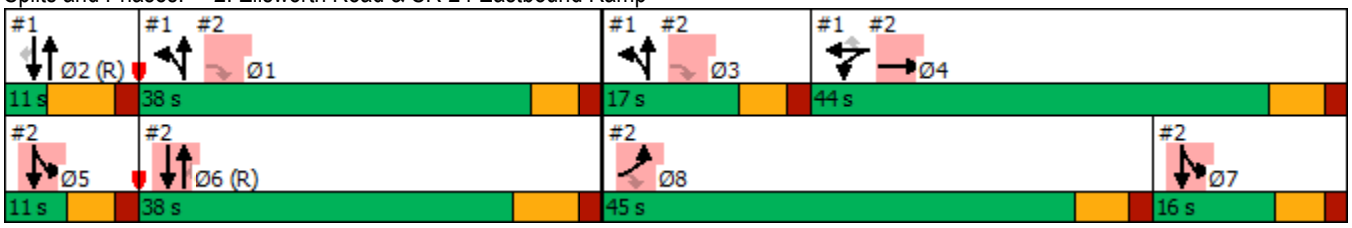


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	386	5	1141	2214	6	54	281					
Future Volume (vph)	386	5	1141	2214	6	54	281					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	45.0	44.0		38.0	38.0			38.0	11.0	17.0	11.0	16.0
Total Split (%)	40.9%	40.0%		34.5%	34.5%			35%	10%	15%	10%	15%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	22.3	22.3	60.8	38.3	38.3	29.3	75.2					
Actuated g/C Ratio	0.20	0.20	0.55	0.35	0.35	0.27	0.68					
v/c Ratio	0.63	0.62	0.63	1.08	0.01	0.06	0.09					
Control Delay	47.5	47.0	4.7	78.6	0.0	74.5	0.8					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	47.5	47.0	4.7	78.6	0.0	74.5	0.8					
LOS	D	D	A	E	A	E	A					
Approach Delay		15.6		78.3			12.7					
Approach LOS		B		E			B					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 140	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.08	
Intersection Signal Delay: 49.4	Intersection LOS: D
Intersection Capacity Utilization 84.0%	ICU Level of Service E
Analysis Period (min) 15	

! Phase conflict between lane groups.

Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Volume (vph)	33	20	65	2201	1305	116
Future Volume (vph)	33	20	65	2201	1305	116
Turn Type	Split	Perm	Prot	NA	NA	Perm
Protected Phases	4		5	2	6	
Permitted Phases		4				6
Detector Phase	4	4	5	2	6	6
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0	5.0	5.0	5.0
Minimum Split (s)	22.5	22.5	9.5	22.5	22.5	22.5
Total Split (s)	34.5	34.5	21.5	55.5	34.0	34.0
Total Split (%)	38.3%	38.3%	23.9%	61.7%	37.8%	37.8%
Yellow Time (s)	3.5	3.5	3.5	3.5	3.5	3.5
All-Red Time (s)	1.0	1.0	1.0	1.0	1.0	1.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	4.5	4.5	4.5	4.5	4.5	4.5
Lead/Lag			Lead		Lag	Lag
Lead-Lag Optimize?			Yes		Yes	Yes
Recall Mode	None	None	None	C-Max	C-Max	C-Max
Act Effct Green (s)	7.4	7.4	9.0	79.6	67.2	67.2
Actuated g/C Ratio	0.08	0.08	0.10	0.88	0.75	0.75
v/c Ratio	0.25	0.04	0.40	0.76	0.37	0.10
Control Delay	42.3	0.1	33.1	14.3	6.4	1.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	42.3	0.1	33.1	14.3	6.4	1.6
LOS	D	A	C	B	A	A
Approach Delay				14.8	6.0	
Approach LOS				B	A	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:NBT and 6:SBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.76	
Intersection Signal Delay: 11.6	Intersection LOS: B
Intersection Capacity Utilization 72.5%	ICU Level of Service C
Analysis Period (min) 15	

Splits and Phases: 3: Ellsworth Road & Tesla Drive

Intersection	
Int Delay, s/veh	0.1

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations		↱		↑↑	↑↑↑	↱
Traffic Vol, veh/h	0	26	0	2265	1254	71
Future Vol, veh/h	0	26	0	2265	1254	71
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	-	0	-	-	-	150
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	28	0	2462	1363	77

Major/Minor	Minor2		Major1		Major2	
Conflicting Flow All	-	682	-	0	-	0
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	7.14	-	-	-	-
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	3.92	-	-	-	-
Pot Cap-1 Maneuver	0	*651	0	-	-	-
Stage 1	0	-	0	-	-	-
Stage 2	0	-	0	-	-	-
Platoon blocked, %		1		-	-	-
Mov Cap-1 Maneuver	-	*651	-	-	-	-
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	10.8	0	0
HCM LOS	B		

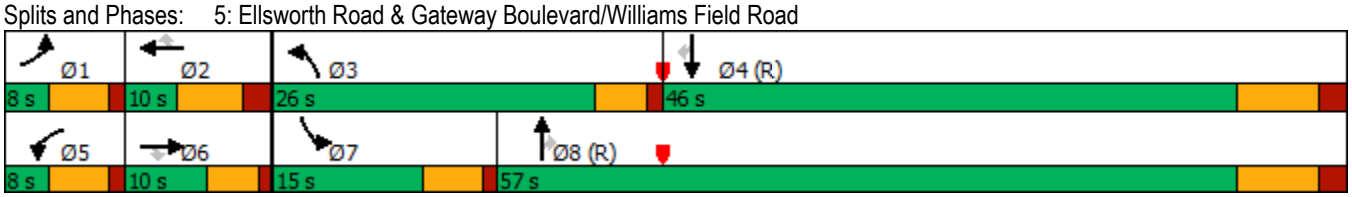
Minor Lane/Major Mvmt	NBT	EBLn1	SBT	SBR
Capacity (veh/h)	-	651	-	-
HCM Lane V/C Ratio	-	0.043	-	-
HCM Control Delay (s)	-	10.8	-	-
HCM Lane LOS	-	B	-	-
HCM 95th %tile Q(veh)	-	0.1	-	-

Notes			
~: Volume exceeds capacity	$: Delay exceeds 300s	+: Computation Not Defined	*: All major volume in platoon

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Traffic Volume (vph)	33	21	12	81	65	29	43	2205	40	49	1130	71
Future Volume (vph)	33	21	12	81	65	29	43	2205	40	49	1130	71
Turn Type	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm
Protected Phases	1	6		5	2		3	8		7	4	
Permitted Phases			6			2			8			4
Detector Phase	1	6	6	5	2	2	3	8	8	7	4	4
Switch Phase												
Minimum Initial (s)	5.0	5.0	5.0	5.0	15.0	15.0	5.0	15.0	15.0	5.0	15.0	15.0
Minimum Split (s)	10.0	22.5	22.5	10.0	24.5	24.5	9.5	25.5	25.5	10.0	25.5	25.5
Total Split (s)	8.0	10.0	10.0	8.0	10.0	10.0	26.0	57.0	57.0	15.0	46.0	46.0
Total Split (%)	8.9%	11.1%	11.1%	8.9%	11.1%	11.1%	28.9%	63.3%	63.3%	16.7%	51.1%	51.1%
Yellow Time (s)	4.0	3.5	3.5	4.0	4.5	4.5	3.5	5.5	5.5	4.0	5.5	5.5
All-Red Time (s)	1.0	1.0	1.0	1.0	2.0	2.0	1.0	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	4.5	4.5	5.0	6.5	6.5	4.5	7.5	7.5	5.0	7.5	7.5
Lead/Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None	None	Max	Max	None	C-Max	C-Max	None	C-Max	C-Max
Act Effct Green (s)	3.0	5.5	5.5	7.0	6.7	6.7	6.7	57.0	57.0	6.8	57.4	57.4
Actuated g/C Ratio	0.03	0.06	0.06	0.08	0.07	0.07	0.07	0.63	0.63	0.08	0.64	0.64
v/c Ratio	0.32	0.11	0.04	0.33	0.27	0.10	0.18	1.07	0.04	0.20	0.38	0.07
Control Delay	49.9	41.1	0.2	46.3	44.7	0.9	34.1	49.4	0.1	38.2	7.4	0.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	49.9	41.1	0.2	46.3	44.7	0.9	34.1	49.4	0.1	38.2	7.4	0.1
LOS	D	D	A	D	D	A	C	D	A	D	A	A
Approach Delay		38.2			38.1			48.3			8.1	
Approach LOS		D			D			D			A	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 150	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.07	
Intersection Signal Delay: 34.4	Intersection LOS: C
Intersection Capacity Utilization 93.0%	ICU Level of Service F
Analysis Period (min) 15	

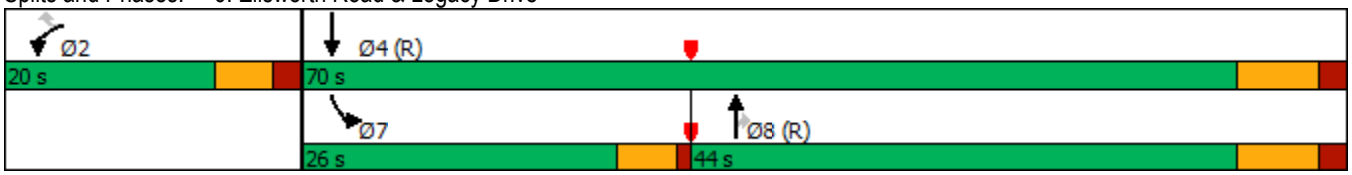
Splits and Phases: 5: Ellsworth Road & Gateway Boulevard/Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	6	2	2284	8	3	1210
Future Volume (vph)	6	2	2284	8	3	1210
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	20.0	20.0	44.0	44.0	26.0	70.0
Total Split (%)	22.2%	22.2%	48.9%	48.9%	28.9%	77.8%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	14.0	14.0	60.3	60.3	5.6	62.5
Actuated g/C Ratio	0.16	0.16	0.67	0.67	0.06	0.69
v/c Ratio	0.01	0.01	1.05	0.01	0.01	0.37
Control Delay	32.3	23.5	31.3	0.2	35.0	9.9
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	32.3	23.5	31.3	0.2	35.0	9.9
LOS	C	C	C	A	C	A
Approach Delay	30.4		31.1			9.9
Approach LOS	C		C			A

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 150	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.05	
Intersection Signal Delay: 23.8	Intersection LOS: C
Intersection Capacity Utilization 82.7%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	130	23	2254	9	1178
Future Volume (vph)	130	23	2254	9	1178
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	18.0	18.0	62.0	10.0	72.0
Total Split (%)	20.0%	20.0%	68.9%	11.1%	80.0%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	11.5	11.5	62.5	6.0	64.5
Actuated g/C Ratio	0.13	0.13	0.69	0.07	0.72
v/c Ratio	0.62	0.11	1.02	0.08	0.35
Control Delay	50.5	15.4	39.5	42.9	1.6
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	50.5	15.4	39.5	42.9	1.6
LOS	D	B	D	D	A
Approach Delay	45.2		39.5		1.9
Approach LOS	D		D		A

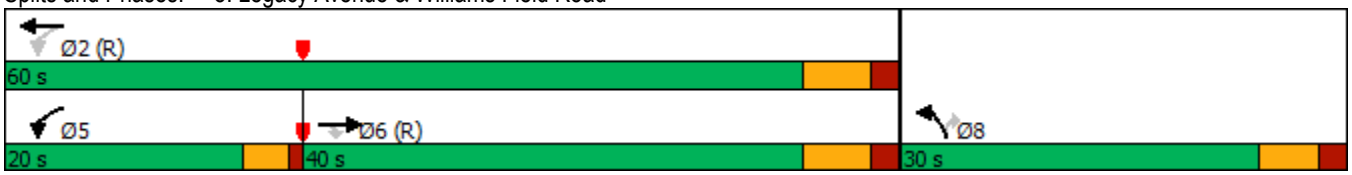
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 150	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.02	
Intersection Signal Delay: 27.5	Intersection LOS: C
Intersection Capacity Utilization 82.8%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL
Lane Configurations					
Traffic Volume (vph)	96	8	17	168	1
Future Volume (vph)	96	8	17	168	1
Turn Type	NA	Perm	pm+pt	NA	Prot
Protected Phases	6		5	2	8
Permitted Phases		6	2		
Detector Phase	6	6	5	2	8
Switch Phase					
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0
Lead/Lag	Lag	Lag	Lead		
Lead-Lag Optimize?	Yes	Yes	Yes		
Recall Mode	C-Max	C-Max	None	C-Max	None
Act Effct Green (s)	79.4	79.4	82.8	85.5	10.0
Actuated g/C Ratio	0.88	0.88	0.92	0.95	0.11
v/c Ratio	0.06	0.01	0.02	0.10	0.01
Control Delay	2.2	1.4	1.2	1.2	36.0
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	2.2	1.4	1.2	1.2	36.0
LOS	A	A	A	A	D
Approach Delay	2.1			1.2	36.0
Approach LOS	A			A	D

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.10	
Intersection Signal Delay: 1.6	Intersection LOS: A
Intersection Capacity Utilization 31.3%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	0

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	100	1	0	185	0	0
Future Vol, veh/h	100	1	0	185	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	109	1	0	201	0	0

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	110
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	1002
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	1002
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

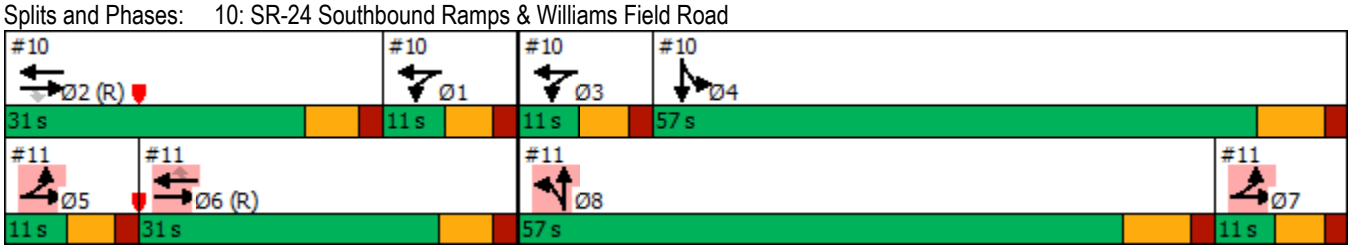
Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-
HCM Control Delay (s)	0	-	-	-
HCM Lane LOS	A	-	-	-
HCM 95th %tile Q(veh)	-	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	69	34	17	168	201	1224						
Future Volume (vph)	69	34	17	168	201	1224						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	31.0	31.0			57.0	57.0	11.0	11.0	11.0	31.0	11.0	57.0
Total Split (%)	28.2%	28.2%			51.8%	51.8%	10%	10%	10%	28%	10%	52%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	24.5	24.5	16.0	47.0	49.5	49.5						
Actuated g/C Ratio	0.22	0.22	0.15	0.43	0.45	0.45						
v/c Ratio	0.05	0.07	0.04	0.12	0.27	0.91						
Control Delay	33.8	0.2	36.2	19.0	20.2	38.0						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	33.8	0.2	36.2	19.0	20.2	38.0						
LOS	C	A	D	B	C	D						
Approach Delay	22.7			20.5		35.8						
Approach LOS	C			C		D						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.54	
Intersection Signal Delay: 33.4	Intersection LOS: C
Intersection Capacity Utilization 121.6%	ICU Level of Service H
Analysis Period (min) 15	

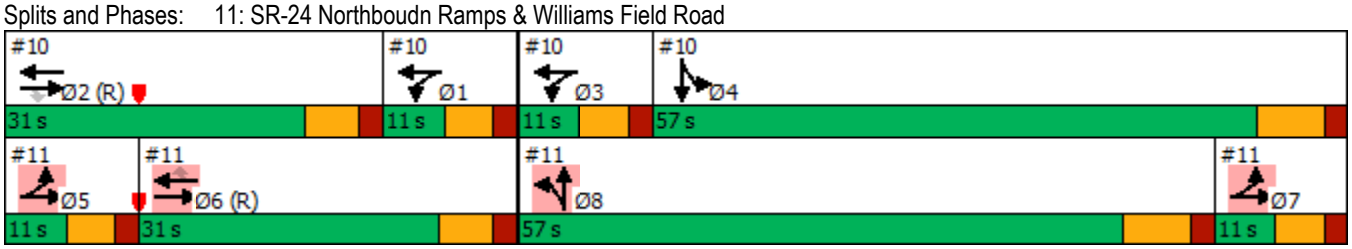
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	28	236	114	622	70	2244						
Future Volume (vph)	28	236	114	622	70	2244						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			31.0	31.0	57.0	57.0	11.0	31.0	11.0	57.0	11.0	11.0
Total Split (%)			28.2%	28.2%	51.8%	51.8%	10%	28%	10%	52%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	16.0	47.0	24.5	24.5	49.5	49.5						
Actuated g/C Ratio	0.15	0.43	0.22	0.22	0.45	0.45						
v/c Ratio	0.06	0.17	0.09	1.26	0.10	1.54						
Control Delay	40.5	19.6	34.1	155.9	17.9	271.3						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	40.5	19.6	34.1	155.9	17.9	271.3						
LOS	D	B	C	F	B	F						
Approach Delay		21.8	137.0			263.7						
Approach LOS		C	F			F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.54	
Intersection Signal Delay: 216.4	Intersection LOS: F
Intersection Capacity Utilization 121.6%	ICU Level of Service H
Analysis Period (min) 15	

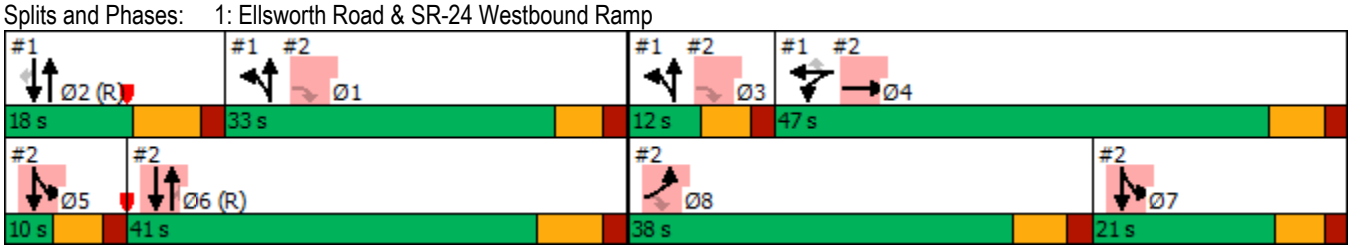
Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



Lane Group	WBL	WBT	WBR	NBL	NBT	SBT	SBR	Ø1	Ø3	Ø5	Ø6	Ø7
Lane Configurations												
Traffic Volume (vph)	11	1	78	1162	1272	375	472					
Future Volume (vph)	11	1	78	1162	1272	375	472					
Turn Type	Split	NA	Perm	Prot	NA	NA	Perm					
Protected Phases	4	4		1 3	1 2 3	2		1	3	5	6	7
Permitted Phases			4				2					
Detector Phase	4	4	4	1 3	1 2 3	2	2					
Switch Phase												
Minimum Initial (s)	10.0	10.0	10.0			15.0	15.0	5.0	5.0	5.0	15.0	5.0
Minimum Split (s)	48.5	48.5	48.5			24.5	24.5	11.0	11.0	11.0	26.5	11.0
Total Split (s)	47.0	47.0	47.0			18.0	18.0	33.0	12.0	10.0	41.0	21.0
Total Split (%)	42.7%	42.7%	42.7%			16.4%	16.4%	30%	11%	9%	37%	19%
Yellow Time (s)	4.5	4.5	4.5			5.5	5.5	4.0	4.0	4.0	5.5	4.0
All-Red Time (s)	2.0	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0			0.0	0.0					
Total Lost Time (s)	6.5	6.5	6.5			7.5	7.5					
Lead/Lag	Lag	Lag	Lag			Lead	Lead	Lag	Lead	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None			C-Max	C-Max	None	None	None	C-Max	None
Act Effct Green (s)	40.5	40.5	40.5	39.0	57.0	10.5	10.5					
Actuated g/C Ratio	0.37	0.37	0.37	0.35	0.52	0.10	0.10					
v/c Ratio	0.02	0.04	0.06	1.04	0.75	0.67	0.70					
Control Delay	22.4	11.5	0.2	53.6	15.2	54.0	10.0					
Queue Delay	0.0	0.0	0.0	0.0	0.4	0.0	0.0					
Total Delay	22.4	11.5	0.2	53.6	15.7	54.0	10.0					
LOS	C	B	A	D	B	D	A					
Approach Delay		7.9			33.8	29.5						
Approach LOS		A			C	C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 120	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.04	
Intersection Signal Delay: 32.0	Intersection LOS: C
Intersection Capacity Utilization 74.7%	ICU Level of Service D
Analysis Period (min) 15	

Splits and Phases: 1: Ellsworth Road & SR-24 Westbound Ramp

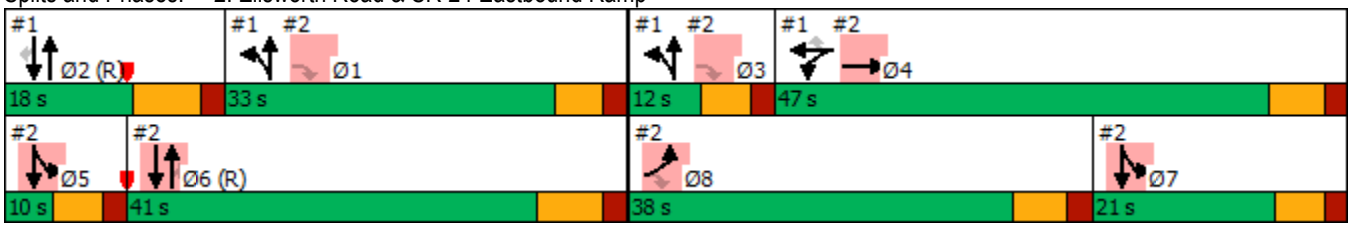


Lane Group	EBL	EBT	EBR	NBT	NBR	SBL	SBT	Ø1	Ø2	Ø3	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	811	37	1265	1627	10	103	279					
Future Volume (vph)	811	37	1265	1627	10	103	279					
Turn Type	Prot	NA	custom	NA	Perm	Prot	NA					
Protected Phases	8	4!		6		5 7!	5 6 7!	1	2	3	5	7
Permitted Phases			1 3 8		6							
Detector Phase	8	4	1 3 8	6	6	5 7	5 6 7					
Switch Phase												
Minimum Initial (s)	10.0	10.0		15.0	15.0			5.0	15.0	5.0	5.0	5.0
Minimum Split (s)	46.5	48.5		26.5	26.5			11.0	24.5	11.0	11.0	11.0
Total Split (s)	38.0	47.0		41.0	41.0			33.0	18.0	12.0	10.0	21.0
Total Split (%)	34.5%	42.7%		37.3%	37.3%			30%	16%	11%	9%	19%
Yellow Time (s)	4.5	4.5		5.5	5.5			4.0	5.5	4.0	4.0	4.0
All-Red Time (s)	2.0	2.0		2.0	2.0			2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0		0.0	0.0							
Total Lost Time (s)	6.5	6.5		7.5	7.5							
Lead/Lag	Lead	Lag		Lag	Lag			Lag	Lead	Lead	Lead	Lag
Lead-Lag Optimize?	Yes	Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None		C-Max	C-Max			None	C-Max	None	None	None
Act Effct Green (s)	31.5	31.5	65.0	33.5	33.5	25.0	66.0					
Actuated g/C Ratio	0.29	0.29	0.59	0.30	0.30	0.23	0.60					
v/c Ratio	0.95	0.96	0.67	0.91	0.02	0.14	0.10					
Control Delay	70.7	71.0	5.1	44.6	0.1	76.3	0.4					
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0					
Total Delay	70.7	71.0	5.1	44.6	0.1	76.3	0.4					
LOS	E	E	A	D	A	E	A					
Approach Delay		31.5		44.3			20.9					
Approach LOS		C		D			C					

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:NBSB and 6:, Start of Green	
Natural Cycle: 120	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.04	
Intersection Signal Delay: 35.6	Intersection LOS: D
Intersection Capacity Utilization 74.7%	ICU Level of Service D
Analysis Period (min) 15	

! Phase conflict between lane groups.

Splits and Phases: 2: Ellsworth Road & SR-24 Eastbound Ramp



Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Volume (vph)	99	59	29	1335	1491	53
Future Volume (vph)	99	59	29	1335	1491	53
Turn Type	Split	Perm	Perm	NA	NA	Perm
Protected Phases	4			2	6	
Permitted Phases		4	2			6
Detector Phase	4	4	2	2	6	6
Switch Phase						
Minimum Initial (s)	5.0	5.0	5.0	5.0	5.0	5.0
Minimum Split (s)	22.5	22.5	22.5	22.5	22.5	22.5
Total Split (s)	26.0	26.0	64.0	64.0	64.0	64.0
Total Split (%)	28.9%	28.9%	71.1%	71.1%	71.1%	71.1%
Yellow Time (s)	3.5	3.5	3.5	3.5	3.5	3.5
All-Red Time (s)	1.0	1.0	1.0	1.0	1.0	1.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	4.5	4.5	4.5	4.5	4.5	4.5
Lead/Lag						
Lead-Lag Optimize?						
Recall Mode	None	None	C-Max	C-Max	C-Max	C-Max
Act Effct Green (s)	10.8	10.8	73.3	73.3	73.3	73.3
Actuated g/C Ratio	0.12	0.12	0.81	0.81	0.81	0.81
v/c Ratio	0.51	0.28	0.16	0.50	0.39	0.04
Control Delay	44.8	20.4	12.9	16.4	3.5	1.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	44.8	20.4	12.9	16.4	3.5	1.0
LOS	D	C	B	B	A	A
Approach Delay				16.4	3.4	
Approach LOS				B	A	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:NBTL and 6:SBT, Start of Green	
Natural Cycle: 60	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.51	
Intersection Signal Delay: 10.8	Intersection LOS: B
Intersection Capacity Utilization 49.9%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 3: Ellsworth Road & Tesla Drive

Intersection	
Int Delay, s/veh	0.3

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Vol, veh/h	0	78	0	1364	1517	32
Future Vol, veh/h	0	78	0	1364	1517	32
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	-	0	-	-	-	150
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	85	0	1483	1649	35

Major/Minor	Minor2		Major1		Major2	
Conflicting Flow All	-	825	-	0	-	0
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	7.14	-	-	-	-
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	3.92	-	-	-	-
Pot Cap-1 Maneuver	0	*556	0	-	-	-
Stage 1	0	-	0	-	-	-
Stage 2	0	-	0	-	-	-
Platoon blocked, %		1		-	-	-
Mov Cap-1 Maneuver	-	*556	-	-	-	-
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	12.6	0	0
HCM LOS	B		

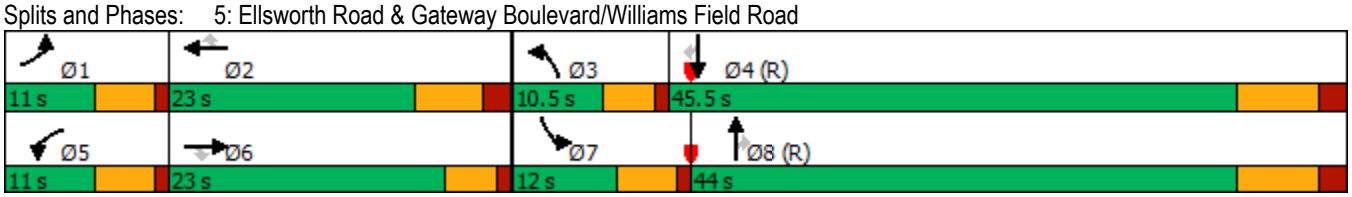
Minor Lane/Major Mvmt	NBT	EBLn1	SBT	SBR
Capacity (veh/h)	-	556	-	-
HCM Lane V/C Ratio	-	0.152	-	-
HCM Control Delay (s)	-	12.6	-	-
HCM Lane LOS	-	B	-	-
HCM 95th %tile Q(veh)	-	0.5	-	-

Notes			
~: Volume exceeds capacity	$: Delay exceeds 300s	+: Computation Not Defined	*: All major volume in platoon

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Traffic Volume (vph)	99	63	35	62	29	64	20	1202	51	178	1166	32
Future Volume (vph)	99	63	35	62	29	64	20	1202	51	178	1166	32
Turn Type	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm	Prot	NA	Perm
Protected Phases	1	6		5	2		3	8		7	4	
Permitted Phases			6			2			8			4
Detector Phase	1	6	6	5	2	2	3	8	8	7	4	4
Switch Phase												
Minimum Initial (s)	5.0	5.0	5.0	5.0	15.0	15.0	5.0	15.0	15.0	5.0	15.0	15.0
Minimum Split (s)	10.0	22.5	22.5	10.0	24.5	24.5	9.5	25.5	25.5	10.0	25.5	25.5
Total Split (s)	11.0	23.0	23.0	11.0	23.0	23.0	10.5	44.0	44.0	12.0	45.5	45.5
Total Split (%)	12.2%	25.6%	25.6%	12.2%	25.6%	25.6%	11.7%	48.9%	48.9%	13.3%	50.6%	50.6%
Yellow Time (s)	4.0	3.5	3.5	4.0	4.5	4.5	3.5	5.5	5.5	4.0	5.5	5.5
All-Red Time (s)	1.0	1.0	1.0	1.0	2.0	2.0	1.0	2.0	2.0	1.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	4.5	4.5	5.0	6.5	6.5	4.5	7.5	7.5	5.0	7.5	7.5
Lead/Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag	Lead	Lag	Lag
Lead-Lag Optimize?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	None	None	None	None	Max	Max	None	C-Max	C-Max	None	C-Max	C-Max
Act Effct Green (s)	6.0	20.7	20.7	5.9	18.7	18.7	5.8	36.5	36.5	7.0	44.3	44.3
Actuated g/C Ratio	0.07	0.23	0.23	0.07	0.21	0.21	0.06	0.41	0.41	0.08	0.49	0.49
v/c Ratio	0.47	0.08	0.08	0.30	0.04	0.15	0.10	0.91	0.07	0.72	0.51	0.04
Control Delay	47.7	29.4	0.3	54.8	26.8	1.6	43.4	28.2	2.2	53.5	21.3	0.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	47.7	29.4	0.3	54.8	26.8	1.6	43.4	28.2	2.2	53.5	21.3	0.6
LOS	D	C	A	D	C	A	D	C	A	D	C	A
Approach Delay		33.5			27.5			27.4			25.0	
Approach LOS		C			C			C			C	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.91	
Intersection Signal Delay: 26.7	Intersection LOS: C
Intersection Capacity Utilization 66.6%	ICU Level of Service C
Analysis Period (min) 15	

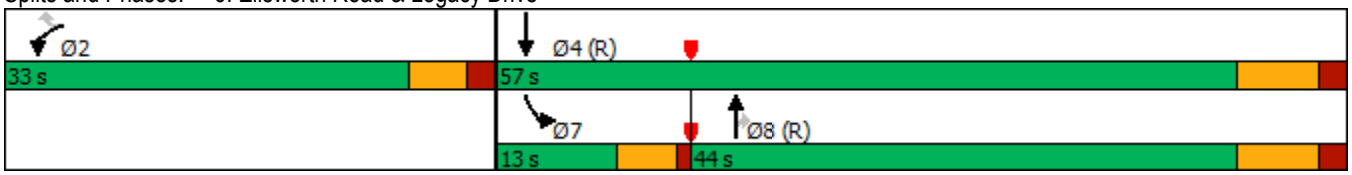
Splits and Phases: 5: Ellsworth Road & Gateway Boulevard/Williams Field Road



Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Traffic Volume (vph)	101	21	1508	220	7	1286
Future Volume (vph)	101	21	1508	220	7	1286
Turn Type	Prot	Perm	NA	Perm	Prot	NA
Protected Phases	2		8		7	4
Permitted Phases		2		8		
Detector Phase	2	2	8	8	7	4
Switch Phase						
Minimum Initial (s)	10.0	10.0	15.0	15.0	5.0	15.0
Minimum Split (s)	35.0	35.0	26.5	26.5	10.0	39.5
Total Split (s)	33.0	33.0	44.0	44.0	13.0	57.0
Total Split (%)	36.7%	36.7%	48.9%	48.9%	14.4%	63.3%
Yellow Time (s)	4.0	4.0	5.5	5.5	4.0	5.5
All-Red Time (s)	2.0	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.0	6.0	7.5	7.5	5.0	7.5
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	Max	Max	C-Max	C-Max	None	C-Max
Act Effct Green (s)	27.0	27.0	47.3	47.3	5.8	49.5
Actuated g/C Ratio	0.30	0.30	0.53	0.53	0.06	0.55
v/c Ratio	0.11	0.05	0.88	0.27	0.04	0.50
Control Delay	22.8	9.9	23.6	5.0	42.3	12.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	22.8	9.9	23.6	5.0	42.3	12.6
LOS	C	A	C	A	D	B
Approach Delay	20.8		21.2			12.8
Approach LOS	C		C			B

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 4:SBT and 8:NBT, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.88	
Intersection Signal Delay: 17.7	Intersection LOS: B
Intersection Capacity Utilization 61.3%	ICU Level of Service B
Analysis Period (min) 15	

Splits and Phases: 6: Ellsworth Road & Legacy Drive



Lane Group	WBL	WBR	NBT	SBL	SBT
Lane Configurations					
Traffic Volume (vph)	78	17	1683	6	1345
Future Volume (vph)	78	17	1683	6	1345
Turn Type	Prot	Perm	NA	Prot	NA
Protected Phases	2		8	7	4
Permitted Phases		2			
Detector Phase	2	2	8	7	4
Switch Phase					
Minimum Initial (s)	5.0	5.0	15.0	8.0	15.0
Minimum Split (s)	24.5	24.5	25.5	12.5	25.5
Total Split (s)	13.0	13.0	64.0	13.0	77.0
Total Split (%)	14.4%	14.4%	71.1%	14.4%	85.6%
Yellow Time (s)	4.5	4.5	5.5	3.0	5.5
All-Red Time (s)	2.0	2.0	2.0	1.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	7.5	4.0	7.5
Lead/Lag			Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	
Recall Mode	C-Max	C-Max	None	None	None
Act Effct Green (s)	18.4	18.4	55.2	8.0	57.6
Actuated g/C Ratio	0.20	0.20	0.61	0.09	0.64
v/c Ratio	0.24	0.05	0.87	0.04	0.45
Control Delay	35.9	16.4	20.1	49.2	6.7
Queue Delay	0.0	0.0	0.0	0.0	0.0
Total Delay	35.9	16.4	20.1	49.2	6.7
LOS	D	B	C	D	A
Approach Delay	32.5		20.1		6.9
Approach LOS	C		C		A

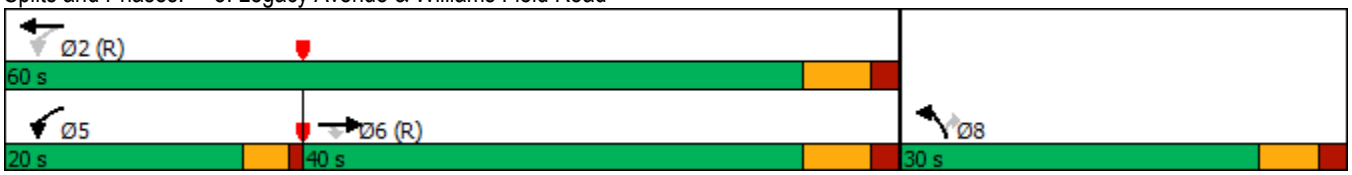
Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBL, Start of Green	
Natural Cycle: 90	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.87	
Intersection Signal Delay: 14.9	Intersection LOS: B
Intersection Capacity Utilization 64.3%	ICU Level of Service C
Analysis Period (min) 15	

Splits and Phases: 7: Ellsworth Road & Pecos Road North

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Volume (vph)	238	73	138	91	61	45
Future Volume (vph)	238	73	138	91	61	45
Turn Type	NA	Perm	pm+pt	NA	Prot	Perm
Protected Phases	6		5	2	8	
Permitted Phases		6	2			8
Detector Phase	6	6	5	2	8	8
Switch Phase						
Minimum Initial (s)	15.0	15.0	8.0	15.0	10.0	10.0
Minimum Split (s)	24.5	24.5	12.5	24.5	24.0	24.0
Total Split (s)	40.0	40.0	20.0	60.0	30.0	30.0
Total Split (%)	44.4%	44.4%	22.2%	66.7%	33.3%	33.3%
Yellow Time (s)	4.5	4.5	3.0	4.5	4.0	4.0
All-Red Time (s)	2.0	2.0	1.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	6.5	6.5	4.0	6.5	6.0	6.0
Lead/Lag	Lag	Lag	Lead			
Lead-Lag Optimize?	Yes	Yes	Yes			
Recall Mode	C-Max	C-Max	None	C-Max	None	None
Act Effct Green (s)	58.1	58.1	72.8	71.6	10.4	10.4
Actuated g/C Ratio	0.65	0.65	0.81	0.80	0.12	0.12
v/c Ratio	0.22	0.08	0.17	0.07	0.32	0.22
Control Delay	3.7	0.1	2.9	3.2	41.0	13.4
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	3.7	0.1	2.9	3.2	41.0	13.4
LOS	A	A	A	A	D	B
Approach Delay	2.8			3.0	29.2	
Approach LOS	A			A	C	

Intersection Summary	
Cycle Length: 90	
Actuated Cycle Length: 90	
Offset: 0 (0%), Referenced to phase 2:WBTL and 6:EBT, Start of Green	
Natural Cycle: 65	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 0.32	
Intersection Signal Delay: 7.2	Intersection LOS: A
Intersection Capacity Utilization 42.3%	ICU Level of Service A
Analysis Period (min) 15	

Splits and Phases: 8: Legacy Avenue & Williams Field Road



Intersection	
Int Delay, s/veh	1

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Traffic Vol, veh/h	268	142	0	360	0	85
Future Vol, veh/h	268	142	0	360	0	85
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	-	0
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	92	92	92	92	92	92
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	291	154	0	391	0	92

Major/Minor	Major1		Major2		Minor1	
Conflicting Flow All	0	0	-	-	-	368
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-
Critical Hdwy	-	-	-	-	-	6.22
Critical Hdwy Stg 1	-	-	-	-	-	-
Critical Hdwy Stg 2	-	-	-	-	-	-
Follow-up Hdwy	-	-	-	-	-	3.318
Pot Cap-1 Maneuver	-	-	0	-	0	775
Stage 1	-	-	0	-	0	-
Stage 2	-	-	0	-	0	-
Platoon blocked, %	-	-		-		1
Mov Cap-1 Maneuver	-	-	-	-	-	775
Mov Cap-2 Maneuver	-	-	-	-	-	-
Stage 1	-	-	-	-	-	-
Stage 2	-	-	-	-	-	-

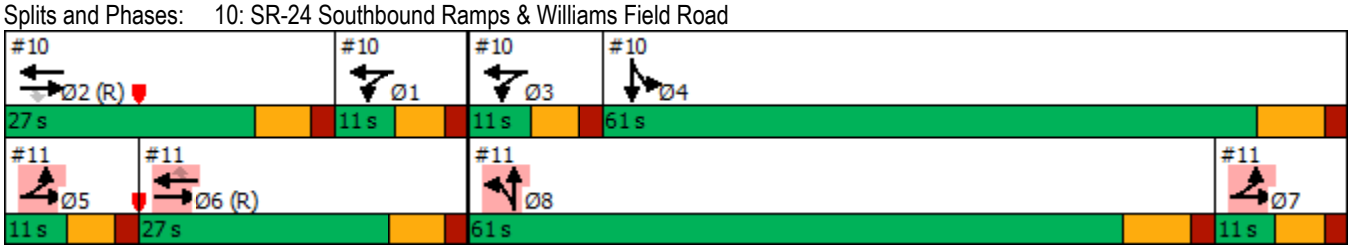
Approach	EB	WB	NB
HCM Control Delay, s	0	0	10.3
HCM LOS			B

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBT
Capacity (veh/h)	775	-	-	-
HCM Lane V/C Ratio	0.119	-	-	-
HCM Control Delay (s)	10.3	-	-	-
HCM Lane LOS	B	-	-	-
HCM 95th %tile Q(veh)	0.4	-	-	-

Lane Group	EBT	EBR	WBL	WBT	SBL	SBT	Ø1	Ø3	Ø5	Ø6	Ø7	Ø8
Lane Configurations												
Traffic Volume (vph)	174	94	17	186	266	2419						
Future Volume (vph)	174	94	17	186	266	2419						
Turn Type	NA	Perm	Prot	NA	Split	NA						
Protected Phases	2		1 3	1 2 3	4	4	1	3	5	6	7	8
Permitted Phases		2										
Detector Phase	2	2	1 3	1 2 3	4	4						
Switch Phase												
Minimum Initial (s)	15.0	15.0			10.0	10.0	5.0	5.0	5.0	15.0	5.0	10.0
Minimum Split (s)	25.5	25.5			46.5	46.5	11.0	11.0	11.0	26.5	11.0	45.5
Total Split (s)	27.0	27.0			61.0	61.0	11.0	11.0	11.0	27.0	11.0	61.0
Total Split (%)	24.5%	24.5%			55.5%	55.5%	10%	10%	10%	25%	10%	55%
Yellow Time (s)	4.5	4.5			5.5	5.5	4.0	4.0	4.0	4.5	4.0	5.5
All-Red Time (s)	2.0	2.0			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0			0.0	0.0						
Total Lost Time (s)	6.5	6.5			7.5	7.5						
Lead/Lag	Lead	Lead			Lag	Lag	Lag	Lead	Lead	Lag	Lag	Lead
Lead-Lag Optimize?	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode	C-Max	C-Max			None	None	None	None	None	C-Max	None	None
Act Effct Green (s)	20.5	20.5	16.0	43.0	53.5	53.5						
Actuated g/C Ratio	0.19	0.19	0.15	0.39	0.49	0.49						
v/c Ratio	0.16	0.21	0.04	0.15	0.33	1.81						
Control Delay	37.9	1.0	27.9	16.1	18.8	388.9						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	37.9	1.0	27.9	16.1	18.8	388.9						
LOS	D	A	C	B	B	F						
Approach Delay	25.0			17.1		358.9						
Approach LOS	C			B		F						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.81	
Intersection Signal Delay: 312.6	Intersection LOS: F
Intersection Capacity Utilization 88.7%	ICU Level of Service E
Analysis Period (min) 15	

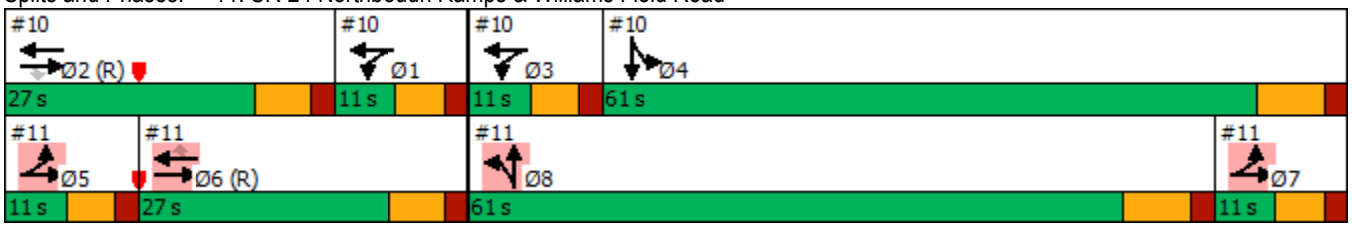
Splits and Phases: 10: SR-24 Southbound Ramps & Williams Field Road



Lane Group	EBL	EBT	WBT	WBR	NBL	NBT	Ø1	Ø2	Ø3	Ø4	Ø5	Ø7
Lane Configurations												
Traffic Volume (vph)	97	399	135	272	56	1287						
Future Volume (vph)	97	399	135	272	56	1287						
Turn Type	Prot	NA	NA	Perm	Split	NA						
Protected Phases	5 7	5 6 7	6		8	8	1	2	3	4	5	7
Permitted Phases				6								
Detector Phase	5 7	5 6 7	6	6	8	8						
Switch Phase												
Minimum Initial (s)			15.0	15.0	10.0	10.0	5.0	15.0	5.0	10.0	5.0	5.0
Minimum Split (s)			26.5	26.5	45.5	45.5	11.0	25.5	11.0	46.5	11.0	11.0
Total Split (s)			27.0	27.0	61.0	61.0	11.0	27.0	11.0	61.0	11.0	11.0
Total Split (%)			24.5%	24.5%	55.5%	55.5%	10%	25%	10%	55%	10%	10%
Yellow Time (s)			4.5	4.5	5.5	5.5	4.0	4.5	4.0	5.5	4.0	4.0
All-Red Time (s)			2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)			0.0	0.0	0.0	0.0						
Total Lost Time (s)			6.5	6.5	7.5	7.5						
Lead/Lag			Lag	Lag	Lead	Lead	Lag	Lead	Lead	Lag	Lead	Lag
Lead-Lag Optimize?			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Recall Mode			C-Max	C-Max	None	None	None	C-Max	None	None	None	None
Act Effct Green (s)	18.5	45.5	20.5	20.5	51.0	51.0						
Actuated g/C Ratio	0.17	0.41	0.19	0.19	0.46	0.46						
v/c Ratio	0.18	0.30	0.12	0.61	0.07	0.86						
Control Delay	50.0	17.5	37.6	15.3	15.8	32.4						
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0						
Total Delay	50.0	17.5	37.6	15.3	15.8	32.4						
LOS	D	B	D	B	B	C						
Approach Delay		23.9	22.7			31.7						
Approach LOS		C	C			C						

Intersection Summary	
Cycle Length: 110	
Actuated Cycle Length: 110	
Offset: 0 (0%), Referenced to phase 2:EBWB and 6:, Start of Green	
Natural Cycle: 145	
Control Type: Actuated-Coordinated	
Maximum v/c Ratio: 1.81	
Intersection Signal Delay: 28.4	Intersection LOS: C
Intersection Capacity Utilization 88.7%	ICU Level of Service E
Analysis Period (min) 15	

Splits and Phases: 11: SR-24 Northboudn Ramps & Williams Field Road



Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: May 2023 Financials
Date: July 18, 2023

Attached is the monthly Financials Report for May 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
May, 2023

	Month of May 2023				Y-T-D as of May 2023			
	May FY22 Actual	May FY23 Actual	YOY Variance	B/(W)	YTD FY22 Actual	YTD FY23 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	31,687	23,519	(8,168)	-26%	225,935	269,085	43,150	19%
Fuel Flowage Fees	74,710	40,541	(34,169)	-46%	635,588	594,893	(40,695)	-6%
Landing Fees	139,306	106,264	(33,042)	-24%	1,404,831	1,315,517	(89,314)	-6%
Lease Income Aero	251,074	303,128	52,054	21%	3,021,782	2,951,514	(70,268)	-2%
Fuel Sales	719,994	499,640	(220,354)	-31%	5,660,935	7,002,434	1,341,499	24%
Services Sold - Aero	564,346	365,071	(199,275)	-35%	4,959,304	5,197,418	238,114	5%
Sub-total Aero Operating Revenues	1,781,117	1,338,163	(442,954)	-25%	15,908,375	17,330,861	1,422,486	9%
Non-Aeronautical Operating Revenues								
Concessions	108,357	121,745	13,388	12%	1,110,155	1,359,991	249,836	23%
Lease Income Non-Aero	117,108	97,318	(19,790)	-17%	1,314,705	1,221,734	(92,971)	-7%
Parking	334,599	365,099	30,500	9%	3,724,459	4,180,253	455,794	12%
Rental Car Fees	271,220	219,912	(51,308)	-19%	2,250,463	2,896,670	646,207	29%
Svcs Sold - Non Aero	2,437	2,250	(187)	-8%	161,841	169,895	8,054	5%
Sub-total Non-Aero Operating Revenues	833,721	806,324	(27,397)	-3%	8,561,623	9,828,543	1,266,920	15%
Total Operating Revenues	**2,614,838**	**2,144,487**	**(470,351)**	**-18%**	**24,469,998**	**27,159,404**	**2,689,406**	**11%**
Operating Expenses								
Cost of Goods Sold	529,703	292,549	237,154	45%	3,908,777	4,793,163	(884,386)	-23%
Personnel	816,880	926,369	(109,489)	-13%	8,594,672	9,266,812	(672,140)	-8%
Comm & Utilities	82,923	92,042	(9,119)	-11%	781,300	850,077	(68,777)	-9%
Contractual Services	427,413	551,374	(123,961)	-29%	4,871,224	5,685,167	(813,943)	-17%
Insurance	46,437	44,691	1,746	4%	523,086	597,560	(74,474)	-14%
Other	19,272	23,752	(4,480)	-23%	378,734	277,408	101,326	27%
Repair & Maintenance	57,959	123,979	(66,020)	-114%	638,500	887,048	(248,548)	-39%
Supplies & Materials	56,663	87,890	(31,227)	-55%	881,505	843,971	37,534	4%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,622,382]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**2,037,250**	**2,142,646**	**(105,396)**	-5%	**20,577,798**	**23,201,206**	**(2,623,406)**	-13%
Operating Income (Loss) Before Depreciation	**577,588**	**1,841**	**(575,747)**	-99.7%	**3,892,200**	**3,958,198**	**65,998**	2%
	22.1%	0.1%			15.9%	14.6%		
Depreciation		1,206,037				15,261,249		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Bob Draper, Engineering and Facilities Director**
Through: **Chuck Odom, Chief Financial Officer**
J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: **Aircraft Ground Power Units and Pre-Conditioned Air Units – CIP 1240**
Date: **July 18, 2023**

On March 21, 2023, the Board approved the purchase of four (4) Aircraft Ground Power Units and four (4) Pre-Conditioned Air Units from ITW GSE, Inc. (ITW), resolution #23-08, in the amount of $617,852. Due to an error in ITW's calculation of taxes, the Airport was required to pay an additional $3,905.41 in Arizona state taxes. The revised total purchase price, including all taxes is $621,756.90

The total budget for this project is $700,000.

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Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **July 18, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	September 2023
Request for Proposals	2023-020-RFP	ATM Services	September 2023
Request for Proposals	2023-021-RFP	Airport Vending Concessions	September 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage Improvements	July 2023	October 2023
Request for Proposals	2024-002-RFP	Car Rental Concession	July 2023	November 2023
Invitation for Bid	2024-003-IFB	RWY Edge Lights Replacements	July 2023	September 2023

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $41,994.00

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

NOTICE OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

NO BOARD MEETING IN AUGUST

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, September 19, 2023 beginning at 9:00 a.m**. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by telephone. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney or any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, September 19, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Chip Wilson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Chip Wilson, Chair)

3. **Pledge of Allegiance**

4. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

5. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

6. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **July 18, 2023**.

   b) **Resolution No. 23-45 –** Authorizing an Automated Teller Machine (ATM) Services Terminal Concession Lease Agreement with **BaumTech, LLC (BaumTech)** for ATM services at two (2) Airport Terminal Locations which include Baggage Claim and Gate 5. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option.

   c) **Resolution No. 23-46 –** Authorizing a Vending Services Terminal Concession Lease Agreement with **Compass Group USA, Inc**., by and through its Canteen Division (Compass) for vending services located within Airport facilities that include the Charles L. Williams Passenger Terminal, Airport Administration Building, Gateway Aviation Services, and the Facilities Maintenance Building. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option.

   d) **Resolution No. 23-47 –** Authorizing the purchase of two vehicles from **San Tan Auto Partners, LLC, dba San Tan Ford (San Tan Ford)**, in an amount not to exceed $52,827.69.

e) **Resolution No. 23-48 –** Authorizing the procurement of Video Management Software (VMS) and licensing from **Convergint Technologies (Convergint)** in an amount not to exceed $79,020.01.

f) **Resolution No. 23-49 –** Authorizing the purchase of two Americans with Disabilities Act (ADA) Passenger Boarding Ramps from **Timberline GSE, Inc. (Timberline)** in an amount not to exceed $181,838.90.

g) **Resolution No. 23-50 –** Authorizing a Contract with **Jim Brown & Sons Roofing Co., Inc. dba JBS Roofing (JBS Roofing)** for Roofing Repair Services for PMGAA facilities, in an amount not to exceed $75,000 under CIP1269.

Consideration and Possible Approval of:

7. **Resolution No. 23-51 –** Authorizing (i) the recording of the Declaration of Covenants, Conditions and Restrictions for Gateway East ("CC&Rs"); (ii) the Development Lease with **Boyer Gateway East Mesa Building 1, L.C.** for 16.95 acres located within the Gateway East master development project and identified as Lot 210. The lease term is SIXTY-FIVE (65) years commencing on October 1, 2023; and (iii) the First Adjustment Amendment to the Master Lease with **Boyer Gateway East, L.C**.

8. **Board Member Comments/Announcements**

9. **Next Meeting: Tuesday, October 17, 2023 at 9:00 a.m.**

10. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- **Gateway Tomorrow Study Advisory Committee Considers Two Terminal Alternatives**
- **Sun Country Airlines' Nonstop Service to Minneapolis Returning in October**
- **Covered Parking is Very Popular this Record-Breaking Summer**
- **DSV Air & Sea Starts Scheduled International Air Cargo Service**
- **Terminal's New Enclosed Pedestrian Walkway Under Construction**
- **Construction of New 5-Gate, 30,000 Sq. Ft. Terminal Addition Progressing**

Executive Director's Report

September 2023

Private Development at Phoenix-Mesa Gateway Airport Creating Jobs and Regional Economic Sustainability

One Million Square Feet Currently Under Construction at the Airport

By Apache Junction Mayor Chip Wilson
Chairman, Phoenix-Mesa Gateway Airport Authority

Gulfstream Aerospace

Virgin Galactic

SkyBridge Arizona

As this year's Chairman of the Phoenix-Mesa Gateway Airport Authority (PMGAA) Board of Directors, I am proud to represent the six member communities – Apache Junction, Mesa, Gilbert, Gila River Indian Community, Queen Creek, and Phoenix - that own and operate Phoenix-Mesa Gateway Airport (Airport, Gateway Airport). I've always been so impressed by the shared vision and regional spirit of cooperation that guides the development and improvement of Gateway Airport.

One area of the Airport's operation that has really taken off (yes, pun intended) in the past several years is the private investment of both aeronautical and non-aeronautical companies. Gateway Airport is home to approximately 50 companies and currently has more than one million square feet of construction underway. Take a drive around the Airport and see the transformation that is occurring. It's amazing! Having served in the U.S. Air Force at the former Williams Air Force Base, it is so gratifying to see my former base transformed into the tremendous economic engine we see today.

SkyBridge Arizona is a 360-acre mixed-use master development opportunity located at the south end of the airfield. Master developer Mesa SkyBridge, LLC, a consortium of Mexican and U.S. companies, is investing approximately $70MM - $80MM on infrastructure - a taxi lane extension, roadways, and utilities - to prepare the site for development. Projects completed or under construction include: three industrial buildings totaling over 550,000 sq. ft., an 82,500 sq. ft. hangar, a 129-room dual-brand hotel, an educational facility and teaching restaurant, and a cross flow testing facility.

Gulfstream Aerospace Corporation is currently constructing a 225,000 sq. ft. hangar and office complex to serve as a west coast service center. Gulfstream plans to hire hundreds of local employees and has plans for additional expansion of services in the future.

The Gateway Executive Airpark, a multi-hangar development located at the north end of the airfield between Cessna and Embraer, is home to both The Boeing Company and Virgin Galactic. Boeing, a global aerospace industry leader with a long and successful history in Mesa, uses their Gateway Airport facility for final preparation of Apache helicopters prior to transport to customers worldwide. Virgin Galactic, a space tourism company, is constructing two large hangars, one to house the "mothership" and one as a spaceship

manufacturing facility. Virgin Galactic plans to manufacture up to six spaceships each year at their Gateway Airport facility. The mothership will transport the spaceships to New Mexico for launch activities.

Gateway East is a 273-acre, non-aeronautical master development opportunity located on the east side of Gateway Airport. The Boyer Company, headquartered in Salt Lake City, UT, plans to create a first-class Airport Business Park offering a unique mix of high-quality office, manufacturing, industrial, and commercial retail tenants. Their first tenant is a 275,000 sq. ft. manufacturing facility. Many thanks to the City of Mesa (City) for their continued support of Gateway Airport and the region. The City is currently completing several important infrastructure projects – a bridge, roadways, and utilities – costing tens of millions of dollars to unlock the site for development.

The private investment currently underway at Gateway Airport represents thousands of high-wage jobs and the contribution of hundreds of millions of dollars to the Phoenix East Valley economy. I am proud to serve as Chairman of PMGAA during this exciting period of transformation. I appreciate the opportunity to play a leadership role this year and thank the other members of the PMGAA Board of Directors for giving me this honor.

Financial Snapshot

OPERATING INCOME	July		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY23	FY24	
Revenues	$2,292,480	$2,705,621	**$413,141**	$2,292,480	$2,705,621	**$413,141**
Less Expenses	$1,863,969	$1,925,260	**$61,291**	$1,863,969	$1,925,260	**$61,291**
Operating Income *(Before Depreciation)*	**$428,511**	**$780,361**	**$351,850**	**$428,511**	**$780,361**	**$351,850**

Investment Fund Balances: As of July, the Local Governmental Investment Pool (LGIP) 700 = $6,170,782; Wells Fargo; Collateralized Money Market = $12,886,103 and Brokered CD's = $35,698,337; Total $54,755,222. PMGAA invests in fixed rate instruments.

Finance and Accounting

PMGAA reported a net operating income of $780,361 for July 2023, exceeding July 2022 results by $351,850. July was a good month financially! Aeronautical revenues increased by 19% compared to last July. The significant increase was partially due to $431,975 in U.S. Forest Service-Mesa Base activity. July non-aeronautical revenues had a 16% increase, $128,943 more than July 2022. July 2023 was the best vehicle parking month in the history of Gateway Airport, with $596,137 in total revenue.

Operating expenditures for July increased by $61,291, or 3% above last July. The increase was attributed to increases in personnel cost (11%) and contractual services (19%).

Total operating expenditures are 12% under the FY24 budget.

In March, the PMGAA Board of Directors approved a combined FY24 PMGAA Operating and Capital Budget of $128,388,095. PMGAA staff is currently working through its FY25 budget process.

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	September 2023
Request for Proposals	2023-020-RFP	ATM Services	September 2023
Request for Proposals	2023-021-RFP	Vending Services	September 2023
Invitation for Bid	204-004-IFB	Passenger Boarding Ramps	September 2023
Request for Qualifications	2024-002-RFP	Car Rental Concessions	November 2023
Request for Qualifications	2024-007-RFP	Airport Entry Monument Design Services	November 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	September 2023
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	September 2023
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Buildings	October 2023
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage System Improvements	October 2023

Airport Operations

Covered Parking is Very Popular this Record-Breaking Summer

You know what they say, "all the cool cars hang out in covered parking!" Well, Gateway Airport has experienced a lot of "cool cars" this summer as a record number of air travelers have chosen to use the covered parking section of the Ray Road Economy Parking Lot. In July, PMGAA's Engineering, Planning, and Facilities Department reported a 40-degree temperature differential between covered and uncovered parking…40-degrees!

Covered Parking at Gateway Airport

If you're travelling out of Gateway Airport for a much-needed summer getaway, you may want to consider using one of the Airport's 200 covered parking spaces in the Ray Road Economy Parking Lot. At only $11.00/day, it's worth it!

DSV Air & Sea Starts Scheduled International Air Cargo Service

A DSV B-747 Arrives at Gateway Airport from Europe

Gateway Airport has landed its first scheduled international air cargo operator. DSV Air & Sea, a global transport and logistics leader, began scheduled weekly service between the Airport and Europe in August using Boeing 747 equipment. The company hopes to add weekly service from Asia this fall.

DSV is leasing a 22,000 sq. ft. hangar on the south end of the Airport to help facilitate air cargo transport services for the semiconductor industry, electric car manufacturers, mining operations, alternative energy companies, and others.

Sun Country Airlines' Nonstop Service to Minneapolis Returns in October

Welcome back Sun Country!

Sun Country Headed Back to Gateway Airport in October

The popular Midwest-based low-cost airline is returning to Gateway Airport in October for a third season of high-quality, low-fare nonstop service to its hub in Minneapolis. There's a lot of connectivity between greater Phoenix and the Midwest section of the country. Many Valley residents are transplants from Minnesota, Wisconsin, Michigan, and Illinois. Friends and family back home are frequent visitors to Arizona during the long winter months. For more information about Sun Country's Gateway Airport schedule, please visit www.suncountry.com.

PASSENGER COUNTS		July		% Change	FYTD		% Change
		2022	2023		FY23	FY24	
Passengers	TOTAL	150,658	148,405	-1%	150,658	148,405	-1%
	Deplaned	76,174	74,820	-2%	76,174	74,820	-2%
	Enplaned	74,484	73,585	-1%	74,484	73,585	-1%
Allegiant	Scheduled	150,658	148,405	-1%	150,658	148,405	-1%
Swoop	Scheduled	0	0	0%	0	0	0%
Sun Country	Scheduled	0	0	0%	0	0	0%
WestJet	Scheduled	0	0	0%	0	0	0%
Flair	Scheduled	0	0	0%	0	0	0%
Swift	Charter	0	0	0%	0	0	0%

OPERATIONS	July		% Change	FYTD		% Change
	2022	2023		FY23	FY24	
Air Carrier	1,001	851	-15%	1,001	851	-15%
Military	218	186	-15%	218	186	-15%
General Aviation	19,739	15,781	-20%	19,739	15,781	-20%
TOTAL	**20,958**	**16,818**	**-20%**	**20,958**	**16,818**	**-20%**

Engineering and Planning

Terminal's New Enclosed Pedestrian Walkway Under Construction

Interior Rendering of Enclosed Pedestrian Walkway

Exterior Rendering of Enclosed Pedestrian Walkway

PMGAA is always looking to improve the customer experience at Gateway Airport. Whether it's covered parking, additional food, beverage, and retail concessions, or increasing the number of charging stations, continuous improvement is the goal. A new construction project just getting underway will create an enclosed pedestrian walkway connecting the Ticketing Terminal to the TSA Security Screening Checkpoint. No longer will customers need to brave the elements transiting to their gate.

PMGAA is using approximately $4MM in Bipartisan Infrastructure Law (BIL) Airport Improvement Grant (AIG) funding to construct a 3,000 sq. ft. temperature-controlled structure joining the two buildings.

Construction of New 5-Gate, 30,000 Sq. Ft. Terminal Addition Progressing

Gone is the 4-Gate, 10,000 sq. ft. substandard portable structure that served the Airport for 15 years. In its place, a modern, 5-Gate, 30,000 sq. ft. terminal addition with world-class amenities is being constructed. The new facility, Gateway Airport's South Concourse, is scheduled to be open in February 2024.

The new, standard sized gates and associated hold rooms will allow airlines serving the Airport to efficiently operate 11 arrivals or departures simultaneously. That's a significant increase in utilization of Gateway Airport's airside facilities.

Construction Inside New Terminal Addition

Community Noise Report

CALLERS	July		FYTD	
	2022	2023	FY23	FY24
Total	10	10	10	10

AIRCRAFT TYPE	July		FYTD	
	2022	2023	FY23	FY24
	Callers	Callers	Callers	Callers
Commercial	8	9	8	9
GA Total	1	1	1	1
Helicopter	0	0	0	0
Military	1	0	1	0
Total	10	10	10	10

LOCATION	July		FYTD	
	2022	2023	FY22	FY23
Mesa	5	2	5	2
Gilbert	4	3	4	3
Gold Canyon	0	0	0	0
Queen Creek	1	4	1	4
Queen Valley	0	1	0	1
Apache Junction	0	0	0	0
Fountain Hills	0	0	0	0
TOTAL	10	10	10	10

PMGAA received communications from 10 individuals regarding aircraft noise issues during the month of July 2023, compared to 10 received last July. This time of year, when the temperature increases, noise calls tend to decrease because area residents keep windows closed and the air conditioning on.

Gateway Aviation Services

GAS Team Member Fueling a Corporate Customer

PMGAA pumped more than 1.50MM gallons of aviation fuel during the month of July 2023, a 14% increase compared to the 1.32MM gallons dispensed last July. Retail Jet A was up 16%, Contract Fuel up 59% and Commercial Fuel up 1% over last year.

The rockstar crew at Gateway Aviation Services (GAS) endured record temperatures all summer to provide exceptional service to the Airport's general aviation, corporate, military, and commercial customers. Working out on the ramp when it's 115+ degrees is extremely challenging and strenuous. PMGAA would like to thank the GAS Team for their hard work and sacrifice this summer. THANK YOU!

FUEL (Gallons)	July			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	33,699	26,561	-21%	33,699	26,561	-21%
Retail Jet A	39,548	45,839	16%	39,548	45,839	16%
Contract	302,814	481,209	59%	302,814	481,209	59%
Commercial	944,741	955,597	1%	944,741	955,597	1%
TOTAL	1,320,802	1,509,206	14%	1,320,802	1,509,206	14%

PMGAA Team Member Spotlight

Employee Name: **Matthew McClung**
Employee Title: **Economic Development & Real Estate Project Specialist**
PMGAA Department: **Business Development**
Years with PMGAA: **12+**

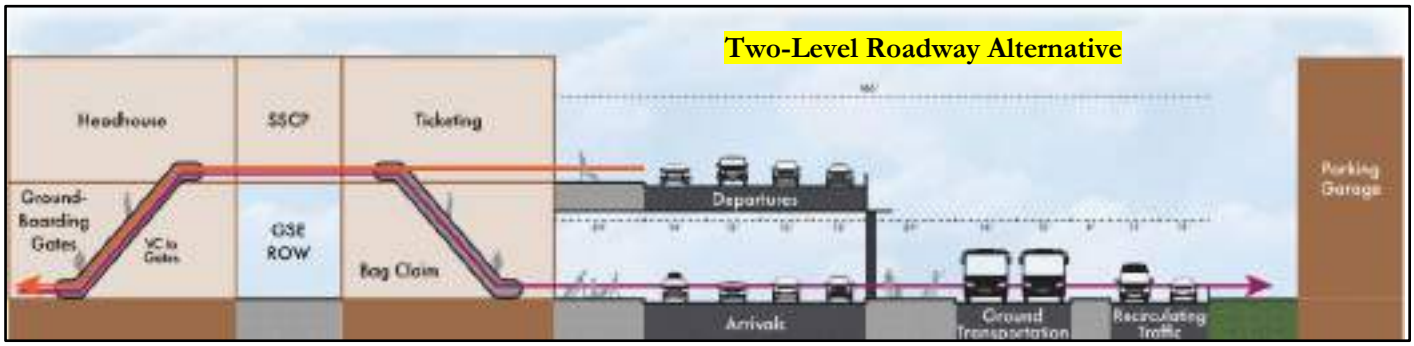
What are your job responsibilities for PMGAA? My role in the Business Development Department at PMGAA is truly exciting. I'm part of a team that creates and manages numerous business opportunities, strengthening the local economy, and increases Airport revenue. My job responsibilities cover a wide range, from overseeing vending concessions and ground transportation licensing to negotiating facility leases and advocating for our tenants. Looking ahead, my department will be working alongside our master developer partners, SkyBridge Arizona and The Boyer Company, to attract diverse businesses that will fuel PMGAA's remarkable growth and enhance the Airport's positive impact on the local economy.

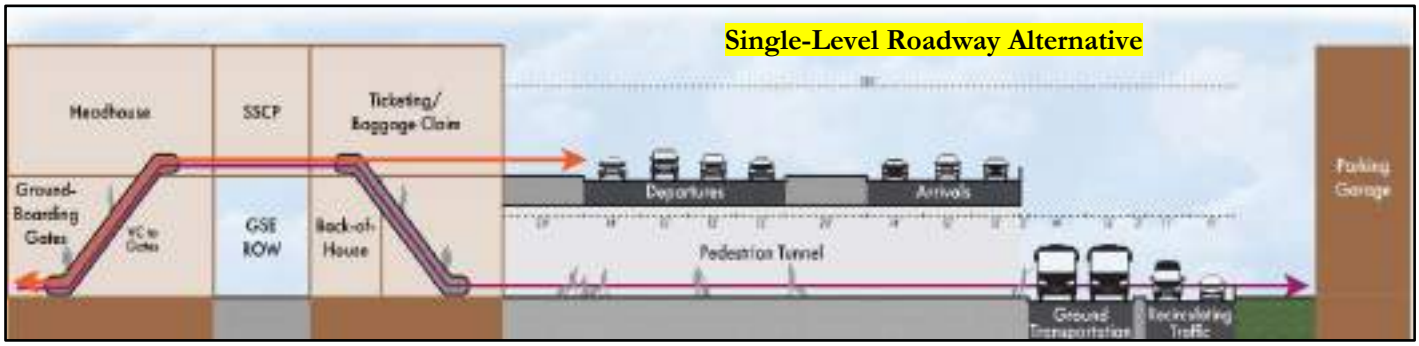
What is your most memorable Gateway Airport moment? My most memorable moment at Gateway Airport was the surprise baby shower thrown for my wife Pamela and I in celebration of our daughter Emma. Having met each other at the Airport and starting a life together, it was an amazing experience seeing all our friends and co-workers come together to celebrate with us.

What is something people may not know about you? I enjoy classic Westerns.

Community and Government Relations

Gateway Tomorrow Study Advisory Committee Considers Two Terminal Alternatives





MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | July 18, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) was convened on Tuesday, July 18, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community*
Vice Mayor Jeff Brown, Queen Creek
Mayor John Giles, Mesa
Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix *(via audioconference from 9:01a.m. until 9:08 a.m.)*

** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney
Tony Bianchi, Planning Project Manager

1. **Call to Order** at 9:00 a.m. (Mayor Wilson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   Prior to the start of this morning's Board meeting, Councilmember Scott Somers submitted to the Clerk of the Board a public comment card to speak on agenda item #8 in support of the appointment of The Boyer Company as the master developer of the Gateway East project.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - Fiscal Year-to-Date (FYTD) Net Operating Income is $3,958,198.
   - Gateway Airport reported record-setting passenger activity in FY23 with 1,917,911 total passengers using the Airport during the 12-month period. The Airport welcomed 132,535 commercial passengers during May 2023.
   - Allegiant Air has announced Portland, Oregon as a new nonstop destination from Gateway Airport. Service will begin in November 2023.
   - DSV Air and Sea is a global transport and logistics company. The start of DSV's B-747 scheduled international cargo service has been delayed due to supply chain issues. Instead of beginning at the end of June, the service will begin in August with weekly service arriving from Europe and/or Asia.
   - Progress continues with concrete flooring being poured for SkyBridge Arizona's construction of two 250,000 sq. ft. industrial buildings. These two large buildings are being built to accommodate

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both single and multiple tenants. Once financing is secured, SkyBridge Arizona hopes to begin construction of the 129-room dual-brand hotel along Sossaman Road. Northern Arizona University (NAU), in partnership with Kind Hospitality and SkyBridge, is building two two-story facilities next to the hotel. The first floor of one building will be a sit-down, high-quality restaurant and the second floor and second building will be NAU's hospitality program.

- Progress on Phase I of Gulfstream's new 225,000 sq. ft. West Coast Service Center continues. Gulfstream is working towards a completion date in the beginning of 2024. While the West Coast Service Center is being constructed, Gulfstream has established a base at the Airport and is now leasing over 100,000 sq. ft. of hangar space. The industry leading company has already hired over 100 local employees.
- Virgin Galactic is leasing two hangars in the Gateway Executive Airpark. Virgin Galactic intends to house "the mothership" in the taller, 36,000 sq. ft. hangar and to use the 125,000 sq. ft. hangar as a manufacturing facility to assemble up to six spaceships each year. The spaceships will be transported to New Mexico by the mothership for their launch activities. Completion of these two hangars is anticipated for Q2 2024.
- Boeing is leasing one half of Hangar A in the Gateway Executive Airpark. Tenant improvement work is being completed and the facility will become operational this fall.
- Progress continues for Gateway Airport's 5-gate, 30,000 sq. ft. commercial passenger terminal addition. The concrete block walls and steel beams have been erected and the roof is partially installed. The project is expected to be complete in January 2024 with operations beginning mid-February. On Thursday, July 20 the final steel beam of the structure will be placed.
- Construction has begun for the enclosed pedestrian walkway connecting the ticketing terminal and the security screening checkpoint. This customer service enhancement project will increase the queuing area for the security screening checkpoint and will keep passengers in a climate-controlled environment from ticketing through security screening. This project is anticipated to be complete before the busy travel period begins in February/March 2024.
- Due to increasing passenger activity at PMGAA, a new TSA In-Line Checked Baggage System (BHS) is being designed to improve efficiency and speed up baggage processing. Much of this project will be funded through a TSA grant.
- Improvements to the Rental Car Care Facility are underway. The project includes new vehicle wash and vacuum bays, upgraded maintenance facilities, additional vehicle queuing/storage, and new operations offices. PMGAA, in conjunction with all its rental car companies, is investing between $9 - $10MM to make the improvements. The funding for the project comes from the Airport's dedicated Customer Facility Charge (CFC) account.
- The Authority has purchased three new 50,000-gallon Jet-A fuel storage tanks that will be delivered in September. This additional fuel storage capacity will provide the Airport with approximately seven days of on-Airport fuel storage. This project began in June and is scheduled to be completed by the end of the year. PMGAA is actively evaluating options to ensure an adequate supply of Jet-A in the future.
- The Airport and the FAA are working on funding for the first phase of the inside runway, Runway 30L/12R reconstruction project.

6. **Gateway Tomorrow Presentation** – Tony Bianchi, Planning Project Manager

Gateway Tomorrow is a planning initiative designed to reset and refine the vision for a future commercial passenger terminal campus on the east side of the Airport. The goal of this project is to develop a vision

that will provide guidance to PMGAA and its stakeholders in the future decision-making process for the relocation of the passenger terminal and support facilities from the west side of the Airport to the east side.

Mr. Bianchi presented the preferred concept and site plan showing Phase 1 and future phase expansions. The consultant team, the Study Advisory Committee, and PMGAA staff have selected a hybrid terminal concept that gives Gateway Airport the flexibility to add either jet bridge gates or ground-loading gates as passenger demand grows in the future.

The next steps will be to continue work on site plan alternatives, hold the second Study Advisory Committee meeting in August, and begin the financial analysis of the preferred conceptual plan.

7. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **June 20, 2023**.

   b) **Resolution No. 23-39 –** Authorizing paving services with **Sunland Asphalt of Arizona, Inc. (Sunland)** for the Taxiway Circle Access Reconstruction Project in an amount not to exceed $463,155.28 under CIP 982.

   c) **Resolution No. 23-40 –** Authorizing the purchase of airfield asphalt repair services with **Sunland Asphalt of Arizona, Inc. (Sunland)** for an amount not to exceed $175,000.

   d) **Resolution No. 23-41 –** Authorizing the purchase of one new forklift from **Big Lift Material Handling**, in an amount not to exceed $65,000.

   e) **Resolution No. 23-42 –** Approving Authorization of Services (AOS) 20B-2303 Amendment #1 to the contract with **Dibble Engineering** for the RWY 12R-30L Reconstruction, in an amount of $73,774.00, to redesign the project into a single bid package, resulting in a total contract amount not to exceed $1,068,366.00.

   f) **Resolution No. 23-43 –** Approving Authorization of Services (AOS) 20A-2202 Amendment #1 to the contract with **Kimley-Horn & Associates** for the Aviation Way and Utility Extensions Infrastructure project, in an amount of $28,889.18, for design support services pre and post construction, resulting in a total contract amount not to exceed $200,486.18.

Mayor Brigette Peterson moved to approve the Consent Agenda.
Mayor John Giles seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 23-44** Approving of the **Boyer Gateway East, L.C. Initial Master Plan** as provided to the Airport Authority, per the Master Development Agreement (MDA) dated June 21, 2022.

Mayor John Giles moved to approve Resolution No. 23-44.
Vice Mayor Jeff Brown seconded the motion.
The motion was carried unanimously.

9. **Board Member Comments/Announcements.**

Mayor Peterson asked if the practice of not scheduling a Board meeting in August could be altered so that beginning in 2024, July would be the month without a scheduled Board meeting.

10. **Next Meeting: Tuesday, September 19, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

11. **Adjournment.**
    The meeting adjourned at 9:59 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-45

To:	**Board of Directors**
From:	**Lori Collins, Director of Business and Economic Development**
Through:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Automated Teller Machine Services Terminal Concession Lease Agreement – BaumTech, LLC**
Date:	**September 19, 2023**

Proposed Motion

To Authorize an Automated Teller Machine (ATM) Services Terminal Concession Lease Agreement with BaumTech, LLC (BaumTech) for ATM services at two (2) Airport Terminal Locations which include Baggage Claim and Gate 5. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option.

Narrative

The goal of the concession operation at the Phoenix-Mesa Gateway Airport Authority (PMGAA), is to provide efficient, responsive, and professionally managed ATM services to satisfy the needs of the traveling public at the Airport, while optimizing annual operating revenues for PMGAA and its ATM service partner.

The Request for Proposal (RFP) 2023-020-RFP, ATM Services, was issued on May 22, 2023, for an Automated Teller Machine (ATM) Service Concessionaire. This RFP was also advertised in the Arizona Business Gazette on 5/25, 6/01, 6/08 and 6/15/23. It was posted on the Phoenix-Mesa Gateway Airport Authority Website as well as the Arizona Airports Association, ACI-NA and SWAAAE websites. In addition, the RFP was emailed to a list of five (5) prospective firms. BaumTech was the sole respondent to the RFP. While BaumTech submitted a proposal, it was deemed non-responsive since it did not meet the minimum monthly concession fee as stated in the RFP.

As ATM services are essential for passengers at the Airport, and no responsive proposals were received, Airport staff negotiated an agreement based on BaumTech's submitted proposal and is recommending award of this concession agreement to BaumTech.

Attachment(s)

Agreement

RESOLUTION NO. 23-45

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an Automated Teller Machine (ATM) Services Terminal Concession Lease Agreement with BaumTech, LLC (BaumTech) for ATM services at two (2) Airport Terminal Locations which include Baggage Claim and Gate 5. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an Automated Teller Machine (ATM) Services Terminal Concession Lease Agreement with BaumTech, LLC (BaumTech) for ATM services at two (2) Airport Terminal Locations which include Baggage Claim and Gate 5. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 19th day of September, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

Phoenix-Mesa Gateway Airport Authority

TERMINAL CONCESSION LEASE AGREEMENT

Automated Teller Machine (ATM) Services

with

BaumTech, LLC

Effective Date: December 1, 2023

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EXHIBIT 1 – ATM Locations E1
EXHIBIT 2 – Monthly Transaction Report E2
EXHIBIT 3 – Quarterly Reporting of Goods and Services Purchased from ACDBE Firms E3
EXHIBIT 4 – PMGAA Airport Rules and Regulations E4

Phoenix-Mesa Gateway Airport Authority

TERMINAL CONCESSION AGREEMENT

Automated Teller Machine (ATM) Services

This exclusive TERMINAL CONCESSION AGREEMENT (the "Agreement") is made and entered into this FIRST (1st) day of DECEMBER 2023 (the "Effective Date"), by and between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers authority authorized and existing under the laws of the State of Arizona ("PMGAA"), and **BaumTech, LLC**, a Louisiana Limited Liability Company ("Concessionaire"). PMGAA and Concessionaire may be referred to jointly as "Parties," and each separately as a "Party."

WITNESSETH:

WHEREAS, PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport, an airport and airfield property generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "Airport"); and

WHEREAS, PMGAA has the right to lease, license and grant the use of property and facilities on the and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, PMGAA desires Concessionaire's services as the operator of an ATM CONCESSION business at and within the Airport's airline passenger terminal (the "Terminal") and is willing to make space available for use by Concessionaire in connection therewith, and has deemed Concessionaire qualified to perform said services, and Concessionaire desires to perform and provide said services;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. AGREEMENT.

1.1 General.

1.1.1 PMGAA hereby grants to Concessionaire, for the term and under the conditions herein provided, an exclusive and revocable right to enter upon and use the Airport (pursuant to the provisions of SECTION 12 herein) for the purpose of conducting its business as an ATM SERVICES CONCESSIONAIRE from those certain locations within the Terminal identified as T1 & T2 (the "ATM Locations"), as depicted in **EXHIBIT 1** which is attached hereto and made a part hereof. For purposes of this Agreement, the Terminal is that certain building located at 6033 S. Sossaman Road, Mesa, Arizona, as it presently exists or may subsequently be expanded in the future.

1.1.2 Concessionaire shall not engage in any other commercial revenue producing activity at the Airport that is regulated by PMGAA and is in addition to or materially differs from the activity set forth in SECTION 1.2 without first applying for and receiving written approval for such activity from PMGAA. In the event Concessionaire engages in any such other regulated, commercial revenue producing activity prior to obtaining such written approval, without waiver or limitation of any other remedies of PMGAA at law or equity, Concessionaire hereby agrees to immediately cease said activity upon notice from PMGAA, and remit to PMGAA the sum equal to TWENTY PERCENT (20%) of gross billings for such unauthorized activity, plus any expenses incurred by PMGAA in the course of any audit conducted for any or all of Concessionaire's activities.

1.2 Concessionaire's Acknowledgement.

1.2.1 Reserved.

1.2.2 Concessionaire acknowledges and agrees that its obligations to pay fees and all other charges due and owing under the terms hereof shall, except as otherwise provided herein, be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Concessionaire may have against PMGAA or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the ATM Locations; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Agreement or any lack of right, power or authority of PMGAA or Concessionaire to enter into this Agreement; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Concessionaire or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all fees being payable by Concessionaire hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

1.3 Concessionaire's Rights. So long as Concessionaire shall timely pay the fees and other charges required to be paid and is not in default of any obligation hereunder, and complies fully with the Airport Rules and Regulations, PMGAA hereby grants to Concessionaire the following rights:

1.3.1 An exclusive right to peaceably have and enjoy the use of the ATM Locations to engage in and operate its ATM concession business without hindrance from PMGAA, and to use the ATM Locations while in compliance with the terms and conditions of this Agreement. All other rights granted to Concessionaire under this Agreement are exclusive.

1.3.2 A right of ingress and egress to and from the ATM Locations over Airport roadways, including common use roadways, driveways and public areas of the Airport, subject to any and all applicable rules and regulations established from time to time by PMGAA, the United States government, the State of Arizona, the City of Mesa, or other governmental entity, as applicable. Such rights of ingress and egress shall apply to Concessionaire's employees, guests, patrons, invitees, suppliers and other authorized individuals.

1.3.3 A right to install and maintain appropriate signs as a part of each ATM unit and in proximity to the ATM Locations at Concessionaire's own expense; provided, however, that the design, installation, modification and maintenance of such signs shall be subject to the prior written approval of PMGAA.

1.3.4 A right to obtain supplies and services at the ATM Locations from suppliers, vendors or contractors of its choosing; provided, however, that all contracts entered into by Concessionaire for provision of labor and employment services shall require that personnel engaged by Concessionaire at the ATM Locations shall not be disruptive of other personnel or operations at the Airport and that such personnel shall at all times comply with Airport Rules and Regulations.

1.4 PMGAA's Rights. Throughout the Term of this Agreement, PMGAA shall have the sole right to:

1.4.1 Relocate the ATM Locations allocated to Concessionaire under this Agreement, and endeavoring to provide reasonable replacement space. PMGAA's liability in any such mandated relocation shall be limited to one-half of the net book value of all fixed improvements to the ATM Locations that were made by Concessionaire, and that cannot be reasonably removed and reused by Concessionaire in a replacement space, should such be available, or elsewhere. For purposes of this SECTION 1.4.1, the term "net book value" shall mean the current value of the non-relocatable fixed improvements to the ATM Locations after depreciation, which shall be calculated on a straight-line basis over five (5) years.

1.4.2 Increase the number of ATM unit locations within the Terminal required to be operated under this Agreement, and to expect Concessionaire's full cooperation and best efforts to outfit, operate and maintain those added locations within THIRTY (30) calendar days of PMGAA's written request therefor.

1.4.3 Require Concessionaire to close or reduce its operation if PMGAA, at its sole and absolute discretion, determines such closure or reduction is necessary for the efficient operation of the Airport. If PMGAA requires Concessionaire to close its operation, in whole or in part, Concessionaire shall vacate the affected ATM Locations within SIXTY (60) days of receipt of a written closure or reduction notice from PMGAA, unless exigent circumstances require an earlier closure or reduction in the size of Concessionaire's

operation. If PMGAA requires a reduction of Concessionaire's ATM Locations, and Concessionaire makes a written request to PMGAA to relocate its operations promptly after receiving notice of reduction, PMGAA will attempt to negotiate a mutually acceptable relocation elsewhere on the Airport. If the Parties cannot agree on such replacement location within THIRTY (30) days of Concessionaire's vacating the original ATM Locations, Concessionaire shall have the right to terminate this Agreement upon THIRTY (30) days advance written notice to PMGAA thereafter.

1.5 Requirements – Initial Occupancy.

1.5.1 Construction and Installation Timing. Beginning on the Effective Date, Concessionaire shall undertake to construct any and all PMGAA approved improvements and install all fixtures, equipment and related items (collectively, the "Improvements") to enable commencement of Concessionaire's business operations, as specified in SECTION 1.1.1 herein, within THREE (3) calendar days of the Effective Date. Construction plans for the Improvements, if any, and any material changes thereto shall be submitted to and approved in writing by PMGAA prior to execution, commencement of construction and/or submission to the City of Mesa for permit (if required).

1.5.2 ATM Unit Specifications. Concessionaire shall, through the Term of this Agreement, ensure that all ATM units installed in the ATM Locations adhere to the following specifications:

1. Are New, and (if not new) have been recently refurbished so as to appear and operate as a new unit.
2. Meet ADA regulations, including approach height/reach requirements and accessibility for those who are visually impaired.
3. Only the business name of the Concessionaire and/or the financial institution are permitted for advertisement on the ATM machine. No mounted advertisement signage is permitted.
4. Are front loading and mounted flush to walls (where possible)
5. Are attractive, functional, user friendly, resistant to rough usage, modular and possess the ability to incorporate new features and capabilities, as such may be introduced during the Agreement Term.
6. Are equipped with an audible (or silent, if continuously monitored) alarm, or other appropriate mechanism to alert Concessionaire to malfunctions, tampering or servicing needs,
7. Possess or be equipped with a color monitor,
8. Offer the capability of being programmed in one (1) additional language other than English,
9. Have a 24 hour service number with procedure for reporting problems prominently posted on the unit;
10. Depict a map showing all ATM unit locations at the Airport, as a customer convenience when a unit is being serviced or in case of a unit malfunction; and
11. Bear in plainly visible location, the Concessionaire's name, ATM unit number, location and 24-hour toll free number for inquiries, maintenance issues, customer service issues and complaints.

1.5.3 ATM Unit Capabilities. Concessionaire shall, through the Term of this Agreement, ensure that all ATM units installed inthe ATM Locations possess the following capabilities:

1. Support cash withdrawals and/or advances and additional, electronic only banking services, including but not limited to account balance inquiries, and transfers;
2. Offer a customer receipt option;
3. Be oeprational and available for use 24 hours daily (including holidays), but not less than during Terminial operating hours;
4. Be capable of executing transactions using a variety of credit, debit and ATM cards;
5. Display clearly all directions necessary to enable customers to operate the unit including a listing of all ATM transaction fees, surcharges or other fees charged and to whom the fees and/or surcharges apply;
6. Offer information, either electronically displayed or permanently affixed to the unit, pertinent to obtaining ATM services and/or refunds; and
7. Conduct and process all transactions in United Sates Currency, using twenty dollar ($20.00) bills as the primary denomination for withdrawals.

1.5.4 Delivery Schedules – Coordination. Schedules pertinent to the delivery and installation of materials, construction activities and other related work events shall be coordinated in advance with PMGAA no less than FIVE (5) business days prior to their planned action, whenever possible. Concessionaire shall be responsible for ensuring that ongoing commercial airline and other business activities taking place within the Terminal during construction and installation of Concessionaire's Improvements are not materially disrupted at any time.

2. TERM.

2.1 Initial Term. The term of this Agreement (the "Term") shall commence on the Effective Date and terminate THREE (3) years thereafter, on November 30, 2026, unless sooner terminated as provided herein.

2.2 Renewal Term. Provided Concessionaire is not then in default of this Agreement and subject to approval of PMGAA at PMGAA's sole and absolute discretion, Concessionaire shall have the option of extending the Term for ONE (1) additional period of TWO (2) years (each, individually, an "Extension"). Concessionaire may exercise an Extension by giving written notice to PMGAA of its desire to do so no later than ONE HUNDRED TWENTY (120) days prior to the expiration of the Term, as set forth in SECTION 2.1 herein or subsequently extended. If Concessionaire has properly notified PMGAA of its desire to exercise an Extension and PMGAA approves in writing, then Concessionaire's extension of the Term of this Agreement shall become effective and all references herein to the "Term" shall mean the initial term as extended.

3. FEES.

3.1 General. For and in consideration of the privilege and authorization herein granted, Concessionaire shall pay to PMGAA a monthly fee for use of the ATM Locations in the amount of ONE AND 00/100 DOLLARS ($1.00) per transaction (the "Concession Fee"). For purposes of this SECTION 3.1, the term "transaction" shall mean each surcharged withdrawal at or from one of Concessionaire's ATM units by a single customer without interruption.

3.1.1 Reserved.

3.2 Fee Payments.

3.2.1 Concession Fee: Concessionaire shall pay monthly to PMGAA, on or before the FIRST (1st) day following the last day of the preceding calendar month (the "Fee Due Date"), all Concession Fees due hereunder, plus applicable taxes, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever. All payments of fees and charges specified herein shall be tendered in lawful currency of the United States, either by check or electronic transfer, and shall be free from all claims or setoffs of any kind against PMGAA.

3.2.2 Concessionaire shall submit to PMGAA the monthly transaction report shown in **EXHIBIT 2**, itemized by ATM location detailing the actual number of transactions conducted and certified by an officer of Concessionaire for the preceding month. Said statements shall be due no later than the 20th of the month preceding activity.

3.2.3 No payment to or receipt by PMGAA of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way PMGAA's right to recover the balance of such payment or pursue any other remedy provided in this Agreement or by law.

3.2.4 All payments and reports required by this SECTION 3 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by PMGAA to Concessionaire.

3.3 Finance Charges and Late Penalties.

3.3.1 If PMGAA shall receive any fee payment or portion thereof from Concessionaire after the Fee Due Date, Concessionaire shall pay interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (a "Finance Charge"), from such Fee Due Date and continuing until payment is received by PMGAA in full.

3.3.2 In the event any payment is received by PMGAA more than TEN (10) days after the Fee Due Date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent payment (a "Late Penalty") shall be due and payable in addition thereto.

3.3.3 In the event Concessionaire shall deliver a worthless check or monetary draft to PMGAA in payment of fees required herein; then services charge equal to the greater of TWENTY-FIVE DOLLARS ($25.00) or FIVE PERCENT (5%) of the face amount of such check or monetary draft shall be due and payable in addition thereto.

3.4 Taxes. In the event any governmental authority shall impose a tax or imposition based upon any rental payments, fees or any other sums paid or owing hereunder or the receipt of such payments by PMGAA, then, Concessionaire shall pay such amounts to PMGAA at the same time and in addition to payments hereunder, which amounts may include, but are not limited to, any or all rental, transaction privilege, sales, excise or other similar tax except income taxes. Concessionaire's obligation to pay such amounts together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

3.5 Performance Guarantee. Concessionaire shall, on or before the Effective Date, provide to PMGAA the amount of ONE THOUSAND AND 00/100 DOLLARS ($1,000.00) (the "Performance Guarantee"), in order to guarantee Concessionaire's full and faithful performance of its covenants and obligations hereunder. Except to the extent applied to any amounts due from Concessionaire upon the termination or expiration of this Agreement, PMGAA shall refund the Performance Guarantee to Concessionaire within THIRTY (30) calendar days after Concessionaire vacates the ATM Locations in accordance with SECTION 7.6 herein; except, however, that should this Agreement be terminated due to Concessionaire's default, PMGAA shall be entitled to retain all or any remaining amounts of said Performance Guarantee.

3.5.1 The Performance Guarantee, at the election of PMGAA, may be applied in reduction of any loss and/or damage sustained by PMGAA by reason of the occurrence of any breach, nonperformance, or default by Concessionaire under this Agreement without the waiver of any other right or remedy available to PMGAA at law, in equity or under the terms of this Agreement. If any portion of the Performance Guarantee is so used or applied, Concessionaire shall, within FIVE (5) business days after written notice from PMGAA, deposit with PMGAA immediately available funds in an amount sufficient to restore the Performance Guarantee to its original amount. Unless this Agreement is terminated as a result of Concessionaire's default whereupon Concessionaire shall immediately forfeit its Performance Guarantee to PMGAA, upon termination, PMGAA shall return to Concessionaire all portions of the Performance Guarantee which were not otherwise applied by PMGAA as permitted above within THIRTY (30) calendar days thereafter. PMGAA shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

3.6 Survival. Concessionaire's obligation to pay all amounts herein stated, together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

4. RECORDS AND AUDITING.

4.1 Concessionaire Records. With respect to its operation on the Airport, Concessionaire shall keep true and accurate records, books and data that shall show all banking and ATM transactions conducted at and on the ATM Locations and itemized by ATM unit. Said records, books and data shall be kept and maintained at Concessionaire's business office in the local Phoenix, Arizona area, or upon written PMGAA request, shall be made available for audit at the Airport, within TEN (10) business days after Concessionaire receives such request. PMGAA and its authorized representatives shall have the right at reasonable times and during business hours to inspect and examine records, books and other data as required to verify billings as described hereinabove.

4.1.1 Reserved.

4.2 PMGAA Audit Authority. In accordance with SECTION 4.1, PMGAA or its authorized representatives shall have the right to audit Concessionaire's records relating to all ATM unit transactions, monthly payments reported and paid hereunder, and any other activity by Concessionaire on the Airport during the TWELVE (12) consecutive month period preceding the date of such audit. If PMGAA finds or determines that a discrepancy exists for the period of the audit, Concessionaire shall promptly pay the cost and expense of PMGAA's audit. For purposes of this Agreement, a "discrepancy" shall mean one where audited billing exceed reported billings by TWO PERCENT (2%) or more. The amount of any such deficiency established by such audit shall be conclusive and binding upon the Parties and shall be paid by Concessionaire no later than TEN (10) calendar days from the billing date.

5. IMPROVEMENTS AND ALTERATIONS.

5.1 Concessionaire's Acceptance. Concessionaire agrees to accept the ATM Locations in an "as is" condition and accepts financial responsibility for all improvements specified in SECTION 5.3 herein, and as required to make the ATM Locations suitable for Concessionaire's business operations.

5.2 Authorization. Concessionaire shall make no improvements or alterations to the ATM Locations during the Term of this Agreement without prior notice to and written permission of PMGAA. Concessionaire shall provide PMGAA with electronic, as-built drawings (or their equivalent) upon completion of any approved improvement or alteration if PMGAA shall so require.

5.3 Title to Alterations and Improvements. Title to all permanent improvements and alterations at and on the ATM Locations, including the Initial Improvements, but not Concessionaire's equipment and fixtures, shall vest in PMGAA upon the expiration of this Agreement, and Concessionaire agrees to execute and deliver to PMGAA, within TEN (10) business days after PMGAA's request therefor, a quitclaim deed confirming that title to such improvement and alterations is vested in PMGAA.

5.4 Mechanic's Liens. Concessionaire shall keep the ATM Locations and all improvements thereon free of any mechanic's or materialmen's liens or liens of any kind or nature through the Term. In the event that any such lien is filed, Concessionaire shall, at its sole cost, cause such lien to be removed from the ATM Locations within THIRTY (30) calendar days of notice thereof.

5.5 Permit Required. Concessionaire shall be responsible for determining whether it is subject to local building codes or building permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa (hereinafter referred to as the "City") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment and/or use.

5.6 Damage or Destruction.

5.6.1 In the event of damage to or destruction to the ATM Locations, such that other Terminal activities remain unaffected or minimally affected, Concessionaire shall give PMGAA notice thereof, and undertake appropriate repairs or other suitable actions to restore such ATM Locations to their original, usable condition as expeditiously as possible, and, as a minimum, any and all insurance proceeds derived incident thereto

shall be applied fully to such restoration. Should Concessionaire fail to complete said restorative actions within ONE HUNDRED TWENTY (120) calendar days after the occurrence of such damage or destruction, subject to any delay for reasons beyond Concessionaire's reasonable control, PMGAA may elect to terminate this Agreement; provided, however, PMGAA may not elect to terminate at any time when restoration, repair or replacement has been commenced and is being pursued with commercially reasonable diligence.

5.6.2 Should greater than FIFTY PERCENT (50%) of the Terminal, including the ATM Locations, be rendered untenable by fire or other casualty and PMGAA either cannot or elects to not complete restorative action within a reasonable period of time, Concessionaire shall have the option to terminate this Agreement. Further and during PMGAA's restorative activities, PMGAA shall abate all fees and other charges owed in connection with the damaged or destroyed ATM Locations until such time as the Agreement is terminated or Concessionaire is able to recommence business operations therefrom.

6. MAINTENANCE, REPAIRS, SERVICE AND INSPECTIONS.

6.1 Maintenance and Utilities.

6.1.1 Concessionaire shall, at its sole expense, maintain the ATM Locations, including all Improvements and equipment thereon, in good and safe repair and in a neat, clean and orderly condition throughout the Term of this Agreement. Except for damages arising out of any direct, negligent act of PMGAA, Concessionaire shall be solely responsible for the repair and/or replacement of all Concessionaire's ATM units and at the sole cost of Concessionaire.

6.1.2 If Concessionaire refuses or neglects to undertake the maintenance, repair or fixture replacement action(s) requested in writing by PMGAA, or if PMGAA is required to make any repairs necessitated by the acts or omissions of Concessionaire, its employees, agents, licensees or contractors, PMGAA shall have the right to make such repairs on behalf of and for Concessionaire. Such work shall be paid for by Concessionaire within TEN (10) calendar days following receipt of an invoice for such from PMGAA, at the rate of actual work cost plus the appropriate administrative processing fees in effect at the time such work is performed.

6.1.3 PMGAA has provided and will maintain all required utility services to the ATM Locations. PMGAA shall have no liability for blackouts, brownouts, cessation, interruption or failure of utilities.

6.1.4 As a condition of its right to occupy the ATM Locations, Concessionaire shall ensure that the operation of any wireless access point does not cause interference with existing communications users, including, without limitation, aviation-related operations and equipment at the Airport, the operations of any existing wireless users operating at the Airport and PMGAA's own radio systems. If Concessionaire's operation of any wireless access point causes any such interference to existing users, Concessionaire shall take all steps necessary to remove the cause of the interference and shall cooperate with PMGAA and any necessary third parties to identify and eliminate such cause(s). If PMGAA determines, in its sole discretion, that the wireless access point or signals being transmitted by means of the wireless access point are the cause of such interference, PMGAA may direct Concessionaire to immediately cease operation of all or any portion of the wireless access point, or otherwise take action to eliminate the interference.

6.2 Equipment Service & Repairs.

6.2.1 Concessionaire shall routinely service all ATM units to ensure they are properly stocked, cleaned, are in a serviceable condition and possess the latest applicable software editions at all times.

6.2.2 Concessionaire also shall ensure each ATM unit's system management capabilities for predicting, assisting and reporting maintenance and the need for cash replenishment are operable at all times. Response time to service calls on ATM units and replenishment of funds shall be no greater than FOUR (4) hours of notification.

6.2.3 Any damage caused to the ATM Locations or any PMGAA property by any act, omission or negligence of Concessionaire, its employees, invitees, suppliers or furnishers of service shall be repaired and restored to the condition existing prior to damage by Concessionaire at Concessionaire's sole

expense in accordance with plans and specifications approved by PMGAA. Should PMGAA find it necessary to make such repairs itself, Concessionaire shall pay PMGAA, as additional fees hereunder, the expenses of all repairs thereby incurred, as provided in SECTION 6.4.2 herein.

6.3 Services.

6.3.1 Concessionaire agrees to provide, at its own expense, such janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of its equipment on the ATM Locations. Concessionaire also agrees to keep and maintain the ATM Locations in a clean, neat and sanitary condition, and attractive in appearance, to the maximum practical extent. In the event PMGAA determines, in its sole, reasonable discretion, that Concessionaire's janitorial and cleaning program is not acceptable or sufficient, then PMGAA may, after reasonable notice to Concessionaire, seek to provide such services by other means. Concessionaire agrees to reimburse PMGAA no later than TWENTY (20) calendar days following written demand by PMGAA for any expenses incurred by PMGAA due to conditions at the ATM Locations.

6.3.2 Concessionaire shall provide for the complete removal, sanitary handling and disposal of all trash, garbage and other refuse resulting from its business operations at, on, about or from the ATM Locations to receptacles at locations specified by PMGAA.

6.4 Inspections. PMGAA, its authorized employees, agents, contractors, subcontractors, and other representatives shall have the right, but not the obligation, at all reasonable times, to enter upon the ATM Locations to:

6.4.1 Inspect the ATM Locations during regular business hours (or at any time in case of an emergency) to ascertain the condition of the ATM Locations and to determine Concessionaire's compliance with the terms of this Agreement and applicable other regulatory requirements. This right of inspection shall not imply or infer any duty of PMGAA to inspect and shall impart no liability upon PMGAA for failure to inspect.

6.4.2 Perform or arrange to perform maintenance and repairs and replacements in any event when Concessionaire is obligated to do so under this Agreement and failed to do so within TEN (10) business days after written notice from PMGAA, or at any time with or without written notice in the event that PMGAA, in its sole discretion, deems that it is necessary or prudent to correct any condition likely to lead to injury or damage. If such maintenance, repairs, or replacements are required to be made by Concessionaire under this Agreement, but are performed by PMGAA, then, Concessionaire shall pay PMGAA's entire cost and expense of performing such work as additional rent to PMGAA upon written demand therefor.

6.4.3 Perform any obligation of PMGAA under this Agreement and to make additions, alterations, maintenance, and repairs to the Terminal, including its utility systems.

All entries by PMGAA, its authorized employees, agents, contractors, subcontractors, and other representatives made pursuant to this SECTION 6.4, shall be without abatement of fees, provided that such entries do not cause unreasonable interference with Concessionaire's business operations.

7. CONCESSIONAIRE'S COMPLIANCE.

7.1 Regulatory Compliance and Certification. Concessionaire, its agents, employees, invitees, subcontractors and independent contractors shall comply with all directions, rules, regulations and operating procedures of PMGAA in effect or hereinafter promulgated and shall observe and obey all ordinances of the City, as well as all federal and state statutes and regulations governing the use of the Airport and Concessionaire's business activities thereon.

7.2 Operating Permits. Concessionaire shall furnish to PMGAA, prior to conducting any business or activities at, on or within the ATM Locations and the Airport, copies of all operating permits required by the City, or any other government entity, if applicable.

7.3 Reserved

7.4 Operating and Service Standards. Concessionaire shall operate its business from the ATM Locations, and elsewhere as may be permitted by PMGAA from time to time. In addition, Concessionaire shall:

7.4.1 Professional Management. Designate a local representative experienced in management and supervision who has sufficient authority and responsibility to ensure proper operation of the concession, to render decisions and to take all necessary action(s) in connection with this Agreement. Such a person (or his or her authorized and designated representative) shall be available during normal business hours and be contactable at all other times should emergencies arise.

7.4.2 Personnel.

a. Maintain a sufficient number of trained personnel to ensure Concessionaire's customers receive prompt and courteous service at all times. All personnel of Concessionaire, while on or about the ATM Locations, shall be polite, clean, uniformed and present a professional appearance at all times. Concessionaire shall not permit its agents, servants, or employees (whether full-time, part-time or contract) to solicit business from the ATM Locations or other Airport locations in any manner whatsoever, except through the use of signs approved by PMGAA.

b. Ensure all Concessionaire employees (whether full-time, part-time or contract) are at all times competent, experienced, and properly licensed to perform their duties, as and if required by applicable federal, state and local laws, and obey all traffic laws and regulations. Said employees shall at all times be under the direction of Concessionaire, who will be solely responsible for their conduct and performance and shall conduct themselves with courtesy and dignity with the public interest of primary importance.

c. Promptly respond to and resolve any issue with any employee whose conduct PMGAA or its Executive Director feels is detrimental to the best interests of the Airport and PMGAA.

d. Not, during the Term of this Agreement, hire or employ, on either a full-time, part-time or contract basis, any person or persons employed by PMGAA.

e. To the extent applicable under Arizona Revised Statutes (ARS) §41-4401, Concessionaire warrants compliance with all federal immigration laws and regulations that relate to Concessionaire's employees and compliance with the E-verify requirements under ARS §23-214(A). Concessionaire's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in its termination by PMGAA. PMGAA retains the legal right to randomly inspect the papers and records of any employee who works under this Agreement to ensure Concessionaire is complying with the above-mentioned warranty.

7.4.3 Scrutinized Business Operations. Pursuant to ARS §§35-391.06 and 35-393.06, Concessionaire certifies that it does not have a scrutinized business operation in the Sudan or Iran. For purposes of this SECTION 7.4.3, the term "scrutinized business operations" shall have the meanings set forth in ARS §§ 35-391 and 35-393, as applicable. If PMGAA determines that Concessionaire submitted a false certification, PMGAA may impose remedies as provided by law, including termination of this Agreement.

7.4.4 Public Service. Ensure that its business operations at, on and about the ATM Locations are conducted in a professional, first-class manner, and that all facilities, equipment, services, and standards of operation are at least equal to the quality of service rendered by other companies of a like nature at other modern airport terminal and banking facilities. The general public shall be given the highest consideration at all times in matters affecting the operation of this concession, and Concessionaire shall emphasize the tenets of "exceptional customer service" and "value" in both its business activities and during interaction with its customers.

7.4.5 Hours of Operation. Ensure all ATM units are available and stocked for customer use 24-hours daily and are always kept in good operating condition, such that the machines will satisfy all reasonable requests for service.

7.4.6 Transaction Pricing. Charge no more than a THREE AND 99/100 DOLLARS ($3.99) fee for each ATM transaction, unless advance, written PMGAA authorization for an alternate fee is provided,

therefore. At all times, adhere fully to PMGAA's "Value" or "Street" pricing requirement by charging transaction and other service fees that do not exceed those charged at comparable locations within the Phoenix metropolitan area. PMGAA reserves the right to require Concessionaire to provide comparable pricing from not less than THREE (3) locations acceptable to PMGAA at any time at PMGAA's sole and absolute discretion.

7.4.7 Reserved.

7.4.8 Complaints by Public. In the event Concessionaire receives (or PMGAA receives and forwards to Concessionaire) any written complaint concerning Concessionaire's operation of the concession, promptly respond to such complaint in writing within TEN (10) business days of its receipt and make a good-faith attempt to explain, resolve or rectify the cause of such complaint. Repeated complaints by the public concerning Concessionaire's services may be grounds for termination of this Agreement.

7.4.9 Record-keeping. Ensure each ATM unit is equipped and capable of recording all transactions properly, accurately, and completely, and cause such recorded information to be further recorded and maintained at Concessionaire's business office(s).

7.5 Condition of the ATM Locations. Concessionaire shall keep the ATM Locations, including all ATM units, neat and clean at all times, so as to present a positive image to Airport patrons. All signage and notices posted on the units and in proximity to the ATM Locations shall be professionally prepared and affixed or incorporated into the units in a safe, aesthetically pleasing manner, such that they complement the concession and Terminal décor. All ATM units shall be kept clean and free of nonessential stickers and/or other materials that deface said units.

7.6 Surrender of Occupancy.

7.6.1 When this Agreement expires or is otherwise terminated in whole or in part as provided elsewhere in this Agreement, Concessionaire shall surrender the ATM Locations and fixed improvements, if any, and restore the ATM Locations, at Concessionaire's sole expense, to the condition as existed immediately prior to the Effective Date of this Agreement.

7.6.2 Concessionaire shall be deemed to have abandoned to PMGAA any personal property and trade fixtures that it has failed to remove from the Premises within FIFTEEN (15) calendar days after the end of the Term of this Agreement, or the effective date of termination thereof, unless PMGAA grants additional time for this purpose in writing. During this period, Concessionaire shall remain responsible for monthly rental and other payment(s) to PMGAA until such time as the Premises are fully available to PMGAA for maintenance, renovation or re-letting to another concessionaire. After the expiration of the aforementioned FIFTEEN (15) business day period or any extension thereof granted by PMGAA, PMGAA shall have the right to remove the property of Concessionaire and restore the Premises to a satisfactory condition and hold Concessionaire liable for all costs incident thereto. In the event it is necessary for PMGAA to remove such property, PMGAA shall not sustain or be charged with any liability by reason of the removal or custodial care of same.

8. AIRPORT SECURITY PLAN.

8.1 Airport Security Plan.

8.1.1 Airport's Operations Department maintains an approved Airport Security Plan ("**Security Plan**") pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Concessionaire shall at all times comply with Airport's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

8.1.2 Concessionaire is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Airport's Operations Department.

8.1.3 Concessionaire shall promptly upon written request from Airport correct physical or procedural deficiencies caused by Concessionaire that are located on the Premises which are contrary to Airport's Operations Department, security directives, security

bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Airport notifying Concessionaire of any deficiency, Airport shall provide Concessionaire with a reasonably-detailed explanation of the deficiencies. Concessionaire shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

8.1.4 Concessionaire shall, to the fullest extent permitted by law, indemnify, defend and hold Airport harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-Concessionaires or independent contractors of Concessionaire.

8.1.5 Concessionaire shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("**TSA**") or Airport's Operations Department and make such audits available for inspection.

8.1.6 Concessionaire shall designate a primary security coordinator to receive security related briefings, bulletins and sensitive security information.

8.1.7 Airport reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Airport's Operations Department shall notify the Concessionaire security coordinator regarding modifications that effect Concessionaire.

8.2 Airport Security Badge.

8.2.1 Concessionaire's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Airport's Operations Department, TSA or other entity having security jurisdiction at the Airport. Concessionaire, Concessionaire's employees, and contractors will surrender security badges upon request by Airport's Operations Department; physical security media (badges and keys) remain the property of Airport. Within SEVENTY-TWO (72) hours of Airport's confiscation of any security badges, Airport shall provide Concessionaire with a reasonably-detailed explanation of the violations that caused Airport to confiscate the security badges.

8.2.2 Concessionaire and Concessionaire's employees and contractors shall comply with all security related audits, inspections, and screenings conducted by Airport's Operations Department.

8.2.3 Concessionaire will promptly return badges to Airport's badging office when badge holders employment is terminated, the badge is no longer needed or the employee/contractor is on extended leave.

8.2.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining of badge holders, and/or suspension or revocation of one or all misused badges.

9. TAXES, LICENSES AND PERMITS.

Concessionaire shall pay all taxes and assessments that may be levied or charged upon its property, equipment and activity hereunder, and shall secure and comply with all licenses and permits required by PMGAA or any other governmental authority exercising jurisdiction over its business or activities. Concessionaire shall also pay any taxes or assessments levied upon PMGAA as a result of Concessionaire conducting its business under the authority of this Agreement.

10. INSURANCE AND INDEMNIFICATION.

10.1 Insurance Coverage Required. Concessionaire shall at all times and prior to the Effective Date, at its sole expense, maintain in effect the insurance coverage set forth below, deliver a certificate of insurance for each policy to PMGAA and continue to provide such certificate(s) throughout the Term:

10.1.1 *Comprehensive General Liability* insurance on an occurrence basis in an amount not less than $1,000,000 per occurrence and $2,000,000 aggregate, including coverage for "ATM Locations/operations," "products and completed operations," "professional," and "blanket contractual" liabilities.

10.1.2 *Commercial Automobile Liability* insurance covering all owned, non-owned and hire vehicles operated on the Airport that are assigned to or used in the performance of commercial activities, or that are operated within the AOA in the amount of $1,000,000. If any hazardous materials are transported within Airport boundaries in conjunction with the operator's business activities, an MSC-90 Endorsement is required. Coverage amounts generally apply to Basic Injury per Person, Basic Injury per Accident and Property Damage.

10.1.3 *Property insurance* (all risk) for the full value of personal property and improvements to the ATM Locations for their full insurable value on a replacement-cost basis.

10.1.4 *Workers' Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000.00.

10.2 Insurance Form. Each insurance policy obtained pursuant to this SECTION 10, except for workers' compensation and employer's liability policies, shall: (i) name PMGAA as a certificate holder and an additional named insured; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to PMGAA not less than THIRTY (30) calendar days before such cancellation or modification takes effect TEN (10) days in the case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of PMGAA. Concessionaire shall not permit any insurance policy to be canceled or modified without PMGAA's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating approved by PMGAA.

10.3 Indemnification. To the fullest extent permitted by law, Concessionaire shall indemnify, defend and hold PMGAA, its agents and employees, harmless for, from and against all liability, claims, damages, losses, expenses, and fines including attorneys' fees and costs of litigation, arising out of, sustained, or in any manner related to Concessionaire's use of and activities at the Airport or any part or appurtenance thereof. Concessionaire shall not be liable for losses due to the gross negligence or willful misconduct of PMGAA, its agents or employees.

11. ASSIGNMENT.

11.1 Consent. Concessionaire shall not assign, transfer, or encumber this Agreement in any manner, or any part hereof, or interest herein or sublease any of the ATM Locations hereunder, except with the prior written permission of PMGAA and subject to whatever reasonable limitations and conditions may be required by PMGAA. Any other transfer, assignment or sublease shall be void and shall confer no rights upon any third person. No assignment or sublease shall relieve Concessionaire of any obligation under this Agreement unless otherwise agreed in advance, in writing by PMGAA. Notwithstanding the foregoing, this SECTION 11 shall not be interpreted to preclude the assignment of this Agreement to a parent, subsidiary, or merged company, if such part, subsidiary, or merged company assumes all rights and obligations of this Agreement. Written notice of such assumption shall be provided to PMGAA by the parent, subsidiary, or merged company not less than THIRTY (30) calendar days prior to the effective date of such assignment.

11.2 Transfer Defined. For the purposes of this Agreement, a "transfer" shall be deemed to include the following: (i) if Concessionaire is a corporation, partnership, limited liability company, or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Agreement; provided, however, if Concessionaire is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Concessionaire's stock shall not constitute a transfer requiring PMGAA's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Concessionaire.

11.3 Non-Disturbance. PMGAA agrees, for the benefit of all subtenants of all or any part of the ATM Locations, that if this Agreement or Concessionaire's right to possession of the ATM Locations is

terminated for default or otherwise, all subleases of all or any part of the ATM Locations, except any sublease to an affiliate of Concessionaire, shall continue in full force and effect notwithstanding the termination as direct leases or contracts between PMGAA and the subtenants and contractors, and all such subtenants and contractors upon request shall attorn in writing to PMGAA.

12. CANCELLATION PROVISIONS.

12.1 PMGAA's Right of Cancellation. Except as may be otherwise provided herein, PMGAA shall have the right to terminate this Agreement in its entirety immediately if Concessionaire commits any one or more of the hereinafter listed events of default. Upon receiving notice of such termination, Concessionaire shall immediately cease its operations within the Premises and on the Airport and remove all of its employees and personal property therefrom:

12.1.1 If Concessionaire shall fail to pay any installment of rent or any other amount due from Concessionaire hereunder, provided that Concessionaire does not cure or initiate demonstrable corrective action for such failure within TEN (10) business days after delivery by PMGAA of a written notice of such failure.

12.1.2 If Concessionaire shall neglect or fail to perform, keep or observe any other terms, covenants or conditions herein contained and if such neglect or failure shall continue for a period of THIRTY (30) calendar days after delivery by PMGAA of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

12.1.3 The taking by a court of competent jurisdiction of Concessionaire and its assets pursuant to proceedings under the provisions of any Federal or State reorganization or bankruptcy code or act.

12.1.4 The occurrence of any act which deprives the Concessionaire of the rights, licenses, permits and authorizations necessary for the proper and lawful conduct of the Concessionaire's business operations at, on, about or from the Airport.

12.1.5 If Concessionaire shall abandon all or any part of the Premises or shall discontinue the conduct of its operations in all or any part of the Premises for a period of THREE (3) consecutive days.

12.1.6 The filing of any mechanic's, materialman's or other lien or any kind against the Premises because of any act or omission of Concessionaire which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Concessionaire.

12.1.7 Concessionaire receipt of THREE (3) written notices of default for violations of the Security Plan or *Airport Rules and Regulations* from PMGAA within a SIX (6) consecutive calendar month period.

12.1.8 A transfer or assignment occurs without PMGAA's prior written approval.

12.1.9 Concessionaire conducts its operations in such a manner as to threaten public safety, as determined by PMGAA in conformity with the laws and regulations of the State of Arizona and PMGAA.

12.1.10 PMGAA determines that Concessionaire willfully falsified any of its records or figures so as to deprive PMGAA of any of its rights under the terms of this Agreement.

12.2 Concessionaire's Right of Cancellation for Default. Concessionaire shall have the right to terminate this Agreement in its entirety upon THIRTY (30) calendar days advance written notice to PMGAA if one or more of the following events of default are committed by PMGAA:

12.2.1 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport in such a manner as to substantially restrict Concessionaire from conducting its business activities at, on and within the Premises, which injunction is not caused by any act or omission of Concessionaire and such injunction remains in force for at least SIXTY (60) consecutive calendar days.

12.2.2 If Concessionaire is deprived of the use of all or a major portion of the Premises for THIRTY (30) consecutive calendar days or more, subject to the relocation or other applicable renovation provision provided for herein.

12.2.3 The assumption by the United States Government and the authorized agencies thereof, or any other governmental agency, of the operation, control or use of Airport facilities, including the Premises, or any substantial part or parts thereof in such a manner as to substantially restrict the conduct of Concessionaire's business thereto for a period of THIRTY (30) consecutive calendar days or more.

12.2.4 A breach by PMGAA of any of the terms and covenants or conditions within this Agreement. In the event of such a breach, Concessionaire shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Agreement; provided, however, Concessionaire may not exercise any such right or remedy unless Concessionaire has notified PMGAA by written notice of such alleged default, and PMGAA has not cured such default within a THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot be reasonably cured within such THIRTY (30) day period, PMGAA has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary in this Agreement, in no event shall Concessionaire be entitled to terminate this Agreement or abate or offset any installment of rent or any other payments to be made by Concessionaire hereunder.

13. NONWAIVER.

PMGAA's right to revoke this Agreement shall be absolute. Any election by PMGAA to not enforce any provision of this Agreement, or any failure by PMGAA to exercise any of the remedies allowed PMGAA under this Agreement, shall not operate as a waiver by PMGAA of its right.

14. APPLICABLE LAW.

The laws of the State of Arizona, including its conflicts of law provisions, shall govern the matters set forth in this Agreement. Venue of any action brought under this Lease shall, at the option of PMGAA, lie in Maricopa County, Arizona.

15. RULES AND REGULATIONS.

Concessionaire shall at all times comply with all Federal, State and local laws, ordinances, rules, and regulations which are applicable to its operations, the ATM Locations itself (including but not limited to the Americans with Disabilities Act), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Concessionaire shall at all times comply with PMGAA's Airport Rules and Regulations, as applicable and as the same may be amended from time to time. A copy of PMGAA's Airport Rules and Regulations is attached hereto as **EXHIBIT 4**. Concessionaire acknowledges and agrees that PMGAA may amend the Airport Rules and Regulations at any time in PMGAA's sole and absolute discretion. Concessionaire also shall display to PMGAA any permits, licenses, or other evidence of compliance with laws upon request.

16. CORPORATE AUTHORIZATION.

In executing this Agreement, Concessionaire represents and warrants to PMGAA that Concessionaire has obtained and been granted the full right, power and authority to enter into this Agreement.

17. NOTICES.

17.1 Notices required under this Agreement shall be in writing and delivered personally or by registered or certified mail, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn.: Business and Properties Manager
5835 S. Sossaman Road
Mesa, Arizona 85212-0919

TO CONCESSIONAIRE: BaumTech, LLC
Attn.: Richard Baumy, CEO
6565 St Claude Ave
Arabi, LA 70032
Telephone: (888) 314-2867

17.2 Notice by certified or registered mail in the manner described above shall be deemed effective the day after its deposit in the mail.

18. PRIOR PERMITS.

Upon execution hereof, this Agreement shall supersede and cancel any prior agreement(s) between PMGAA and Concessionaire with respect to the Terminal business activities governed hereby. Concessionaire shall not construe PMGAA's execution of this Agreement as a waiver of any prior indebtedness or obligation to PMGAA under any prior agreement or license, nor does PMGAA waive any claim or cause of action arising therefrom.

19. ENVIRONMENTAL COMPLIANCE.

Concessionaire shall, at Concessionaire's own expense, comply with all present and hereinafter enacted environmental laws, rules and regulations and any amendments thereto, affecting or applying to Concessionaire's operations and activities at, on or within the ATM Locations and the Airport.

20. ACDBE REQUIREMENTS

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin or sex in connection with the award or performance of covered by 49 CFR Part 23.

The concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statement in further agreements.

20.1 PMGAA's Airport Concession Disadvantaged Business Enterprise (ACDBE) Program is race neutral. PMGAA encourages the use of ACDBEs and other small businesses in the performance of this concession opportunity. In order to be counted as an ACDBE, a small business must be certified as an ACDBE at time of award by a certifying agency within the Arizona Unified Certification Program (UCP).

20.1.1 Concessionaire shall make outreach efforts to carry out this policy during the term of the Agreement through award of subcontracts to small businesses and disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of PMGAA's contract, and/or the utilization of ACDBE suppliers where feasible.

20.2 Record Requirements. Concessionaire is required to track and report to PMGAA all ACDBE and/or small business participation that occurs as a result of a contract, procurements, purchase orders, sublease, joint venture, goods/services or other arrangements involving sub-tier participation.

20.2.1 PMGAA reserves the right to validate the information submitted by Concessionaire with

the ACDBE firm listed and/or other certifying entities or licensing agents as part of the verification process.

20.2.2 Concessionaire shall submit to PMGAA periodic reports of subcontract and/or supplier awards to ACDBE firms in such form and manner and at such times as PMGAA shall prescribe. Concessionaire shall provide access to books, records, and accounts to authorized officials of PMGAA, and Federal agencies for the purpose of verifying ACDBE participation and outreach efforts to carry out the ACDBE Policy and Program. See **EXHIBIT 3** for current report requirement.

20.2.3 Prior to any work commencing by Concessionaire's ACDBE subcontractors/suppliers, Concessionaire shall provide PMGAA copies of all executed contracts with such ACDBEs for review of contract compliance with PMGAA's ACDBE Program.

20.3 Outreach Efforts. Throughout the term of this Agreement, and any extension thereof, Concessionaire shall demonstrate it has performed outreach efforts to solicit participation from certified ACDBEs and other small businesses. This requires Concessionaire to document the identification of potential business opportunities for ACDBEs, describe what efforts were undertaken to solicit for ACDBE involvement, results of negotiations with potential ACDBEs, and record the communications of Concessionaire's selection or non-selection of ACDBEs.

The actions taken to meet outreach efforts must be substantiated by written documentation and provided to PMGAA. A declaration that outreach efforts were made will not be sufficient to meet the burden of proof required.

20.4 Approved ACDBE Program. PMGAA's Airport Concession Disadvantaged Business Enterprise Program dated, October 2021 and approved by the FAA, all its terms and conditions is hereby incorporated into and made part of this Agreement by reference.

The approved ACDBE Program can be found at: http://www.gatewayairport.com. PMGAA reserves the right to revise the Program as required.

20.5 Amendments. PMGAA's ACDBE program shall also apply to any amendments to this Agreement that requires work beyond the scope of services originally required to accomplish the project. Concessionaire shall make outreach efforts to obtain ACDBE participation for additional scope(s) of services.

20.6 Enforcement. This Agreement and all subsequent subcontracts entered into as a result of this Agreement, are subject to the requirements, provisions, and enforcement actions of 49 CFR Part 26, Subpart F, Compliance and Enforcement, § 26.101 and 26.105 through 26.109.

Failure to comply with the requirements of SECTION 21 of this Agreement constitutes a breach of this Agreement subject to termination by PMGAA.

21. TITLE VI.

21.1 Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Concessionaire agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

If the Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as the Concessionaire.

The above provision obligates the Concessionaire for the period during which the property is owned, used or possessed by the Concessionaire and the airport remains obligated to the Federal Aviation Administration.

21.2 Civil Rights – Title VI, List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the "Concessionaire") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

21.3 Civil Rights – Title VI, Compliance with Nondiscrimination Requirements

During the performance of this contract, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the "Concessionaire"), agrees as follows:

Compliance with Regulations: The Concessionaire (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Concessionaire, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of

subcontractors, including procurements of materials and leases of equipment. The Concessionaire will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Concessionaire for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Concessionaire of the concessionaire's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Concessionaire will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Concessionaire is in the exclusive possession of another who fails or refuses to furnish the information, the Concessionaire will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of a Concessionaire's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
Withholding payments to the Concessionaire under the contract until the Concessionaire complies; and/or
Cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The Concessionaire will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Concessionaire will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Concessionaire becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Concessionaire may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Concessionaire may request the United States to enter into the litigation to protect the interests of the United States.

21.4 Civil Rights – Title VI, Use and Access to Property

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by PMGAA pursuant to the provisions of the Airport Improvement Program grant assurances.
The Concessionaire for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Concessionaire will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

22. MISCELLANEOUS.

22.1 Personal Liability. No member of PMGAA or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

22.2 No Waiver. No provision of this Agreement may be waived or modified except by a written instrument signed by the Party against whom such waiver or modification is sought.

22.3 Non-Waiver of Rights. No waiver or default by PMGAA of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Concessionaire shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Concessionaire, and PMGAA shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

22.4 Amendment. This Agreement may be amended only by a written instrument executed by the Parties.

20.5 Cancellation. The Parties hereto acknowledge and agree that this Agreement may be cancelled pursuant to the provisions of ARS § 38-511.

22.6 Invalid Provisions. Should any provision of this Agreement or any application thereof shall be held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

22.7 Litigation Expenses. In the event of litigation between PMGAA and Concessionaire, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

22.8 Holding Over. If Concessionaire shall, without the written consent of PMGAA, hold over after the expiration or sooner termination of the Term of this Agreement, the resulting tenancy and concession privilege shall, unless otherwise mutually agreed, be on a month-to-month basis until such time as Concessionaire shall, upon THIRTY (30) calendar days advance written notice by PMGAA to Concessionaire, surrender the ATM Locations or PMGAA shall reenter the ATM Locations. During such month-to-month tenancy, Concessionaire shall pay rentals to PMGAA at a rate equal to ONE HUNDRED FIFTY PERCENT (150%) of the applicable fees and charges established herein and shall be bound by all of the additional provisions of this Agreement insofar as they may be pertinent.

22.9 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

22.10 Approvals, Consents and Notices. All approvals, consents and notices called for in this Agreement shall be in writing, signed by the appropriate party, and may not be established solely by oral testimony.

20.11 Entire Agreement. This Agreement, including exhibits attached hereto at the time of its execution, constitutes the entire Agreement between the Parties hereto.

23. INCORPORATION OF RECITALS.

The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

FOR PMGAA:
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, A.A.E.,
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ___ day of _____, 2023, by J. Brian O'Neill in his capacity as the Executive Director of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

FOR CONCESSIONAIRE:
BAUMTECH, LLC a Louisiana Limited Liability Company authorized to do business in Arizona

By: _____
Richard Baumy, CEO

STATE OF Louisiana)
Parish of St. Bernard) ss.
~~County of~~

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 21st day of August, 2023, by Richard Baumy, in his capacity as the CEO of BaumTech, LLC.

Joan Lane #40365
Notary Public

My Commission Expires:
2028

EXHIBIT 1
ATM Locations

EXHIBIT 2
Monthly Transaction Report

Monthly Transaction Report

Report is due by the 20th of each month for the previous month's activity.

Business Name: _____

Reporting Period: _____ to _____
Date Date

ATM Locations	Number of Transactions
Baggage Claim (T1)	
Gate 5 (T2)	
Total ATM Transactions	

***Verified Signature:** _____
Name Date

****A signature is required to make this statement valid.***

Please make payment payable to:
Phoenix-Mesa Gateway Airport Authority
5835 S. Sossaman Rd.
Mesa, AZ 85212

EXHIBIT 3

Quarterly Reporting of Goods and Services Purchased From ACDBE Firms
Federal Fiscal Year: _____

Reporting Period (Circle One): 10/1 – 12/31 1/1 – 3/31 4/1 – 6/30 7/1 –9/30

Concessionaire: _____ Contract No.: _____

Authorized Person Completing Form: _____

Title: _____ Telephone: _____

E-mail: _____

The following list represents goods and services purchases from ACDBE firm(s) for the above referenced contract during this reporting period in the amounts listed below. Goods and/or services include supplies, wholesale product, local advertising, automobiles, fuel, and custodial, accounting, and other professional and contracted services that support the concessionaire's operations for this contract.

ACDBE Firm Providing Goods and/or Services	ACDBE Firm Contact Name, Telephone and E-mail Address	Type of Goods and/or Services Provided	NAICS Code(s)	Quarterly Expenditure(s) to this Firm
				$
				$
				$
				$
Total Goods & Services Provided by ACDBE Firms				$

Authorized Signature: _____ Date: _____

Concessionaires must complete and submit this form by October 20, January 20, April 20 and July 20 to mmcclung@gatewayairport.com. If no ACDBE firms were used in the reporting period, the concessionaire should list "None" in the table before submitting the form.

To verify if a firm is an ACDBE, visit the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) at this link: https://utracs.azdot.gov/Search

EXHIBIT 4
PMGAA Airport Rules & Regulations

Rules & Regulations

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rules_regulations.pdf

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-46

To:	**Board of Directors**
From:	**Lori Collins, Director of Business and Economic Development**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Vending Services Terminal Concession Lease Agreement – Compass Group USA, Inc.**
Date:	**September 19, 2023**

Proposed Motion

To Authorize a Vending Services Terminal Concession Lease Agreement with Compass Group USA, Inc., by and through its Canteen Division (Compass) for vending services located within Airport facilities that include the Charles L. Williams Passenger Terminal, Airport Administration Building, Gateway Aviation Services, and the Facilities Maintenance Building. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option.

Narrative

The goal of the concession operation at the Phoenix-Mesa Gateway Airport Authority (PMGAA), is to provide an efficient, responsive, and professionally managed vending concession program to satisfy the needs of the traveling public at the Airport, while optimizing annual operating revenues for PMGAA and its automated vending concession service partner. The program will consist of private automated vending machines dispensing non-perishable items on the non-secure side of the terminal and in other Airport buildings.

The Request for Proposal (RFP) 2023-021-RFP was issued on May 17, 2023, for an Airport Vending Concessionaire to provide vending machine services within Airport facilities. This RFP was advertised in the Arizona Business Gazette on 5/25, 6/01, 6/08 and 6/15/23; posted on the Arizona Airports Association, ACI-NA, SWAAAE websites, as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFP was emailed to a list of eight (8) prospective firms. PMGAA received two (2) proposals. The proposal from Compass was selected by the evaluation panel as the best proposal for the Airport based on the evaluation criteria.

Attachment(s)

Agreement

RESOLUTION NO. 23-46

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Vending Services Terminal Concession Lease Agreement with Compass Group USA, Inc., by and through its Canteen Division (Compass) for vending services located within Airport facilities that include the Charles L. Williams Passenger Terminal, Airport Administration Building, Gateway Aviation Services, and the Facilities Maintenance Building. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Vending Services Terminal Concession Lease Agreement with Compass Group USA, Inc., by and through its Canteen Division (Compass) for vending services located within Airport facilities that include the Charles L. Williams Passenger Terminal, Airport Administration Building, Gateway Aviation Services, and the Facilities Maintenance Building. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 19th day of September, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority

TERMINAL CONCESSION LEASE AGREEMENT

(VENDING SERVICES)

with

Compass Group USA, Inc. DBA Canteen

Effective Date: December 1st, 2023

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Phoenix-Mesa Gateway Airport Authority

TERMINAL CONCESSION LEASE AGREEMENT

(VENDING SERVICES)

This exclusive TERMINAL CONCESSION LEASE AGREEMENT (VENDING SERVICES) (the "Agreement") is made and entered into this FIRST (1st) day of DECEMBER 2023 (the "Effective Date"), by and between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("PMGAA"), and **Compass Group USA Inc. by and through its Canteen Division**, a Delaware Corporation ("Concessionaire"). PMGAA and Concessionaire may be referred to jointly as "Parties," and each separately as a "Party."

WITNESSETH:

WHEREAS, PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport, an airport and airfield property generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "Airport"); and

WHEREAS, PMGAA has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, vending services at the Airport are essential for proper accommodation of passengers arriving at and departing from the Airport and the provision of such services serves a public purpose; and

WHEREAS, PMGAA selected Concessionaire through a public Request for Proposal (RFP) process, solicitation number 2023-021-RFP, and desires Concessionaire's services as the operator of a successful VENDING CONCESSION business at and within the Airport's airline passenger terminal (the "Terminal"), in addition to other Airport locations listed herein, is willing to make space available for use by Concessionaire in connection therewith, and through a competitive process has deemed Concessionaire qualified to perform said services, and Concessionaire desires to perform and provide said services; and

NOW, **THEREFORE**, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. AGREEMENT.

1.1 General.

1.1.1 PMGAA hereby grants to Concessionaire, for the term and under the conditions herein provided, an exclusive and revocable right to enter upon and use the Airport (pursuant to the provisions of this Agreement) for the purpose of conducting its business as an Airport VENDING CONCESSIONAIRE from that certain space within the Airport that includes five (5) locations identified as Terminal Ticketing, Terminal Baggage Claim, Gateway Aviation Center, Administrative Breakroom, and the Facilities Maintenance Building and in total is comprised of approximately TWO HUNDRED THIRTY-SIX (236) square feet of concession floor space (the "Premises"), as depicted in **EXHIBIT A** which is attached hereto and made a part hereof. For purposes of this Agreement, the Terminal is that certain building located at 6033 S. Sossaman Road, Mesa,

Arizona, the Gateway Aviation Center is that certain building located at 5803 S. Sossaman Road, Mesa, Arizona, the Airport Administration building is that certain building located at 5835 S. Sossaman Road, Mesa, Arizona, and the Facilities Maintenance building is that certain property located at 6263 S. Taxiway Circle, Mesa, AZ as they presently exists or may subsequently be expanded in the future.

1.1.2 Concessionaire shall not engage in any other commercial revenue producing activity at the Airport that is in addition to or materially differs from the activity set forth in SECTION 1.1.1 and SECTION 1.2 herein prior to obtaining such written approval, without waiver or limitation of any other remedies of PMGAA at law or equity, Concessionaire hereby agrees to immediately cease said activity upon notice from PMGAA, and remit to PMGAA the sum equal to TWENTY PERCENT (20%) of gross billings for such unauthorized activity, plus any expenses incurred by PMGAA in the course of any audit conducted for all of Concessionaire's activities.

1.2 Reserved.

1.3 Concessionaire's Acknowledgement.

1.3.1 Reserved.

1.3.2 Reserved.

1.3.3 Concessionaire acknowledges and agrees that its obligations to pay rental fees and all other charges due and owing under the terms hereof shall, except as otherwise provided herein, be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Concessionaire may have against PMGAA or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Agreement or any lack of right, power or authority of PMGAA or Concessionaire to enter into this Agreement; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Concessionaire or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent and fees being payable by Concessionaire hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

1.4 Concessionaire's Rights. So long as Concessionaire shall timely pay the rental fees and other charges required to be paid and is not in default of any obligation hereunder, PMGAA hereby grants to Concessionaire the following rights:

1.4.1 A right to peaceably have and enjoy the use of the Premises without hindrance from PMGAA, and to occupy and use the Premises while in compliance with the terms and conditions of this Agreement. All other rights granted to Concessionaire under this Agreement are exclusive.

1.4.2 A right of ingress and egress to and from the Premises and the Terminal over Airport roadways, including common use roadways, driveways and public areas of the Airport, subject to any and all applicable rules and regulations established from time to time by PMGAA, the United States government, the State of Arizona, the City of Mesa, or other governmental entity, as applicable. Such rights of ingress and egress shall apply to Concessionaire's employees, guests, patrons, invitees, suppliers and other authorized individuals.

1.4.3 A right to install and maintain appropriate signs within and in proximity to the Premises at Concessionaire's own expense; provided, however, that the design, location, installation, modification and maintenance of such signs shall be subject to the prior written approval of PMGAA.

1.4.4 A right to obtain supplies and services at the Premises from suppliers, vendors or contractors of its choosing; provided, however, that all contracts entered into by Concessionaire for provision of labor and employment services shall require that personnel engaged by Concessionaire at the Premises

shall not be disruptive of other personnel or operations at the Airport and that such personnel shall at all times comply with the *Airport Rules and Regulations*.

1.5 PMGAA's Rights.

1.5.1 PMGAA reserves the right, in its sole discretion, to limit Concessionaire's sale of food, beverages and related items to those specified in **EXHIBIT B** attached hereto, and to other items as may be specifically approved for sale in writing by the Executive Director of PMGAA. In the event any question or dispute arises as to the sale of any specific item on the Premises, Concessionaire may submit a written request to the Executive Director to have the matter reviewed. The Executive Director shall give a decision in writing and such determination shall be considered as final and binding in the matter. Concessionaire shall abide by and conform to the decision of the Executive Director.

1.5.2 In addition to PMGAA's other rights set forth in this Agreement, PMGAA shall have the right (but not the obligation) to substitute Comparable Areas for all or any portion of the Premises, and any additions, alternations or improvements thereon, should PMGAA, in its reasonable discretion, determine that taking of the Premises, any portion thereof or any improvement thereon, is required for other Airport purposes and there exists no appropriate alternative. In the event PMGAA makes the determination to exercise its rights to substitute, all Concessionaire rights to and interest in the portion of the Premises taken shall immediately vest in PMGAA. Furthermore, PMGAA may require Concessionaire to vacate the portion of the Premises taken. For the purposes of this SECTION 1.5.2, the term "Comparable Areas" is defined to mean a space within the Terminal, or any additions or extensions thereof, similar in size to the Premises, brought to the same level of improvement as the Premises and having the same or similar usefulness to Concessionaire as the portion taken. PMGAA shall bear all expenses of bringing the substituted area to the same level of improvement as the Premises. If any of Concessionaire's improvements, equipment, furniture or fixtures cannot be relocated to the substituted premises, PMGAA shall replace, at PMGAA's expense, such non-relocatable improvements and other property with comparable property in the Premises, and PMGAA shall be deemed the owner of the non-relocated improvements and other property, free and clear of all claims of any interest or title therein by Concessionaire, or any other third party whomsoever. It is the specific intent of this SECTION 1.5.2 that Concessionaire be placed, to the extent possible, in the same position it would have been, had PMGAA not substituted new premises for the Premises; provided, however, that PMGAA shall not be obligated to reimburse Concessionaire for any damages, including lost profits or revenues, due to such substitution. Notwithstanding the foregoing, PMGAA shall use reasonable efforts to avoid disruption to Concessionaire's business.

2. TERM.

2.1 Initial Term. The term of this Agreement shall commence on the Effective Date and terminate THREE (3) years thereafter, on NOVEMBER 30, 2026 (the "Term"), unless sooner terminated as provided herein.

2.2 Renewal Term. Provided Concessionaire is not then in default of this Agreement and subject to approval of PMGAA, Concessionaire shall have the option of extending the Term for ONE (1) additional period of TWO (2) years (an "Extension"). Concessionaire may exercise an Extension by giving written notice to PMGAA of its desire to do so no later than ONE HUNDRED TWENTY (120) days prior to the expiration of the Term, as set forth in SECTION 2.1 herein or subsequently extended. If Concessionaire has properly notified PMGAA of its desire to exercise an Extension and PMGAA approves in writing, then Concessionaire's extension of the Term of this Agreement shall become effective and all references herein to the "Term" shall mean the initial term as extended.

2.3 Holding Over – Occupancy of Premises.

2.3.1 If Concessionaire shall continue to occupy any Premises specified herein, or otherwise continue to operate at, on or from the Airport after the expiration of the Term with PMGAA's written consent, this Agreement, with all its terms, covenants and conditions, will be deemed extended on a month-to-month basis, which shall then become the current Term of the Agreement. Either Party may terminate this holdover at any time by giving THIRTY (30) calendar days advance written notice of such termination to the other Party.

2.3.2 If Concessionaire shall continue to occupy any Premises specified herein, or otherwise continue to operate at, on or from the Airport after the expiration of the Term without PMGAA's written consent, such occupancy and/or operation shall be at sufferance in monthly intervals with amounts payable in advance and equal to TWO HUNDRED PERCENT (200%) of the immediately prior applicable Term Rent and other fees therefor. Concessionaire shall continue to be bound by all terms, covenants and conditions of this Agreement, until the time such holdover is concluded.

2.3.3 Nothing contained in this SECTION 2.3 shall be construed, however, to give any right of holdover and PMGAA may exercise any and all remedies, at law or in equity, to recover possession of the Premises specified herein, together with any damages incurred by PMGAA.

3. RENT AND FEES.

3.1 Rent. For and in consideration of the privilege and authorization herein granted, Concessionaire shall pay to PMGAA monthly rental for the Premises equal to the greater of the minimum annual guarantee ("MAG Rent") or percent of gross revenue ("Percentage Rent") specified below:

3.1.1 During the first Agreement year (defined as December 1, 2023 through November 30, 2024), – (subsequent Agreement years shall follow the same month and day dates) and beginning on the earlier of the date Concessionaire completes installation of any and all PMGAA approved improvements described in **EXHIBIT C** or December 16, 2023 (the "Date of Beneficial Occupancy" or "DBO"), Concessionaire shall pay monthly to PMGAA the greater of the MAG Rent amount of FOUR THOUSAND THREE HUNDRED SEVENTY-FIVE AND 00/100 DOLLARS ($4,375.00) or Percentage Rent equal to THIRTY PERCENT (30%) from food and beverages, and TWENTY PERCENT (20%) from specialized items, of gross revenue earned by Concessionaire at, on and from the Premises during the preceding month.

3.1.2 During the second Agreement year beginning on the TWELVE (12) month anniversary of the Effective Date, Concessionaire shall pay monthly to PMGAA the greater of the Revised MAG Rent ("Revised MAG Rent") or Percentage Rent equal to THIRTY PERCENT (30%) from food and beverages and TWENTY PERCENT (20%) from specialized items, of gross revenue earned by Concessionaire at, on and from the Premises during the preceding month. For purposes of this SECTION 3.1.2, Revised MAG Rent for agreement year TWO (2) shall be the greater of the previous Agreement years MAG Rent, or EIGHTY-FIVE PERCENT (85%) of the monthly average of Concessionaire's amount owed to PMGAA during the period of December 2023 thru November 2024 multiplied by TWELVE (12). In Agreement year THREE (3) and subsequent years Revised MAG Rent shall be calculated to equal the greater of the previous Agreement year's MAG Rent or EIGHTY-FIVE PERCENT (85%) of Concessionaire's amount owed to PMGAA during the period of September-August.

3.2 Rental Payments.

3.2.1 *MAG Rent*. Concessionaire shall remit its monthly MAG Rent payment to PMGAA, in advance and without any prior demand therefor and without any abatement, deductions or set offs whatsoever. Such payment shall be due and payable no later than the FIRST (1st) day of each month in which said payment is due (the "MAG Rent Due Date"), plus applicable taxes. MAG Rent payments received TEN (10) or more days after the MAG Rent Due Date shall be subject to finance charges and/or late fees, as provided in SECTION 3.4 herein.

3.2.2 *Percentage Rent*. In addition to MAG Rent, Concessionaire shall pay monthly to PMGAA, on or before the TWENTIETH (20th) day following the last day of the preceding calendar month (the "Percentage Rent Due Date"), a sum equal to the amount in which Concessionaire's gross revenue from the sale of Concessionaire's products during said preceding month multiplied by the applicable percentage specified in SECTION 3.1. Such payments, if any, shall include applicable taxes, as required by SECTION 3.5 herein.

a. For purposes of this Agreement, the term "gross revenue" shall mean the gross selling price (whether collected or not) for all final sales made in connection with Concessionaire's business operations under this Agreement, including the full amount of all orders for goods or services accepted by Concessionaire elsewhere, but to be filled or performed in, on, about or from the Premises, excluding: (i) any and all retail sales taxes, excise taxes, transaction privilege taxes or related direct taxes collected by Concessionaire in the course of making such sales; (ii) any fees or costs charged or deducted by third party credit card issuers, including but not limited to MasterCard and Visa; and (iii) receipts from the sale or trade-in value of any equipment used upon the Premises and owned by Concessionaire.

b. Promptly following the end of each calendar month and in no event later than the Percentage Rent Due Date, Concessionaire shall complete the "Monthly Activity Statement" form **EXHIBIT E** and submit to PMGAA, certified by an officer of Concessionaire, of its gross revenue from its operations at, on, about or from the Premises for the preceding month. Said statements shall also reflect the MAG Rent amount paid during the specific reporting period, and calculate the remaining Percentage Rent due to PMGAA, if any.

3.2.3 *No Waiver*. No payment to or receipt by PMGAA of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way PMGAA's right to recover the balance of such payment or pursue any other remedy provided in this Agreement or by law.

3.3 Annual Reports. Within THIRTY (30) calendar days of the end of each Agreement year, Concessionaire shall provide PMGAA an accounting of its MAG Rent and Percentage Rent payments to PMGAA, including Concessionaire's gross revenue for the prior Agreement year (as defined in SECTION 3.1). If Concessionaire's required payments to PMGAA under this Agreement differ from amounts Concessionaire has actually paid, an adjustment shall be made as follows: (i) If Concessionaire shall have paid to PMGAA an amount greater than Concessionaire is required to pay for such previous Agreement year, Concessionaire shall be entitled to a refund or credit against Concessionaire's next payment for the amount of such overpayment, at Concessionaire's discretion; or (ii) if Concessionaire shall have paid an amount less than the amounts required to be paid during said period, then Concessionaire shall immediately pay such difference to PMGAA.

3.4 Finance Charges and Late Penalties.

3.4.1 If PMGAA shall receive payment for any rental or other fee from Concessionaire TEN (10) or more calendar days after the applicable due date, Concessionaire shall pay interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (a "Finance Charge"), from such due date and continuing until payment is received by PMGAA in full.

3.4.2 In the event any payment is received by PMGAA more than TEN (10) calendar days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent payment (a "Late Penalty") shall be due and payable in addition thereto.

3.5 Taxes. In the event any governmental authority shall impose a tax or imposition based upon any rental payments or any other sums paid or owing hereunder or the receipt of such payments by PMGAA, then, Concessionaire shall pay such amounts to PMGAA at the same time and in addition to payments hereunder, which amounts may include, but are not limited to, any or all rental, transaction privilege, sales, excise or other similar tax except income taxes. Concessionaire's obligation to pay such amounts together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

3.6 Payments – Rentals and Fees.

3.6.1 All payments of rentals, fees and charges specified in SECTIONS 3.1 through 3.5 herein shall be tendered in lawful currency of the United States, either by check or electronic transfer, and shall be free from all claims or setoffs of any kind against PMGAA. In the event technological advances make point of sale gross revenues reporting and payment transfers more economically feasible, PMGAA, after considering the economic impact to both Concessionaire and PMGAA, may revise how payment remittances are made. Any and all equipment and transmission changes necessary to accomplish the change in the reporting and/or remittance process will be the responsibility of Concessionaire.

3.6.2 Except as otherwise provided herein, all payments and reports required by this SECTION 3 shall be remitted to the following address by the due date(s) specified herein:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by PMGAA to Concessionaire.

3.7 Performance Guarantee.

3.7.1 Concessionaire shall, on or before the Effective Date, provide to PMGAA an amount equal to TWO (2) months' MAG Rent or EIGHT THOUSAND SEVEN HUNDRED-FIFTY AND 00/100 DOLLARS ($8,750.00) (the "Performance Guarantee"), in order to guarantee Concessionaire's full and faithful performance of its covenants and obligations hereunder.

3.7.2 The Performance Guarantee, at the election of PMGAA, may be applied in reduction of any loss and/or damage sustained by PMGAA by reason of the occurrence of any breach, nonperformance, or default by Concessionaire under this Agreement without the waiver of any other right or remedy available to PMGAA at law, in equity or under the terms of this Agreement. If any portion of the Performance Guarantee is so used or applied, Concessionaire shall, within THIRTY (30) business days after written notice from PMGAA, deposit with PMGAA immediately available funds in an amount sufficient to restore the Performance Guarantee to its original amount. Unless this Agreement is terminated as a result of Concessionaire's default whereupon Concessionaire shall immediately forfeit its Performance Guarantee to PMGAA, upon termination, PMGAA shall return to Concessionaire all portions of the Performance Guarantee which were not otherwise applied by PMGAA as permitted above within THIRTY (30) calendar days thereafter. PMGAA shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

3.8 Survival. Concessionaire's obligation to pay all amounts herein stated, together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

4. RECORDS AND AUDITING.

4.1 Concessionaire Records.

4.1.1 With respect to its activities at the Premises and on the Airport, Concessionaire shall keep true and accurate records, books and data which shall show all sales made and services performed for cash or credit or otherwise, whether paid or not. Said records, books and data upon written PMGAA request, shall be made available for audit at the Airport, within TEN (10) business days after such request. PMGAA and its authorized representatives, whom are not competitors of Concessionaire, shall have the right at reasonable times and during business hours to inspect and examine records, books and other data as required to verify sales and billings as described in this Agreement.

4.1.2 Reserved.

4.2 PMGAA Audit Authority. In accordance with SECTION 4.1, PMGAA or its authorized representatives shall have the right to audit Concessionaire's records relating to billings, monthly rental payments reported and paid hereunder, and any other activity by Concessionaire on the Airport during the TWELVE (12) consecutive month period preceding the date of such audit. If PMGAA finds or determines that a discrepancy exists for the period of the audit, Concessionaire shall promptly pay the cost and expense of PMGAA's audit. For purposes of this Agreement, a "discrepancy" shall mean one where audited billings exceed reported billings by TWO PERCENT (2%) or more. The amount of any such deficiency established by such audit shall be conclusive and binding upon the Parties and shall be paid by Concessionaire no later than TEN (10) calendar days from the billing date.

5. IMPROVEMENTS AND ALTERATIONS.

5.1 Concessionaire's Acceptance. Concessionaire agrees to accept the Premises in an "as is" condition, and accepts financial responsibility for all improvements specified in SECTION 5.3 herein, and as required to make the Premises suitable for Concessionaire's business operations.

5.2 Authorization. Concessionaire shall make no improvements or alterations to the Premises during the Term of this Agreement without prior notice to and written permission of PMGAA. Concessionaire shall provide PMGAA with electronic, as-built drawings (or their equivalent) upon completion of any approved improvement or alteration.

5.3 Requirements – Initial Occupancy.

5.3.1 Beginning on the Effective Date, Concessionaire shall undertake to design and construct any and all PMGAA approved improvements and install all fixtures, equipment, and related items (collectively, the "Initial Improvements") to transform the Premises in accordance with the concession name and theme substantially similar to the corresponding rendering and floor plan reflected in **EXHIBIT C** herein. Construction plans for the Initial Improvements and any material changes thereto shall be submitted to and approved in writing by the PMGAA Business Development Department prior to execution, commencement of construction and/or submission to the City of Mesa for permit.

5.3.2 Schedules pertinent to the delivery and installation of materials, construction activities and other related work events shall be coordinated in advance with the PMGAA Department of Operations & Maintenance no less than FIVE (5) business days prior to their planned action, whenever possible. Concessionaire shall be responsible for ensuring that ongoing commercial airline and other business activities taking place within the Terminal during construction and installation of Concessionaire's Initial Improvements are not materially disrupted at any time.

5.3.3 Concessionaire shall complete construction and installation of the Initial Improvements to the Premises in time to permit business activities to commence fully within said Premises on the earlier of the DBO or December 16, 2023. If Concessionaire is unable to complete all Initial Improvements by said date for reasons beyond Concessionaire's reasonable control, then such completion date shall be extended by ONE (1) day for each day of such delay, as determined in PMGAA's sole and absolute discretion. Otherwise, Concessionaire's failure to complete said Initial Improvements and become operational by the aforementioned date may subject Concessionaire to the payment of a late opening penalty equal to ONE HUNDRED FOURTY FIVE AND 83/100 DOLLARS ($145.83)[this is 1/30th of the monthly MAG Rent] for each day Concessionaire's commencement of business operations is delayed beyond December 16, 2023, which shall become due and payable to PMGAA, in addition to any other rent and fees due, within FIVE (5) business days of PMGAA's written request therefor.

5.4 Reserved.

5.5 Title to Alterations and Improvements. PMGAA has no right, title, or interest to any vending machines, or any other equipment (collectively, "Equipment") or products provided by Concessionaire, and shall not assert or disturb rights, title, or interest to any Equipment, inventory, or other property furnished or installed by Concessionaire on the PMGAA's Premises. Title to all improvements and

alterations on the Premises, subject to the terms provided herein, shall vest in PMGAA upon the expiration of this Agreement, and Concessionaire agrees to execute and deliver to PMGAA, within a reasonable amount of time after PMGAA's request therefor, a quitclaim deed confirming that title to such improvements and alterations is vested in PMGAA.

5.6 Mechanic's Liens. Concessionaire shall keep the Premises and all improvements thereon free of any mechanic's or materialmen's liens or liens of any kind or nature. In the event that any such lien is filed, Concessionaire shall, at its sole cost, cause such lien to be removed from the Premises within THIRTY (30) calendar days of notice thereof.

5.7 Permit Required. Concessionaire shall be responsible for determining whether it is subject to local building codes or building permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa (hereinafter referred to as the "City") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment and/or use.

5.8 Damage or Destruction.

5.8.1 In the event of damage to or destruction to the Premises, such that other Terminal activities remain unaffected or minimally affected, Concessionaire shall give PMGAA notice thereof, and undertake appropriate repairs or other suitable actions to restore such Premises to their original, usable condition as expeditiously as possible, and, as a minimum, any and all insurance proceeds derived incident thereto shall be applied fully to such restoration. Should Concessionaire fail to complete said restorative actions within ONE HUNDRED TWENTY (120) calendar days after the occurrence of such damage or destruction, subject to any delay for reasons beyond Concessionaire's reasonable control, PMGAA may elect to terminate this Agreement; provided, however, PMGAA may not elect to terminate at any time when restoration, repair or replacement has been commenced and is being pursued with commercially reasonable diligence.

5.8.2 Should greater than FIFTY PERCENT (50%) the Terminal itself, including the Premises, be rendered untenable by fire or other casualty and PMGAA either cannot or elects to not complete restorative action within a reasonable period of time, Concessionaire shall have the option to terminate this Agreement. Further and during PMGAA's restorative activities, PMGAA shall abate all rental fees and other charges owed in connection with the damaged or destroyed Premises until such time as the Agreement is terminated or Concessionaire is able to recommence business operations therefrom.

6. MAINTENANCE, REPAIRS, SERVICES AND INSPECTIONS.

6.1 Maintenance. Concessionaire shall, at its sole expense, maintain the Premises, including all Initial and Refurbishment Improvements, furnishings and equipment therein, in good and safe repair and in a neat, clean and orderly condition throughout the Term of this Agreement.

6.2 Repairs. Any damage caused to the Premises or any PMGAA property by any act, omission or negligence of Concessionaire, its employees, invitees, suppliers or furnishers of service shall be repaired and restored to the condition existing prior to damage by Concessionaire at Concessionaire's sole expense in accordance with plans and specifications provided by Concessionaire to and approved by PMGAA. Should PMGAA find it necessary to make such repairs itself, Concessionaire shall pay PMGAA, as additional fees hereunder, the expenses of all repairs thereby incurred, as provided in SECTION 6.4.2 herein.

6.3 Services.

6.3.1 Concessionaire agrees to provide, at its own expense, such janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of the Premises. Concessionaire also agrees to keep and maintain the Premises in a clean, neat and sanitary condition, and

attractive in appearance. In the event PMGAA determines, in its sole, reasonable discretion, that Concessionaire's janitorial and cleaning program is not acceptable or sufficient, then, PMGAA may, after reasonable notice to Concessionaire, seek to provide such services by other means. Concessionaire agrees to reimburse PMGAA no later than TWENTY (20) calendar days following written demand by PMGAA for any expenses incurred by PMGAA due to conditions at the Premises.

6.3.2 Concessionaire shall provide for the complete removal, sanitary handling and disposal of all trash, garbage and other refuse resulting from its business operations at, on, about or from the Premises to receptacles at locations specified by PMGAA.

6.4 Inspections. PMGAA, its authorized employees, agents, contractors, subcontractors and other representatives shall have the right, but not the obligation, at all reasonable times, to enter upon the Premises to:

6.4.1 Inspect the Premises during regular business hours (or at any time in case of an emergency) to ascertain the condition of the Premises and to determine Concessionaire's compliance with the terms of this Agreement and applicable other regulatory requirements. This right of inspection shall not imply or infer any duty of PMGAA to inspect, and shall impart no liability upon PMGAA for failure to inspect.

6.4.2 Perform or arrange to perform maintenance and repairs and replacements in any event when Concessionaire is obligated to do so under this Agreement and failed to do so within TEN (10) business days after written notice from PMGAA, or at any time with or without written notice in the event that PMGAA, in its sole discretion, deems that it is necessary or prudent to correct any condition likely to lead to injury or damage. If such maintenance, repairs or replacements are required to be made by Concessionaire under this Agreement, but are performed by PMGAA, then, Concessionaire shall pay PMGAA's entire cost and expense of performing such work as additional rent to PMGAA upon written demand therefor.

6.4.3 Perform any obligation of PMGAA under this Agreement and to make additions, alterations, maintenance and repairs to the Terminal, including its utility systems.

All entries by PMGAA, its authorized employees, agents, contractors, subcontractors and other representatives made pursuant to this SECTION 6.4, shall be without abatement of rent and/or fees, provided that such entries do not cause unreasonable interference with Concessionaire's business operations.

7. CONCESSIONAIRE'S COMPLIANCE.

7.1 Regulatory Compliance and Certification.

7.1.1 Concessionaire, its agents, employees, invitees, subcontractors and independent contractors shall comply with all directions, rules, regulations and operating procedures of PMGAA in effect or hereinafter promulgated, and shall observe and obey all ordinances of the City, as well as all federal and state statutes and regulations governing use of the Premises and Airport and Concessionaire's business activities thereon.

7.1.2 Reserved.

7.2 Operating Permits. Concessionaire shall furnish to PMGAA, prior to conducting any business or activities at, on or within the Premises and the Airport, copies of all operating permits required by the City, or any other government entity, if applicable.

7.3 Reserved.

7.4 Operating and Service Standards. Concessionaire shall operate its business from the Premises, and elsewhere as may be permitted by PMGAA from time to time. In addition, Concessionaire shall:

7.4.1 *Professional Management*. Designate a local representative experienced in management and supervision who has sufficient authority and responsibility to insure proper operation of the concession, to render decisions and to take all necessary action(s) in connection with this Agreement. Such a person (or

his or her authorized and designated representative) shall be available whenever the concession is in operation, and be contactable at all other times should emergencies arise. Such person also shall attend periodic Terminal Operations meetings at pre-arranged locations and times.

7.4.2 *Personnel.*

a. Maintain a sufficient number of trained personnel to ensure Concessionaire's customers receive prompt and courteous service at all times. All personnel of Concessionaire, while on or about the Premises, shall be polite, clean, uniformed and present a professional appearance at all times. Concessionaire shall not permit its agents, servants or employees (whether full-time, part-time or contract) to solicit business from the Premises or other Airport locations in any manner whatsoever, except through the use of signs approved by PMGAA.

b. Ensure all Concessionaire employees (whether full-time, part-time or contract) are at all times competent, experienced and properly licensed to perform their duties, as and if required by applicable federal, state and local laws, and obey all traffic laws and regulations. Said employees shall be under the direction of Concessionaire, who will be responsible for their conduct and performance that occurs within the Normal Course of Business, and shall conduct themselves with courtesy and dignity with the public interest of primary importance. Normal Course of Business shall mean and apply to all times that Concessionaire's employees are on PMGAA Premises and providing services as stated herein.

c. Promptly respond to and resolve any issue with any employee whose conduct PMGAA or its Executive Director feels is detrimental to the best interests of the Airport and PMGAA.

d. Not, during the Term of this Agreement, hire or employ, on a full-time, part-time or contract basis, any person or persons employed by PMGAA.

e. To the extent applicable under Arizona Revised Statutes (ARS) §41-4401, Concessionaire warrants compliance with all federal immigration laws and regulations that relate to Concessionaire's employees and compliance with the E-verify requirements under ARS §23-214(A). Concessionaire's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in its termination by PMGAA. PMGAA retains the legal right to randomly inspect the papers and records of any employee who works under this Agreement to ensure Concessionaire is complying with the above-mentioned warranty.

7.4.3 *Scrutinized Business Operations.* Pursuant to ARS §§35-391.06 and 35-393.06, Concessionaire certifies that it does not have a scrutinized business operation in the Sudan or Iran. For purposes of this SECTION 7.4.3, the term "scrutinized business operations" shall have the meanings set forth in ARS §§ 35-391 and 35-393, as applicable. If PMGAA determines that Concessionaire submitted a false certification, PMGAA may impose remedies as provided by law, including termination of this Agreement.

7.4.4 *Public Service.* Ensure that its business operations at, on and about the Premises are conducted in a professional, first-class manner, and that all facilities, equipment, services and standards of operation are at least equal to the highest quality of service rendered by other companies of a like nature at other modern airport terminal facilities. The general public shall be given the highest consideration at all times in matters affecting the operation of this concession, and Concessionaire shall emphasize the tenets of "exceptional customer service," "quality products" and "value" in both its products offered for sale and during interaction with its customers.

7.4.5 *Hours of Operation.* Ensure all vending machines are available and stocked for customer use 24-hours daily and are kept in good operating condition at all times, such that the machines will satisfy all reasonable requests for service.

7.4.6 *Product Pricing.* Sell all retail, food and beverage items specified in **EXHIBIT B** for no more than average "street" prices charged for like-size and –quantity products in comparable airport

concessions, restaurants, fast food establishments, retail shops, etc. within the Phoenix, Arizona metropolitan area. Should Concessionaire desire to add items to those specified in **EXHIBIT B** or change prices specified therein by more than TEN PERCENT (10%) within a TWELVE (12) month period, Concessionaire shall seek advance written PMGAA approval therefor. PMGAA reserves the right to require Concessionaire to provide comparable "street" pricing from not less than THREE (3) locations acceptable to PMGAA when Concessionaire requests changes to **EXHIBIT B**, and at other times at PMGAA's sole and absolute discretion.

7.4.7 Reserved.

7.4.8 *Complaints by Public.* In the event Concessionaire receives (or PMGAA receives and forwards to Concessionaire) any written complaint concerning Concessionaire's operation of the concession, promptly respond to such complaint in writing within TEN (10) business days of its receipt and make a good-faith attempt to explain, resolve or rectify the cause of such complaint. Repeated complaints by the public concerning Concessionaire's services may be grounds for termination of this Agreement.

7.4.9 *Record-keeping.* Cause to be installed on the Premises and at all time use such accounting equipment, devices and forms as are reasonably necessary to record properly, accurately and completely all sales from and on the Premises of Concessionaire's products.

7.5 Condition of the Premises. Concessionaire shall keep the Premises, including all product displays and customer areas, organized, neat and clean at all times, so as to present a positive image to Airport patrons. All signage and notices posted within the Premises shall be professionally prepared and affixed in a safe, aesthetically pleasing manner, such that they complement the concession décor. No paper signs shall be taped to walls or structures anywhere within the Premises.

7.6 Surrender of Occupancy.

7.6.1 When this Agreement expires or is otherwise terminated in whole or in part as provided elsewhere herein, Concessionaire shall surrender the Premises and fixed improvements and operating facilities therein broom-clean and in a state of good repair, with the exception of reasonable wear and tear and damage by loss or casualty not covered by insurance which Concessionaire is required to maintain pursuant to this Agreement and not otherwise attributable to Concessionaire's fault or negligence.

7.6.2 Concessionaire shall be deemed to have abandoned to PMGAA any personal property and trade fixtures that it has failed to remove from the Premises within FIFTEEN (15) calendar days after the end of the Term of this Agreement, or the effective date of termination thereof, unless PMGAA grants additional time for this purpose in writing. During this period, Concessionaire shall remain responsible for monthly rental and other payment(s) to PMGAA until such time as the Premises are fully available to PMGAA for maintenance, renovation or re-letting to another concessionaire. After the expiration of the aforementioned FIFTEEN (15) business day period or any extension thereof granted by PMGAA, PMGAA shall have the right to remove the property of Concessionaire and restore the Premises to a satisfactory condition and hold Concessionaire liable for all costs incident thereto. In the event it is necessary for PMGAA to remove such property, PMGAA shall not sustain or be charged with any liability by reason of the removal or custodial care of same.

8. AIRPORT SECURITY PLAN.

8.1 PMGAA maintains an approved Airport Security Plan (the "Security Plan") pursuant to 49 CFR Parts 1540 and 1542. Concessionaire shall at all times comply with the Security Plan and the written and verbal directive issued by PMGAA supporting the Security Plan.

8.1.1 Concessionaire is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by PMGAA's Operations Department.

8.1.2 Concessionaire shall, to the fullest extent permitted by law, indemnify, defend, and hold PMGAA harmless for, from, and against any security violation committed by any agents, employees, invitees, subcontractors, or independent contractors of Concessionaire.

8.1.3 Concessionaire shall conduct and document all self-audits and self-inspections as required by the TSA or PMGAA's Operations Department and make such audits available for inspection.

8.1.4 Concessionaire shall designate a primary security coordinator to receive security - related briefings, bulletins, and sensitive security information.

8.1.5 PMGAA reserves the right to modify the Security Plan from time-to-time, as necessary, or as directed by the TSA. PMGAA Airport Operations shall notify the Concessionaire security coordinator regarding modifications that effect Concessionaire.

8.2 Airport Security Badge.

8.2.1 Concessionaire employees/contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by PMGAA Operations Department, Transpiration Security Administration, or other entity having security jurisdiction at PMGAA.

8.2.2 Concessionaire, employees and contractors shall comply with all security-related audits, inspection, and screenings conducted by the PMGAA Operations Department.

8.2.3 Concessionaire will immediately return badges to the Airport Badging office when badge holders' employment is terminated, the badge is no longer needed, or the employee/contractor is on extended leave.

8.2.4 Misuse of a badge or security procedures will bring about punitive action including suspension or revocation of one or all badges.

9. TAXES, LICENSES AND PERMITS.

Concessionaire shall pay all taxes and assessments that may be levied or charged upon its property, equipment and activity hereunder, and shall secure and comply with all licenses and permits required by PMGAA or any other governmental authority exercising jurisdiction over its business or activities. Concessionaire shall also pay any taxes or assessments levied upon PMGAA as a result of Concessionaire conducting its business under the authority of this Agreement.

10. INSURANCE AND INDEMNIFICATION.

10.1 Insurance Coverage Required. Concessionaire shall at all times and prior to the Effective Date, at its sole expense, maintain in effect the insurance coverage set forth below, deliver a certificate of insurance for each policy to PMGAA and continue to provide such certificate(s) throughout the Term:

10.1.1 *Comprehensive General Liability* insurance in an amount not less than $1,000,000 per occurrence and $2,000,000 aggregate, covering third party bodily injury and property damage, and including coverage for "premises/operations," "products and completed operations," "professional," "host liquor" and "blanket contractual liabilities."

10.1.2 *Commercial Automobile Liability* insurance in an amount not less than $1,000,000 per occurrence ($2,000,000 per occurrence if operating within the AOA) covering all owned, non-owned and hire vehicles operated by Lessee on the Airport that are assigned to or used in the performance of commercial activities, or that are operated within the AOA. If any hazardous materials are transported within Airport boundaries in conjunction with the operator's business activities, an MSC-90 Endorsement is required.

10.1.3 *Workers' Compensation* insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000, covering work-related injuries to employees and others permitted to operate or otherwise conduct business at the Airport on Concessionaire's behalf.

10.1.4 *Intentionally Omitted.*

10.2 Insurance Form. Each insurance policy obtained pursuant to this SECTION 10, except for *Workers' Compensation* and *Employer's Liability* policies, shall: (i) name PMGAA as a certificate holder or an additional named insured; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to PMGAA not less than THIRTY (30) calendar days before such cancellation or modification takes effect TEN (10) days in the case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of PMGAA. Concessionaire shall not permit any insurance policy to be canceled or modified without PMGAA's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A - VII or higher from the A.M. Best Company, or an equivalent rating approved by PMGAA.

10.3 Indemnification. To the fullest extent permitted by law, Concessionaire shall indemnify, defend and hold PMGAA, its agents and employees, harmless for, from and against all liability, claims, damages, losses, expenses, and fines including attorneys' fees and costs of litigation, arising out of, sustained, or in any manner related to Concessionaire's use of and activities at the Airport or any part or appurtenance thereof. Concessionaire shall not be liable for any consequential damages and for claims arising by reason of the negligent or wrongful act of PMGAA, its agents or employees.

11. ASSIGNMENT.

11.1 Consent. Concessionaire shall not assign, transfer or encumber this Agreement in any manner, or any part hereof, or interest herein or sublease any of the Premises hereunder, except with the prior written permission of PMGAA and subject to whatever reasonable limitations and conditions may be required by PMGAA. Any other transfer, assignment or sublease shall confer no rights upon any third person or party, and such may be deemed by PMGAA, in its sole and absolute discretion, as a breach of this Agreement, rendering it null and void. No assignment or sublease shall relieve Concessionaire of any obligation under this Agreement unless otherwise agreed in advance, in writing by PMGAA. Notwithstanding the foregoing, this SECTION 11 shall not be interpreted to preclude the assignment of this Agreement to a parent, subsidiary or merged company, if such part, subsidiary or merged company assumes all rights and obligations of this Agreement. Written notice of such assumption shall be provided to PMGAA by the parent, subsidiary or merged company not less than THIRTY (30) calendar days prior to the effective date of such assignment.

11.2 Transfer Defined. For the purposes of this Agreement, a "transfer" shall be deemed to include the following: (i) if Concessionaire is a corporation, partnership, limited liability company, or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Agreement; provided, however, if Concessionaire is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Concessionaire's stock shall not constitute a transfer requiring PMGAA's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Concessionaire.

11.3 Non-Disturbance. PMGAA agrees, for the benefit of all subtenants of all or any part of the Premises, that if this Agreement or Concessionaire's right to possession of the Premises is terminated for default or otherwise, all subleases of all or any part of the Premises, except any sublease to an affiliate of Concessionaire, shall continue in full force and effect notwithstanding the termination as direct leases or contracts between PMGAA and the subtenants and contractors, and all such subtenants and contractors upon request shall attorn in writing to PMGAA.

12. CANCELLATION PROVISIONS.

12.1 PMGAA's Right of Cancellation. Except as may be otherwise provided herein, PMGAA shall have the right to terminate this Agreement in its entirety if Concessionaire commits any one or more of the hereinafter listed events of default. If, within THIRTY (30) calendar days of receiving notice, Concessionaire has not corrected the event leading to termination as stated herein, PMGAA may terminate this Agreement

immediately. Thereafter, Concessionaire shall immediately cease its operations within the Premises and on the Airport and remove all of its employees and personal property therefrom:

12.1.1 If Concessionaire shall fail to pay any installment of rent or any other amount due from Concessionaire hereunder, provided that Concessionaire does not cure or initiate demonstrable corrective action for such failure within TEN (10) business days after delivery by PMGAA of a written notice of such failure.

12.1.2 If Concessionaire shall neglect or fail to perform, keep or observe any other terms, covenants or conditions herein contained and if such neglect or failure shall continue for a period of THIRTY (30) calendar days after delivery by PMGAA of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

12.1.3 The taking by a court of competent jurisdiction of Concessionaire and its assets pursuant to proceedings under the provisions of any Federal or State reorganization or bankruptcy code or act.

12.1.4 The occurrence of any act which deprives the Concessionaire of the rights, licenses, permits and authorizations necessary for the proper and lawful conduct of the Concessionaire's business operations at, on, about or from the Airport.

12.1.5 If Concessionaire shall abandon all or any part of the Premises or shall discontinue the conduct of its operations in all or any part of the Premises for a period of THREE (3) consecutive days.

12.1.6 The filing of any mechanic's, materialman's or other lien or any kind against the Premises because of any act or omission of Concessionaire which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Concessionaire.

12.1.7 Concessionaire receipt of THREE (3) written notices of default for violations of the Security Plan or *Airport Rules and Regulations* from PMGAA within a SIX (6) consecutive calendar month period.

12.1.8 A transfer or assignment occurs without PMGAA's prior written approval.

12.1.9 Concessionaire conducts its operations in such a manner as to threaten public safety, as determined by PMGAA in conformity with the laws and regulations of the State of Arizona and PMGAA.

12.1.10 PMGAA determines that Concessionaire willfully falsified any of its records or figures so as to deprive PMGAA of any of its rights under the terms of this Agreement.

12.2 Concessionaire's Right of Cancellation for Default. Concessionaire shall have the right to terminate this Agreement in its entirety upon THIRTY (30) calendar days advance written notice to PMGAA if one or more of the following events of default are committed by PMGAA:

12.2.1 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport in such a manner as to substantially restrict Concessionaire from conducting its business activities at, on and within the Premises, which injunction is not caused by any act or omission of Concessionaire and such injunction remains in force for at least SIXTY (60) consecutive calendar days.

12.2.2 If Concessionaire is deprived of the use of all or a major portion of the Premises for THIRTY (30) consecutive calendar days or more, subject to the relocation or other applicable renovation provision provided for herein.

12.2.3 The assumption by the United States Government and the authorized agencies thereof, or any other governmental agency, of the operation, control or use of Airport facilities, including the Premises, or any substantial part or parts thereof in such a manner as to substantially restrict the conduct of Concessionaire's business thereto for a period of THIRTY (30) consecutive calendar days or more.

12.2.4 A breach by PMGAA of any of the terms and covenants or conditions within this Agreement. In the event of such a breach, Concessionaire shall have available all rights and remedies provided

at law or in equity, subject to the terms and conditions of this Agreement; provided, however, Concessionaire may not exercise any such right or remedy unless Concessionaire has notified PMGAA by written notice of such alleged default, and PMGAA has not cured such default within a THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot be reasonably cured within such THIRTY (30) day period, PMGAA has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary in this Agreement, in no event shall Concessionaire be entitled to terminate this Agreement or abate or offset any installment of rent or any other payments to be made by Concessionaire hereunder.

13. NONWAIVER.

PMGAA's right to revoke this Agreement shall be absolute. Any election by PMGAA to not enforce any provision of this Agreement, or any failure by PMGAA to exercise any of the remedies allowed PMGAA under this Agreement, shall not operate as a waiver by PMGAA of its right.

14. APPLICABLE LAW.

The laws of the State of Arizona, including its conflicts of law provisions, shall govern the matters set forth in this Agreement. Venue of any action brought under this Lease shall, at the option of PMGAA, lie in Maricopa County, Arizona.

15. RULES AND REGULATIONS.

Concessionaire shall at all times comply with all Federal, State and local laws, ordinances, rules, and regulations which are applicable to its operations, the Premises itself or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Concessionaire shall at all times comply with PMGAA's *Airport Rules and Regulations*, as applicable and as the same may be amended from time to time. A copy of PMGAA's *Airport Rules and Regulations* is attached hereto as **EXHIBIT D**. Concessionaire acknowledges and agrees that PMGAA may amend the *Airport Rules and Regulations* at any time in PMGAA's sole and absolute discretion. Concessionaire also shall display to PMGAA any permits, licenses, or other evidence of compliance with laws upon request.

16. CORPORATE AUTHORIZATION.

In executing this Agreement, Concessionaire represents and warrants to PMGAA that Concessionaire has obtained and been granted the full right, power and authority to enter into this Agreement.

17. NOTICES.

17.1 Notices required under this Agreement shall be in writing and delivered personally or by registered or certified mail, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn.: Business Development Department
5835 S. Sossaman Road
Mesa, Arizona 85212-0919
Telephone: (480) 988-7649

TO CONCESSIONAIRE: Compass Group USA, Inc. DBA Canteen
Attn.: Shawn Grider, Division President
2643 N I-35E, Suite 200
Carrollton, TX 75006
Telephone: (602) 292-2518

17.2 Notice by certified or registered mail in the manner described above shall be deemed effective the day after its deposit in the mail.

18. PRIOR PERMITS.

Upon execution hereof, this Agreement shall supersede and cancel any prior agreement(s) between PMGAA and Concessionaire with respect to the business activities governed hereby. Concessionaire shall not construe PMGAA's execution of this Agreement as a waiver of any prior indebtedness or obligation to PMGAA under any prior agreement or license, nor does PMGAA waive any claim or cause of action arising therefrom.

19. ENVIRONMENTAL COMPLIANCE.

Concessionaire shall, at Concessionaire's own expense, comply with all present and hereinafter enacted environmental laws, rules and regulations and any amendments thereto, affecting or applying to Concessionaire's operations and activities at, on or within the Premises and the Airport.

20. MISCELLANEOUS.

20.1 Personal Liability. No member or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

20.2 No Waiver. No provision of this Agreement may be waived or modified except by a written instrument signed by the Party against whom such waiver or modification is sought.

20.3 Non-Waiver of Rights. No waiver or default by PMGAA of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Concessionaire shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Concessionaire, and PMGAA shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

20.4 Amendment. This Agreement may be amended only by a written instrument executed by the Parties, except that the product listing at **EXHIBIT B** may be updated at any time, upon mutual agreement of the Parties, without formal amendment but shall, upon said mutual agreement, become a valid **EXHIBIT B** replacement to this Agreement thereafter.

20.5 Cancellation. The Parties hereto acknowledge and agree that this Agreement may be cancelled pursuant to the provisions of ARS § 38-511.

20.6 Invalid Provisions. Should any provision of this Agreement or any application thereof shall be held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

20.7 Litigation Expenses. In the event of litigation between the Parties, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

20.8 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

20.9 Approvals, Consents and Notices. All approvals, consents and notices called for in this Agreement shall be in writing, signed by the appropriate party, and may not be established solely by oral testimony.

20.10 Entire Agreement. This Agreement, including exhibits attached hereto at the time of its execution, constitutes the entire Agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

21. ACDBE REQUIREMENTS.

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

The concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statement in further agreements.

21.1 PMGAA's Airport Concession Disadvantaged Business Enterprise (ACDBE) Program is race neutral. PMGAA encourages the use of ACDBEs and other small businesses in the performance of this concession opportunity. In order to be counted as an ACDBE, a small business must be certified as an ACDBE at time of award by a certifying agency within the Arizona Unified Certification Program (UCP).

21.1.1 Concessionaire shall make outreach efforts to carry out this policy during the term of the Agreement through award of subcontracts to small businesses and disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of PMGAA's contract, and/or the utilization of ACDBE suppliers where feasible.

21.2 Record Requirements. Concessionaire is required to track and report to PMGAA all ACDBE and/or small business participation that occurs as a result of a contract, procurements, purchase orders, sublease, joint venture, goods/services or other arrangements involving sub-tier participation.

21.2.1 PMGAA reserves the right to validate the information submitted by Concessionaire with the ACDBE firm listed and/or other certifying entities or licensing agents as part of the verification process.

21.2.2 Concessionaire shall submit to PMGAA periodic reports of subcontract and/or supplier awards to ACDBE firms in such form and manner and at such times as PMGAA shall prescribe. Concessionaire shall provide access to books, records, and accounts to authorized officials of PMGAA, and Federal agencies for the purpose of verifying ACDBE participation and outreach efforts to carry out the ACDBE Policy and Program. See **EXHIBIT F** for current report requirement.

21.2.3 Prior to any work commencing by Concessionaire's ACDBE subcontractors/suppliers, Concessionaire shall provide PMGAA copies of all executed contracts with such ACDBEs for review of contract compliance with PMGAA's ACDBE Program.

21.3 Outreach Efforts. Throughout the term of this Agreement, and any extension thereof, Concessionaire shall demonstrate it has performed outreach efforts to solicit participation from certified ACDBEs and other small businesses. This requires Concessionaire to document the identification of potential business opportunities for ACDBEs, describe what efforts were undertaken to solicit for ACDBE involvement, results of negotiations with potential ACDBEs, and record the communications of Concessionaire's selection or non-selection of ACDBEs.

The actions taken to meet outreach efforts must be substantiated by written documentation and provided to PMGAA. A declaration that outreach efforts were made will not be sufficient to meet the burden of proof required.

21.4 Approved ACDBE Program. PMGAA's most current Airport Concession Disadvantaged Business Enterprise Program and all its terms and conditions are hereby incorporated into and made part of this Agreement by reference.

The approved ACDBE Program can be found at: http://www.gatewayairport.com. PMGAA reserves the right to revise the Program as required.

21.5 Amendments. PMGAA's ACDBE program shall also apply to any amendments to this Agreement that requires work beyond the scope of services originally required to accomplish the project. Concessionaire shall make outreach efforts to obtain ACDBE participation for additional scope(s) of services.

21.6 Enforcement. This Agreement and all subsequent subcontracts entered into as a result of this Agreement, are subject to the requirements, provisions, and enforcement actions of 49 CFR Part 26, Subpart F, Compliance and Enforcement, § 26.101 and 26.105 through 26.109.

Failure to comply with the requirements of SECTION 21 of this Agreement constitutes a breach of this Agreement subject to termination by PMGAA.

22. TITLE VI.

22.1 Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Concessionaire agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

If the Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as the Concessionaire.

The above provision obligates the Concessionaire for the period during which the property is owned, used or possessed by the Concessionaire and the airport remains obligated to the Federal Aviation Administration.

22.2 Civil Rights – Title VI, List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the "Concessionaire") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit

discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

22.3 Civil Rights – Title VI, Compliance with Nondiscrimination Requirements

During the performance of this contract, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the "Concessionaire"), agrees as follows:

Compliance with Regulations: The Concessionaire (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Concessionaire, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Concessionaire will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Concessionaire for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Concessionaire of the concessionaire's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Concessionaire will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Concessionaire is in the exclusive possession of another who fails or refuses to furnish the information, the Concessionaire will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of a Concessionaire's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
Withholding payments to the Concessionaire under the contract until the Concessionaire complies; and/or
Cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The Concessionaire will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Concessionaire will take action with

respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Concessionaire becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Concessionaire may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Concessionaire may request the United States to enter into the litigation to protect the interests of the United States.

22.4 Civil Rights – Title VI, Use and Access to Property

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by PMGAA pursuant to the provisions of the Airport Improvement Program grant assurances.
The Concessionaire for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Concessionaire will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

23. INCORPORATION OF RECITALS.

The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

EXECUTED to be effective on the date specified above.

FOR PMGAA:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ___ day of _____, 2023, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

JENNA LIH JOY
Notary Public, State of Texas
Comm. Expires 10-14-2026
Notary ID 134016693

FOR CONCESSIONAIRE:

COMPASS GROUP USA INC., BY AND THROUGH ITS CANTEEN VENDING SERVICES DIVISION, a Delaware Corporation authorized to do business in Arizona

By: _____
Shawn Grider, Division President

STATE OF TX)
) ss.
County of Dallas)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 25 day of August, 2023, by Shawn Grider, in his capacity as the Division President of Compass Group USA Inc. DBA Canteen.

Jenna Lih Joy
Notary Public

My Commission Expires:
10-14-2026

EXHIBIT A

Depiction of the Premises

Terminal Ticketing (Location 1) & Terminal Baggage Claim (Location 2)

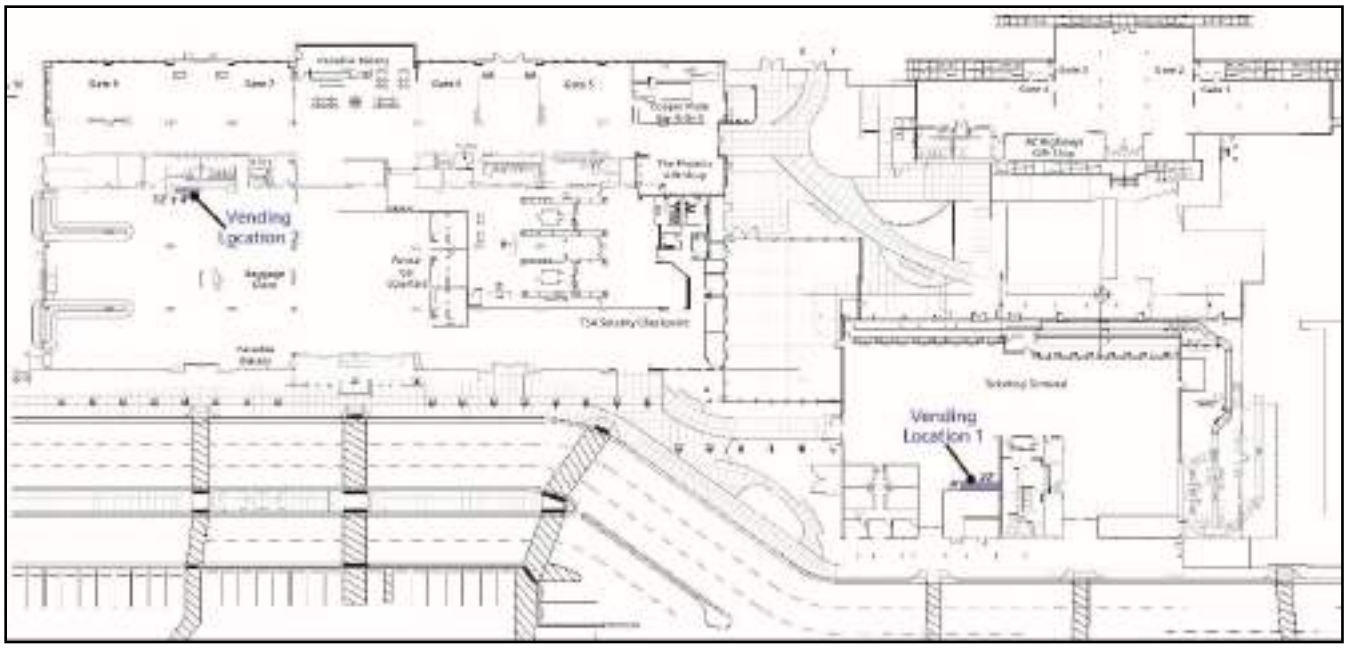

EXHIBIT A (CONTINUED)

Administrative Breakroom

EXHIBIT A (CONTINUED)

Gateway Aviation Center

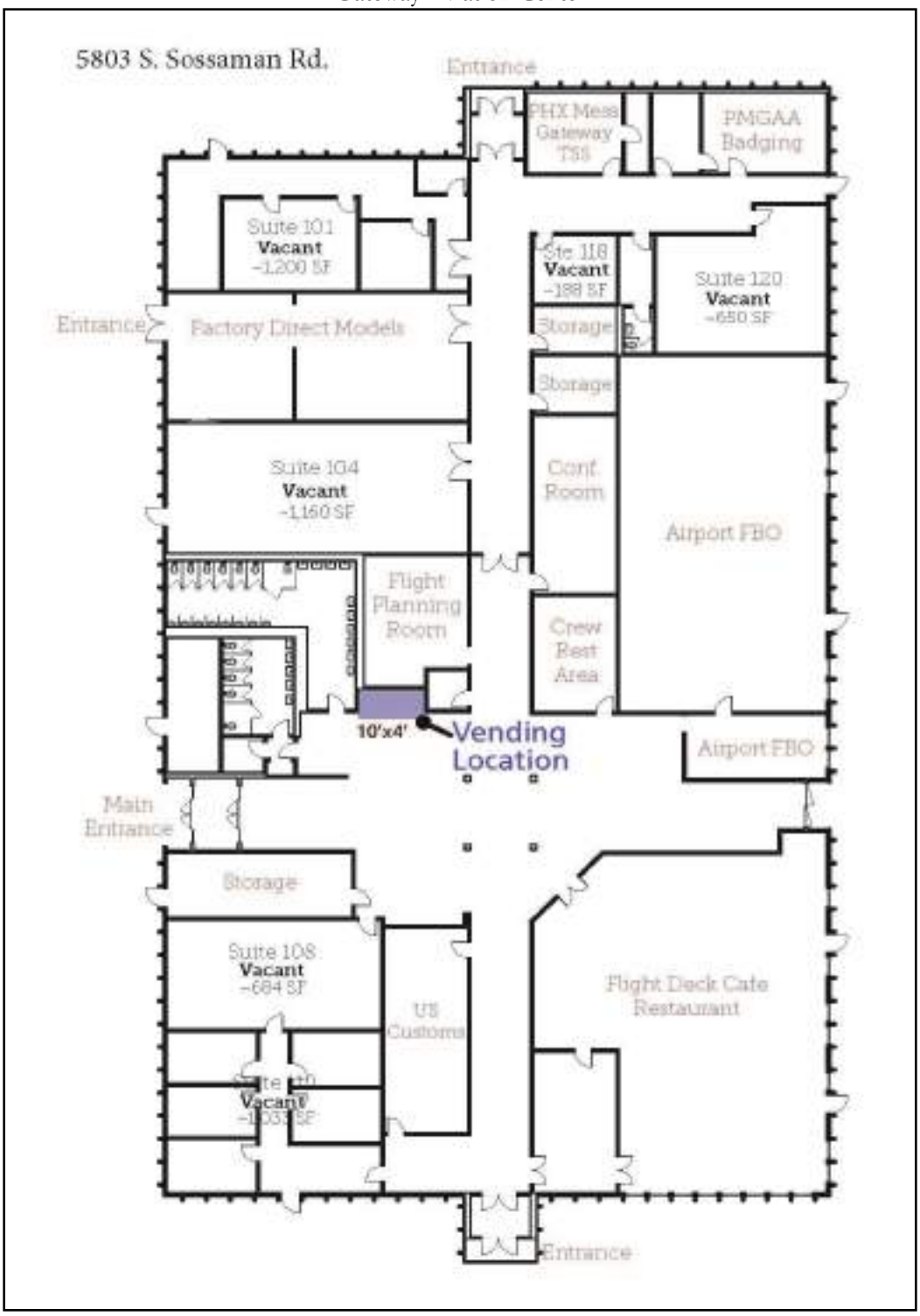

EXHIBIT A (CONTINUED)

Facilties Maintenance Building

EXHIBIT B

Authorized Menu/Product Listing

NOTE: The below may be subject to change. However, any change in product offering or pricing (10% greater than indicated above) shall require a "Value Pricing" comparison and a complete updating of this **EXHIBIT B**. Such update may be accomplished without formal amendment to this Agreement.

Public Vending Areas: Terminal Ticketing, Terminal Baggage Claim, Gateway Aviation Center

Category	Description	Size	Price	Appeal and target market
20 oz. Soda	Coca-Cola, Pepsi, Dr Pepper Snapple Group	20 oz.	$3.00	Airport Travelers, General Aviation Customers, Airport Employees and Guests
Isotonics	Gatorade, Vitamin Water, BODYARMOR, Powerade	16 oz. - 20 oz.	$3.00	
Energy Drinks	Monster, Red Bull, Rockstar, Bang, Celsius, and C4	16 oz. - 20 oz.	$4.00	
RTD Coffee	Starbucks, Dunkin Donuts, La Colombe, Black & Bold	16 oz. - 20 oz.	$4.00	
Water	Aquafina, Dasani, Liquid Death, Smart Water	16 oz. - 20 oz.	$2.50	
Teas	Arizona, Lipton, Peace, Yerbae	16 oz. - 20 oz.	$3.00	
LSS Chips	Lay's, Boulder, Zapps, Doritos, Snyder's	1.5 oz. - 2 oz.	$2.00	
Candy	Snickers, Reese, Skittles	1 oz. - 2 oz.	$2.50	
Pastry	Little Debbie, Hostess, Cloverhill	3 oz. - 6 oz.	$2.50	
Protein Bars	Kind, Quest, ONE, and MET-RX	1 oz. - 4 oz.	$3.00	
Nuts	Wonderful Pistachio, Kar's, Planters	1 oz. - 3.5 oz.	$2.00	
Large Bag Snacks	Swedish Fish, Sour Patch Kids, Twizzlers	4 oz. - 7 oz	$4.00	
King-Size Candy	Reeses, Kit Kat, Snickers, M&M	2.5 oz - 4 oz.	$4.00	
Electronics	Phone charge cords, earbuds		$10.00+	

EXHIBIT B (CONTINUED)

Authorized Menu/Product Listing

Non Public Vending Areas: Facilities Maintenance Building, Administrative Break Room

Category	Description	Size	Price	Appeal and target market
20 oz Soda	Coca Cola, Pepsi, Dr. Pepper Snapple Group	20 oz.	$2.75	Airport Employees and Guests
Isotonics	Gatorade, Vitamin Water, Body Armor, and Powerade	16 oz. - 20 oz.	$2.00	
Energy Drinks	Monster, Red Bull, Rockstar, Bang, Celsius, and C4	16 oz. - 20 oz.	$3.25	
RTD Coffee	Starbucks, Dunkin Donuts, La Colombe, Black and Bold	16 oz. - 20 oz.	$1.75	
Water	Aquafina, Dasani, Liquid Death, and Smart Water	16 oz. - 20 oz.	$1.75	
Teas	Arizona, Lipton, Peace, and Yerbae	16 oz. - 20 oz.	$2.00	
LSS Chips	Lays, Boulder, Zapps, Doritos, and Snyder	1.5 oz. - 2 oz.	$1.25	
Candy	Snickers, Reese, Skittles,	1 oz. - 2 oz.	$1.25	
Pastry	Little Debbie, Hostess, Cloverhill	3 oz. - 6 oz.	$2.00	
Protein Bars	Kind, Quest, ONE, and MET-RX	1 oz. - 4 oz.	$1.75	
Nuts	Wonderful Pistachio, Kar's, and Planter's	1 oz. - 3.5 oz.	$1.25	
Large Bag Snacks	Swedish Fish, Sour Patch Kids, Twizzlers	4 oz. - 7 oz	$2.75	
King Size Candy	Reese, Kit Kat, Snicker, M&M	2.5 oz - 4 oz.	$2.75	
If the Pico Market option is selected for Administrative Breakroom				
Cold Food Options	Pickles, string cheese, meat sticks, eggs, yogurt		$1.00 - $3.99	

EXHIBIT C

Concession Name(s), Theme(s) and/or Improvements

TERMINAL TICKETING, TERMINAL BAGGAGE CLAIM

Dimensions	Dimensions	Dimensions
47"w	47"w	42"w
32"d	32"d	35"d
72"h	72"h	72"h

GATEWAY AVIATION CENTER

Dimensions
47"w
32"d
72"h

Dimensions
42"w
35"d
72"h

EXHIBIT C (CONTINUED)

Concession Name(s), Theme(s) and/or Improvements

ADMINISTRATIVE BREAK ROOM

Option 1

Dimensions
47"w
32"d
72"h

Dimensions
47"w
32"d
72"h

Option 2

Dimensions
75"w
35"d
90"h

FACILITIES MAINTENANCE

Dimensions
37"w
34"d
72"h

Dimensions
47"w
32"d
72"h

EXHIBIT D
Airport Rules and Regulations

(Link)

Rules & Regulations

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rules_regulations.pdf

EXHIBIT E
Monthly Activity Report Statement

Monthly Activity Statement

Phoenix-Mesa Gateway Airport

BUSINESS NAME: *EXAMPLE USE ONLY*

Reporting Period: DATE TO DATE

Description	Line	Column 1 **Gross Sales**	Column 2 **Allowable Deductions** (totals from line d. below)	Column 3 **Gross Revenue**	Column 4 **Percentage Rent Rate**	Column 5 **Percentage Rent Amt**
	1		$ -	$ -		$ -
	2	$ -	$ -	$ -		$ -
	3					
	4					
	5					
	6					
Total Percentage Rent	7					$ -
	8				**Less: MAG Rent**	
	9				Percentage Rent Due PMGAA (Line 7 minus Line 8)	$ -
	10				If line 7 is less than line 8, no additional percentage rent due	
	11				If Line 7 is greater than line 8, enter amount from line 9	$ -
	12				Arizona State TPT Tax (Line 9 x .5%)	$ -
	13				City of Mesa TPT Tax (Line 9 x 2.00%)	$ -
	14				Total Percentage Rent Due (Add lines 11, 12 and 13)	$ -

Authorized Signature _____ Date _____

EXHIBIT F

Quarterly Reporting of Goods and Services Purchased FROM ACDBE Firms

Federal Fiscal Year:_____

Reporting Period (Circle One): 10/1 – 12/31 1/1 – 3/31 4/1 – 6/30 7/1 –9/30

Concessionaire: _____ Contract No.: _____

Authorized Person Completing Form: _____

Title: _____ Telephone: _____

E-mail: _____

The following list represents goods and services purchases from ACDBE firm(s) for the above referenced contract during this reporting period in the amounts listed below. Goods and/or services include supplies, wholesale product, local advertising, automobiles, fuel, and custodial, accounting, and other professional and contracted services that support the concessionaire's operations for this contract.

ACDBE Firm Providing Goods and/or Services	ACDBE Firm Contact Name, Telephone and Email Address	Type of Goods and/or Services Provided	NAICS Code(s)	Quarterly Expenditure(s) to this Firm
				$
				$
				$
				$
Total Goods & Services Provided by ACDBE Firms				$

Authorized Signature: _____ Date: _____

Concessionaires must complete and submit this form by October 20, January 20, April 20 and July 20 to mmcclung@gatewayairport.com. If no ACDBE firms were used in the reporting period, the concessionaire should list "None" in the table before submitting the form.

To verify if a firm is an ACDBE, visit the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) at this link: https://utracs.azdot.gov/Search

EXHIBIT G

RFP Submittal

Concessionaire's Proposal dated June 20th, 2023 is hereby incorporated herein and made part of this Agreement.

canteen

Bringing Break Time to Everyone

A Customized Vending Proposal Prepared for Phoenix-Mesa Gateway Airport Authority

Phoenix-Mesa Gateway Airport

DocuSign Envelope ID: 6861A799-B43D-482B-8AED-67FACD1C1CEC

Phoenix-Mesa Gateway Airport

REQUEST FOR PROPOSALS
SOLICITATION #2023-021-RFP FOR AIRPORT VENDING CONCESSIONS

SUBMITTAL COVER SHEET

Name of Offeror:	Compass Group USA, Inc., by and through its Canteen Division
EIN#:	56-1874931
SAMS Unique Identity No.:	X2K3VNWXR389
Principal Address:	2643 N I-35E, Suite 200
	Carrollton, TX 75006
Primary Point of Contact:	Mark Oliver
Phone:	602-292-2518
Email:	mark.oliver@compass-usa.com

The undersigned hereby affirms that:

- The undersigned is a duly authorized agent of the Offeror
- The undersigned has read and understands all terms, conditions and commitments contained within the RFP and any addenda issued and fully understands and accepts these terms by submission of a proposal.
- The submission is being offered independently of any other Offeror and did not involve collusion or other anti-competitive practices.

By: DocuSigned by: Shawn Grider 4F4CD5A8CA0C488...
Signature

Shawn Grider Division President
Printed Name/Title

Compass Group USA, Inc., by and through its Canteen Division
Company Name

June 20, 2023
Date

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In keeping with Canteen's sustainability efforts and green initiative, your proposal is printed double-sided on recycled paper.

This proposal is valid for 120 days after its presentation and/or delivery to you.

June 27, 2023
Marian Whilden
Procurement Officer

Phoenix-Mesa Gateway Airport Authority
5835 S. Sossaman Rd.
Mesa, AZ 85212

Dear Marian,

Everything around us is changing, no matter the environment. As on-site snack and beverage options evolve, it's necessary to keep innovating. Our customized vending services do just that, offering an amazing variety of high-quality, delicious choices.

We keep guests energized by not only giving them a quick snack, but by providing fuel to keep them going. From great coffee to kickstart the morning to customized snacks for all-day grazing, we make it easy for people to keep moving forward.

Tailored localization. Your location is unique and your offerings should be, too. We'll work with you to create a customized vending program that highlights exceptional service, market trends and your one-of-a-kind needs.

Big business footprint, small business mindset. We're adamant about maintaining authenticity and product integrity, whether we're servicing one account or 100. Our team focuses on meaningful ways to improve the guest experience, from product sourcing to delivery and maintenance to merchandising. Our locally run operations are backed by the support and resources of a global organization, giving us the opportunity to excel in daily operations while driving innovation, technology and efficiency in cost. As the nation's oldest and largest vending company, we know how to get it done.

Always innovative. We're passionate about innovation that elevates the choices guests are excited about. We know speed, convenience and flexibility are qualities that matter to you, driving us to search for the latest in technology, wellness offerings and trend-forward products.

We appreciate the opportunity to transform the vending experience at Phoenix-Mesa Gateway Airport Authority. We're excited to share our variety of options and setup possibilities with you. Together, we will make your vending program the industry standard for innovation and customer experience. We look forward to partnering with Phoenix-Mesa Gateway Airport Authority.

Sincerely,

Michael Partyka

Michael Partyka • Operations Manager • Canteen

Attachment A
Offeror's Identification Statement

Provide the following information regarding the Offeror:
Note: Co-Offerors are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors or Operators are not Co-Offerors and should not be identified here. If this proposal includes Co-Offerors, provide the required information in Item #1 for each Co-Offeror by copying and inserting an additional sheet before Item #2)

1. Offeror Name: Compass Group USA, Inc. by and through its Canteen Divison
(Give exact legal name as it will appear on the contract, if awarded.)

Principal Address: 2400 Yorkmont Road

City: Charlotte State: NC Zip Code: 28217

Telephone No. 704-328-4000 Fax No: _____

Website address: compass-usa.com Year established: 1994

Provide the number of years in business under present name: 29 Years

Social Security Number or Federal Employer Identification Number: 56-1874931

DUNS NUMBER: 61-170-1327

Business Structure: Check the box that indicates the business structure of the Offeror.

___ Individual or Sole Proprietorship If checked, list Assumed Name, if any: _____
___ Partnership
X Corporation If checked, check one X For-Profit ___ Nonprofit
X Domestic X Foreign
___ Limited Liability Company

___ Joint Venture

___ Other If checked, list business structure _____

If the Offeror is a Corporation or Limited Liability Company, attach a copy of the Offeror's Certificate of Good Standing from the State of Arizona (or state of formation), and answer the following:

a. When incorporated/formed (MM/YY) 05/1994

b. In what state/country Deleware/USA

If the Offeror is a Partnership or Joint Venture, attach an executed copy of the Partnership Agreement or Joint Venture Agreement, and answer the following:

a. Name, address, and share of each partner of the Joint Venture or Partnership

Name	Address	Share
N/A		

b. Date of Organization (MM/YY)_____

c. General of Limited Partnership (if applicable) _____

d. State of Formation _____

Offeror is certified: ___ ACDBE ___ DBE

Provide any other names under which Offeror has operated within the last 10 years and length of time under for each:
N/A

Provide address of office from which this project would be managed:

Address: Canteen Vending 2675 S. 12th Place

City: Phoenix State: AZ Zip Code: 85034

Telephone No. 602-269-5879 Fax No:_____

Annual Revenue: $ $60MM

Total Number of Employees: 175

List Any Related Companies:

Levy, Eurest, Morrison, FoodWorks, Flik, Chartwells, Bon Appetitie, Thompson Hospitality,

Canteen 1, Tradecraft, Groumet Dining, Foodbuy, Wolf Gang Puck Catering, Parks Coffee

2. Does Offeror anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?
___ Yes _X_ No

3. Is Offeror authorized and/or licensed to do business in Arizona?
_X_ Yes ___ No If "Yes," list authorizations/licenses.

State ID 410-6138-3

4. Where is the Offeror's corporate headquarters located? Charlotte, NC

5. Debarment/Suspension Information: Has the Offeror or any of its principals been debarred or suspended from contracting with any public entity?
___ Yes _X_ No
If "Yes," identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

6. Surety Information: Has the Offeror ever had a bond or surety canceled or forfeited?

___ Yes _X_ No If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

7. Bankruptcy Information: Has the Offeror ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

___ Yes _X_ No If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

8. Previous Contracts:

a. Has the Offeror ever failed to complete any contract awarded?

___ Yes _X_ No If "Yes", state the name of the organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

b. Has any officer or partner proposed for this assignment ever been an officer or partner of some other organization that failed to complete a contract?

c.

___ Yes X No If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

_____

_____

9. Are there any pending liens, claims or litigation involving Offeror?

___ Yes X No If "Yes," provide detailed information on a separate sheet attached hereto.

10.. Has the Offeror been involved in any lawsuits in the past 5 years?

___ Yes X No If "Yes," provide a list on a separate sheet attached hereto.

Attachment B
ACDBE LLC/Joint Venture Information
(To be submitted with LLC/JV agreement for review)

If applicable: Complete the following on a separate sheet(s) with regard to the proposed LLC/JV. For items 4 through 13, please reference the applicable section and page of the LLC/JV agreement at the end of each response.

Maximum of 3 pages

1. Name of LLC/JV

2. Name, address, and phone number of LLC/JV contact person

3. Firms participating in LLC/JV
   Name of Firm
   Address
   Contact Name / Phone Number
   Percent Ownership
   ACDBE Certified? If certified, Certifying Agency Name
   Type of Work for which Certification was Granted

4. ACDBE Initial Capital Contributions

5. Future Capital contributions (explain requirements)

6. Source of funds for the ACDBE capital contribution
   (If capital contribution is through a loan or loans from the non-ACDBE partner, promissory note or loan agreement must be submitted.)

7. Describe the portion of work or elements of the business controlled by the ACDBE.

8. Describe the portion of work or elements of the business controlled by the non-ACDBE.

9. Describe the ACDBE's involvement in the overall management of the LLC/JV (e.g. participation on a management committee or managing board, voting rights, etc.).

10. Describe the ACDBE's share on the profits of the LLC/JV.

11. Describe the ACDBE's share in the risks of the LLC/JV.

12. Describe the roles and responsibilities of each LLC/JV participant with respect to managing the LLC/JV (use additional sheets if necessary):

    a. ACDBE joint venture participant
    b. Non-ACDBE LLC/JV participant

13. Describe the roles and responsibilities of each LLC/JV participant with respect to operation of the LLC/JV (use additional sheets if necessary):

    c. ACDBE joint venture participant
    d. Non-ACDBE LLC/JV participant

NOT APPLICABLE

14. Which firm will be responsible for accounting functions relative to the LLC/JV's business?

15. Explain what authority each party will have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties?

16. Please provide information relating to the approximate **number** of management, administrative, support and non-management employees that will be required to operate the business and indicate whether they will be employees of the ACDBE, non-ACDBE or LLC/JV.

	Non-ACDBE Firm	ACDBE Firm	LLC/JV
Management			
Administrative			
Support			
Hourly Employees			

17. Please provide the name of the person who will be responsible for hiring employees for the LLC/JV.

18. Who will they be employed by?

19. Are any of the proposed LLC/JV employees currently employees of any of the LLC/JV partners? If yes, please list the number and positions and indicate which firm currently employs the individual(s).

20. Attach a copy of the proposed LLC/JV agreement, Promissory note or loan agreement (if applicable), and any and all written agreements between the LLC/JV partners.

NOT APPLICABLE

Tab C - Experience and Qualifications

1. Firm's overall service capability as it relates to these services.

THRIVING AT UNMATCHED SCALE

370,000+
connected vending machines

98% CANTEEN
client retention rate

99% NATIONAL ACCOUNTS
client retention rate

225+
corporate and franchise locations in ***48 states***

28,500+
coffee service locations

FORBES BEST EMPLOYERS
For Diversity and New Grads 2022

11,000
employees

28,500+
micromarkets

FORTUNE WORLD'S MOST ADMIRED COMPANIES 2023

$1.2 B in national accounts managed volume

$3.2 B in Canteen managed volume

90+ Years
leading our industry with innovation

BUSINESS GROUP ON HEALTH
Best Employers for Excellence in Health & Well-Being 2023=

Our Values

Our company's foundation lies in six core values that are aligned with yours. These values highlight a standard of excellence upheld for more than 90 years. Our innovative approach to serving you the highest-quality products is just one benefit of our leadership.

SERVICE

We are dedicated to providing an unmatched level of service to all of our clients and customers.

INNOVATION

Our innovative offerings include sustainability programming, enhanced technology, specialized local offerings and forward-thinking recruitment opportunities.

QUALITY

We own our commissary network and promise to provide only the highest-quality products and to partner with reputable organizations – companies that source products locally, focus on sustainability and limit their use of antibiotics.

WELLNESS

We are committed to upholding standards of wellness in our workplace and yours. Our campaigns encourage healthy eating and plant-based solutions while minimizing waste.

LEADERSHIP

We bring industry-leading solutions in refreshment services, business intelligence and reporting capabilities, as well as nationwide partnerships, to the table.

PEOPLE

We believe the support, encouragement and dedication we provide to the well-being of our associates – as well as innovation to the clients and communities we service – is reflective of the excellent service we will provide.

2. List and briefly describe at least three (3) comparable clients serviced by your firm within the last ten (10) years or currently in progress. Include, at a minimum:

a. Project location

b. Contact start and end dates

c. Number and types of vending machines operated

d. Detail of services provided

Name of Customer	Contract Start Date	Contract Term	Concept	Contact
Worldwide Freight Services	2016	Ongoing	Vending	Joseph Aja jaja@wfs.aero | 602-826-5615
Arizona State Hospital	2012	Ongoing	Vending, Micromarkets, Coffee	Shanda Payne shanda.payne@azdhs.gov | 602-228-1521
Home Depot	2019	Ongoing	Vending, Micromarkets, Coffee	Kirk McDonald kirk_mcdonald@homedepot.com 623-203-8863

These references ARE confidential and proprietary to Compass Group USA Inc. (Compass). Any unauthorized dissemination to others outside your organization would irreparably harm Compass and entitle Compass to judicial equitable relief, including injunction and specific performance.

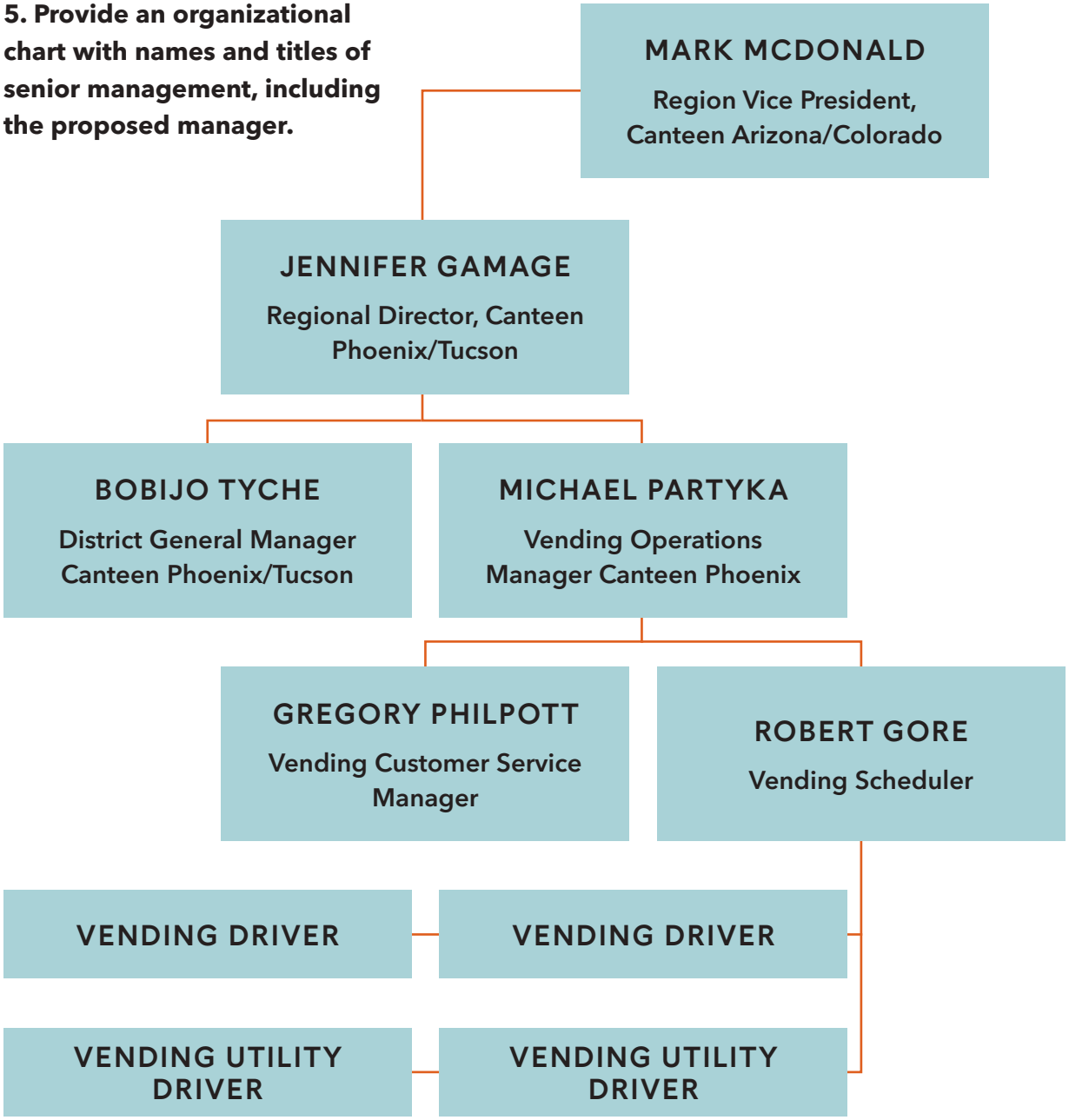
3. Complete Attachment K, Project Reference Questionnaire, for the above three (3) comparable clients listed under Tab C and, following instructions on the Attachment, provide the form to the references for completion. The forms should be emailed directly to PMGAA from the references, not from the Offeror. Completed forms received from an Offeror will not be accepted nor made part of an Offeror's submittal. Please note: PMGAA cannot provide a reference for current or past PMGAA projects.

All references submitted for the questionnaire via email directly ahead of the June 7th deadline.

4. Offeror's capability and intent to proceed without delay if selected for this work.

Canteen Phoenix is excited at the opportunity to continue our partnership with Phoenix-Mesa Gateway Airport, providing convenient food and beverage items that support airport travelers, aviation customers, employees and guests. We are prepared to continue service uninterrupted while we upgrade existing equipment and product offerings without delay.

5. Provide an organizational chart with names and titles of senior management, including the proposed manager.



6. List and describe:

a. Any litigation, arbitration and/or claims filed by your firm against any project owner as a result of a contract dispute

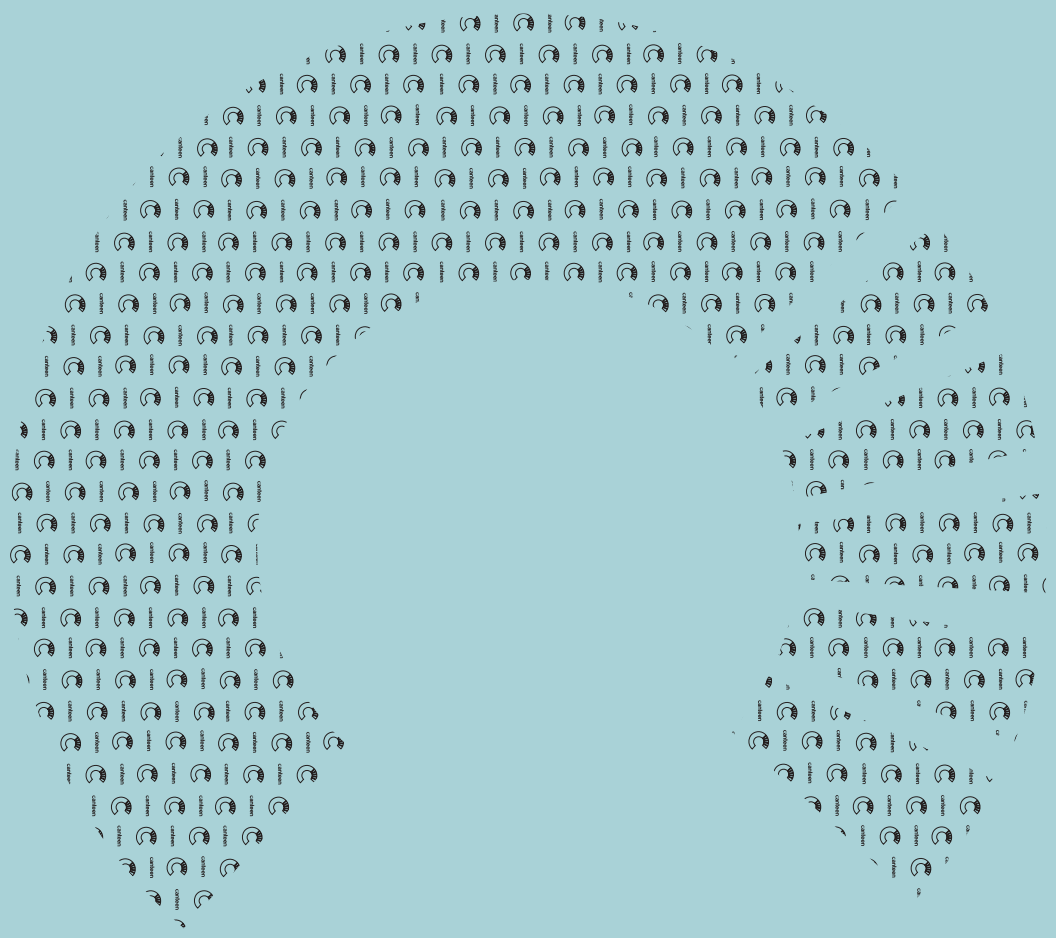
None.

b. Any claim filed against your firm

None.

c. Termination from a project

None.



Tab D – Concept and Product Offerings

1. Provide a complete description of vending program proposed

The Smallest Retail Store in the World

We specialize in unattended retail, designing solutions that provide intuitive and simple shopping while ensuring customers always have access to their favorite products. We use data analytics to keep top sellers readily available and rotate slow movers out for new and trending items, delivering the best possible experience through the world's smallest retail store.

Reliability

With help from our proprietary route accounting system, iVend, we know what you need when you need it. iVend provides instant access to product-specific sales and reports that enable us to make sure the right product is where it needs to be, when it needs to be there.

Each product we offer has a unique barcode or SKU assigned to it, allowing our route drivers to identify how each SKU is performing by handheld scanner. This vital insight lets our teams build the right product mix for every machine:

- Keep machines fully stocked:
  - Replace slow sellers with popular products
  - Customize product mix based on machine-specific data
  - Regularly introduce new items and rotate selections for increased variety
- Provide machine inventory tracking
- Automate cash auditing and credit collections
- Ensure reliable delivery processes through online route scheduling
- Provide accurate sales records using electronic data (DEX)
- Ensure accuracy of commission information

CANTEEN CONNECT

We make it easy to get in touch. Our vending machines feature a Connect label, allowing customers to connect directly to our app to access nutritional information, request service or a refund, and provide valuable feedback on the products and services offered. The Connect system lets us build reports and share insights tailored to your needs, continually identifying opportunities for improvement.

2. Provide drawings/photos of the vending machines proposed, any proposed encasements, and layout of machines in each location. Drawings should include dimensions of each proposed machine.

Solutions

From traditional machines to the latest AI-powered robot vendors, our equipment options will make your vending solution simple, accessible and adaptable to the unique needs of your guests:

TERMINAL TICKETING, TERMINAL BAGGAGE CLAIM

Dimensions	Dimensions	Dimensions
47″w	47″w	42″w
32″d	32″d	35″d
72″h	72″h	72″h

GATEWAY AVIATION CENTER

Dimensions
47″w
32″d
72″h

Dimensions
42″w
35″d
72″h

ADMINISTRATIVE BREAK ROOM

Option 1

Dimensions
47″w
32″d
72″h

Dimensions
47″w
32″d
72″h

Option 2

Dimensions
75″w
35″d
90″h

We are excited to offer open market concept design for the Administrative Break Room. Our Pico market features cashless technology, with a diverse product selection in a space-saving design suitable for a smaller office area. Our market solution:

- Offers more than 250 items, including some cold food selections
- Accepts credit cards, plus mobile payment via our Connect & Pay app
- Facilitates fast and easy shopping
- Includes a loyalty program for purchases

FACILITIES MAINTENANCE

Dimensions	Dimensions
37″w	47″w
34″d	32″d
72″h	72″h

Within the Smart Market, employees can earn points through each of their purchases made through their account. They can then redeem these points for cash toward their future purchases. For every penny spent, the employee earns one point.

What is the Loyalty Program?
The Loyalty Program is a rewards points system for consumers that use a Global Market Account (GMA). You accumulate points with each purchase, to redeem for cash back on your account (at Loyalty enabled locations).

How do I earn Loyalty Points?
By creating a GMA account and using that account to make purchases, you automatically earn points on select items at participating locations.

How can I use my Loyalty Points?
You may redeem your Loyalty Points for cash back to your account. You may redeem this cash towards future purchases. You can see your rewards points in the mobile app or online. They can be redeemed instantly when you have passed each loyalty threshold.

How many Loyalty Points do I earn per transaction?
Unless your market has set Point Multipliers for a product promotion, you will earn one point for every penny purchased.

What are the levels for redemption?

- 10,000 points = $1
- 15,000 points = $3
- 20,000 points = $5
- 30,000 points = $9

Are all locations required to have the Loyalty Program?
No. The kiosk operator has the power to choose whether they would like a location to have the Loyalty Program enable

2-35

3. Provide a list of items to be sold in each machine and at each location. Include:

a. Description

b. Sales price

c. Appeal and target market

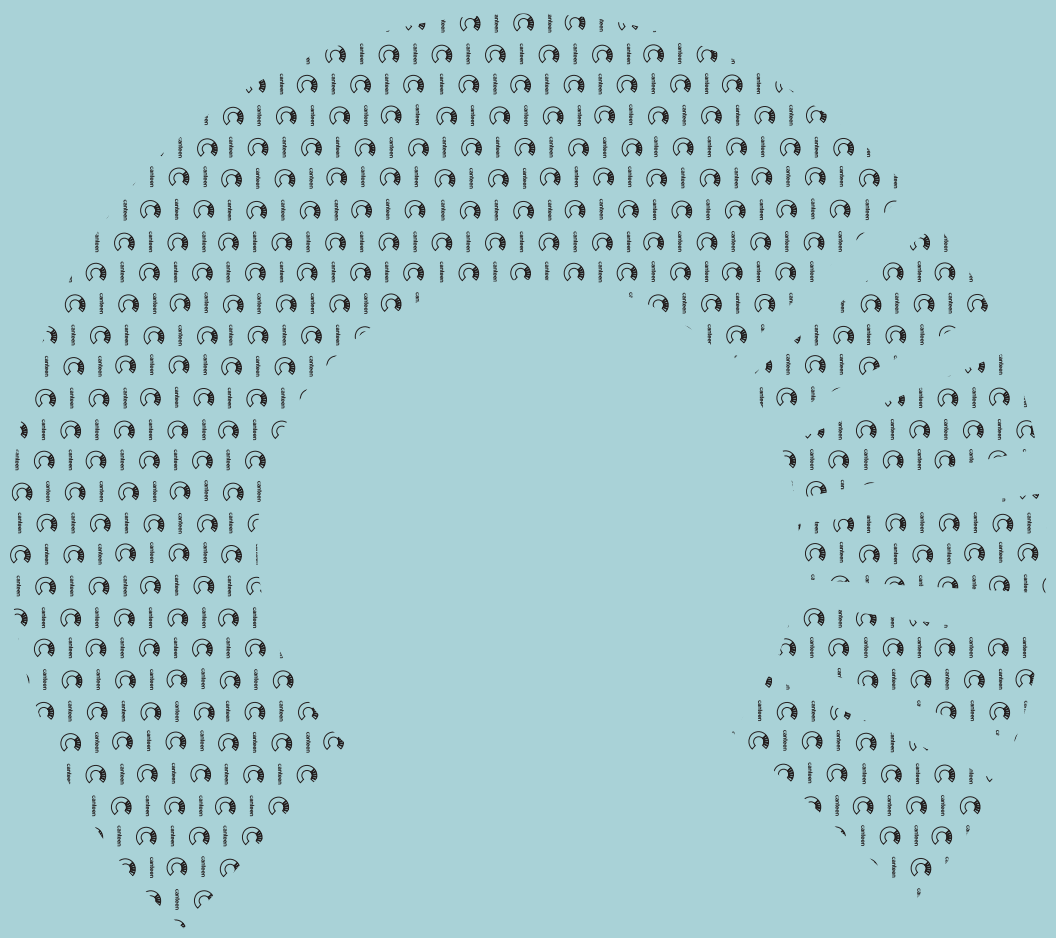
Please see below.

Public Vending Areas: Terminal Ticketing, Terminal Baggage Claim, Gateway Aviation Center

Category	Description	Size	Price	Appeal and target market
20 oz. Soda	Coca-Cola, Pepsi, Dr Pepper Snapple Group	20 oz.	$3.00	Airport Travelers, General Aviation Customers, Airport Employees and Guests
Isotonics	Gatorade, Vitamin Water, BODYARMOR, Powerade	16 oz. - 20 oz.	$3.00	
Energy Drinks	Monster, Red Bull, Rockstar, Bang, Celsius, and C4	16 oz. - 20 oz.	$4.00	
RTD Coffee	Starbucks, Dunkin Donuts, La Colombe, Black & Bold	16 oz. - 20 oz.	$4.00	
Water	Aquafina, Dasani, Liquid Death, Smart Water	16 oz. - 20 oz.	$2.50	
Teas	Arizona, Lipton, Peace, Yerbae	16 oz. - 20 oz.	$3.00	
LSS Chips	Lay's, Boulder, Zapps, Doritos, Snyder's	1.5 oz. - 2 oz.	$2.00	
Candy	Snickers, Reese, Skittles	1 oz. - 2 oz.	$2.50	
Pastry	Little Debbie, Hostess, Cloverhill	3 oz. - 6 oz.	$2.50	
Protein Bars	Kind, Quest, ONE, and MET-RX	1 oz. - 4 oz.	$3.00	
Nuts	Wonderful Pistachio, Kar's, Planters	1 oz. - 3.5 oz.	$2.00	
Large Bag Snacks	Swedish Fish, Sour Patch Kids, Twizzlers	4 oz. - 7 oz	$4.00	
King-Size Candy	Reeses, Kit Kat, Snickers, M&M	2.5 oz - 4 oz.	$4.00	
Electronics	Phone charge cords, earbuds		$10.00+	

Non Public Vending Areas: Facilities Maintenance Building, Administrative Break Room

Category	Description	Size	Price	Appeal and target market
20 oz Soda	Coca Cola, Pepsi, Dr. Pepper Snapple Group	20 oz.	$2.75	Airport Employees and Guests
Isotonics	Gatorade, Vitamin Water, Body Armor, and Powerade	16 oz. - 20 oz.	$2.00	
Energy Drinks	Monster, Red Bull, Rockstar, Bang, Celsius, and C4	16 oz. - 20 oz.	$3.25	
RTD Coffee	Starbucks, Dunkin Donuts, La Colombe, Black and Bold	16 oz. - 20 oz.	$1.75	
Water	Aquafina, Dasani, Liquid Death, and Smart Water	16 oz. - 20 oz.	$1.75	
Teas	Arizona, Lipton, Peace, and Yerbae	16 oz. - 20 oz.	$2.00	
LSS Chips	Lays, Boulder, Zapps, Doritos, and Snyder	1.5 oz. - 2 oz.	$1.25	
Candy	Snickers, Reese, Skittles,	1 oz. - 2 oz.	$1.25	
Pastry	Little Debbie, Hostess, Cloverhill	3 oz. - 6 oz.	$2.00	
Protein Bars	Kind, Quest, ONE, and MET-RX	1 oz. - 4 oz.	$1.75	
Nuts	Wonderful Pistachio, Kar's, and Planter's	1 oz. - 3.5 oz.	$1.25	
Large Bag Snacks	Swedish Fish, Sour Patch Kids, Twizzlers	4 oz. - 7 oz	$2.75	
King Size Candy	Reese, Kit Kat, Snicker, M&M	2.5 oz - 4 oz.	$2.75	
If the Pico Market option is selected for Administrative Breakroom				
Cold Food Options	Pickles, string cheese, meat sticks, eggs, yogurt		$1.00 - $3.99	



Tab E – Financial Capability

1. Provide the most recent audited financial statements for Offeror

To: **Compass Group USA Business Partners**

Date: **January 10, 2023**

Sub: **Compass Group USA Financial Update**

Compass Group USA Inc. is a wholly owned subsidiary of Compass Group PLC (CGP), the global leader for contract catering services. Compass Group USA Inc. is the legal entity representing United States operations and is the parent company of Bon Appetit Management Co., Canteen One Inc., Crothall Services Group, CulinArt Group Inc., Eurest Services Inc., FLIK International Corp., Foodbuy LLC, Gourmet Dining LLC, Levy Restaurants, Morrison Management Specialists Inc., Restaurant Associates Corporation, SSC Service Solutions (Southeast Service Corporation), Wolfgang Puck Catering & Events LLC, and Unidine Corporation. Divisions of Compass Group USA Inc. include Canteen, Chartwells, Eurest Dining, Menus Catering, Occasions Caterers and Protocol Staffing Services.

Through a series of acquisitions and organic growth, Compass Group has become the market leader in North America with annual revenues in 2022 of $21.9 billion and an operating profit of $1.6 billion. Compass Group North America's revenues represent 67% of the CGP worldwide total. Compass Group has the privilege of serving such prestigious clients as IBM, United Technologies Corp., SAP, Louisiana State University and Texas A&M University. In addition, Compass Group provides catering to special events such as the U.S. Open and the Academy Awards®.

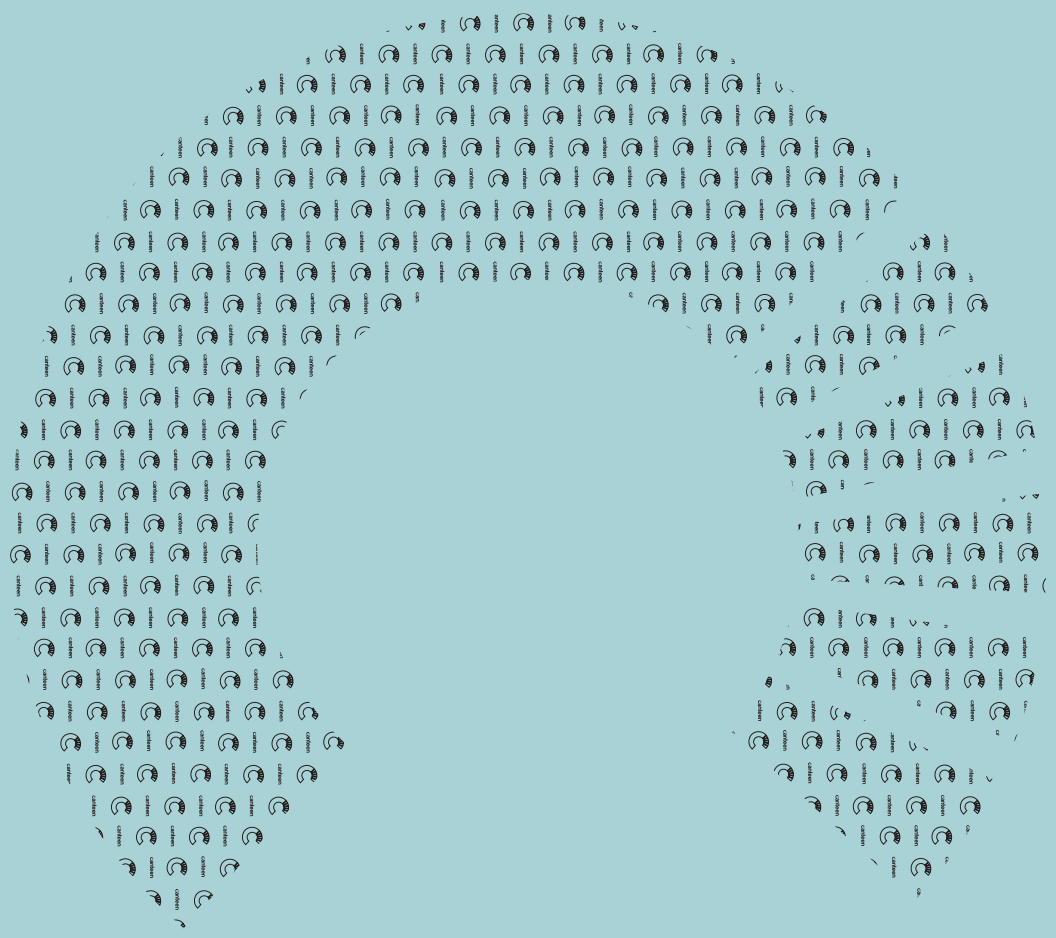
CGP was formed in 1987 to facilitate the management-led buyout of the Grand Metropolitan PLC catering division. During its 36-year history, CGP has grown significantly from a revenue and value perspective, with a current market capitalization of $44 billion. CGP trades on the London Stock Exchange under symbol CPG.L and is represented in the FTSE 100 Index. While Compass Group has experienced phenomenal growth, it remains a conservatively managed company with a strong credit rating. Access to the September 30, 2022, CGP annual report is available through the following link:

2022 Compass Group PLC Annual Report

You are encouraged to direct financial inquiries regarding Compass Group to my attention at our North America headquarters in Charlotte, North Carolina.

Sincerely,

Daniel Thomas
Senior Vice President and Treasurer
Compass Group, North America
2400 Yorkmont Road
Charlotte, NC 28217
704-328-7073



Tab F –Proposed Minimum Annual Guarantee and Percentage Rent

Attachment C

Proposed Minimum Annual Guarantee and Percentage Rent

List in the spaces provided below, the Minimum Annual Guarantee (MAG) and Percentage Rent proposed for payment to PMGAA during the first full year of an awarded concession lease agreement. During this first year and each agreement year thereafter, the selected Offeror shall remit monthly to PMGAA the greater of 1/12th of the proposed MAG or the proposed Percentage Rent. During the second and subsequent years of the agreement, the MAG will be re-calculated to equal the greater of the previous year's MAG or 85-percent of the total payments made to PMGAA during the previous 12 calendar months.

Proposers are reminded that PMGAA has established both concession space and percentage rent minimums for this RFP. Accordingly, all proposed MAG and Percentage Rent amounts must equal or exceed those minimums, or the proposal will be considered non-responsive and rejected.

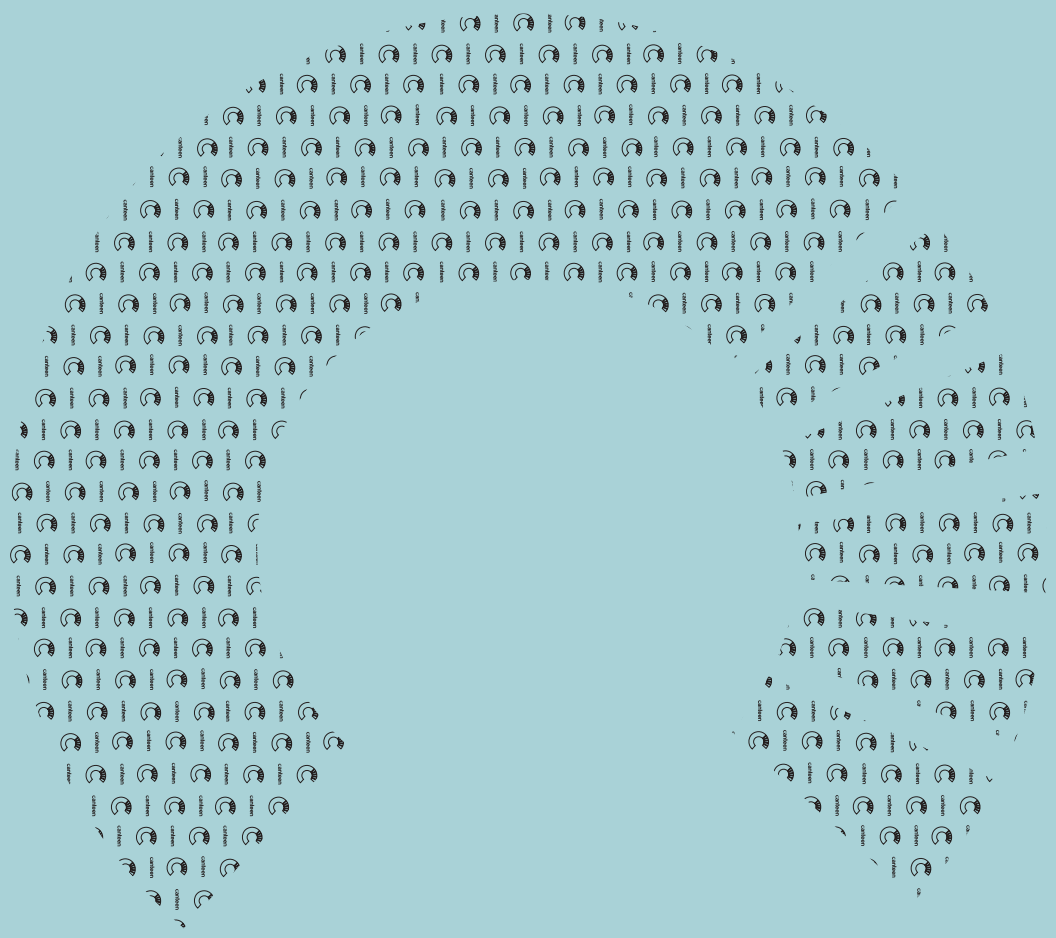
Minimum Annual Guarantee (MAG) Proposal

Locations	Total Space Requirement	Minimum Annual MAG Calculated	Offeror's 1st Year MAG Proposal/Offer
PMGAA Vending Concession Lease Spaces	236 sqft	$41,225.00	$52,500

Monthly Percentage Rent Proposal

Items	Minimum %	Offeror's Proposed Percentage Rent (0.5% increments only)
Food & Beverage (non-perishable)	27%	30%
Specialized (Electronics, Accessories, Personal Care)	15%	20%

We are excited to offer our proposed MAG equal to our projected annual percentage rent to continue our Partnership with Phoenix-Mesa Gateway Airport.



Tab G – Management and Operations

1. Provide a description of the management structure to be used in operating the proposed concession, including: A staffing and management plan for the concession space that will ensure adequate financial controls and vending supplies. a complete description of retail vending proposed

Canteen will provide a dedicated team with advanced systems to support all airport vend concessions.

BEST PEOPLE

- Dedicated route driver that will be on-site to clean, fill and stock machines with fresh products 6-7 days per week.
- At each product fill, the driver performs preventative maintenance, which includes coin testing, bill testing and a thorough cleaning of equipment.
- Our Route Driver Certification program includes classroom, on-the-job training and regular audits. With a track record for success, this program was adopted by the National Automatic Merchandising Association as the gold standard in the industry.
- We conduct preemployment and ongoing random drug and criminal history checks.
- Managers are trained to look for key indicators during the hiring process – more than a gut feeling.
- Monthly CHAT training sessions build teamwork and help to communicate new and important updates to the entire team.

TECH SUPPORT

Each machine is labeled clearly with a Canteen Connect service sticker. The sticker provides a toll=free number to address service malfunctions, refunds and an identification number specific to the machine. Once a call is placed, our dispatcher inputs relevant information into our Dynamics system. This system then auto-generates an open call to the technician responsible for the area.

At Gateway Airport, tickets will be required to be closed within 24 hours of reporting. Completion of ticket and notes regarding the service call are recorded and sent to the reporting party upon request.

Service technicians are on call 24/7 including weekends to provide technical support when it is needed most. Biannually, we send the area technician out to locations to perform a full preventive maintenance service. This includes cashless device cleaning, software upgrades, multiple test vends, coil cleaning and diagnostics of cooling equipment.

A contact email for our customer service team will be provided for any service requests or inquiries. Canteen will be fully responsible for issuing refunds for overcharges, defective product, machine malfunctions or incorrect product delivery.

SMARTSERVICE

You have a dedicated account manager to maximize service. Our SmartService generates live updates from our machines every six hours, informing us what has sold and when machines need maintenance. We analyze the selling data, using it to select the exact products needing replenishment in each machine, guaranteeing you have the right product mix at all times. With a heads up on maintenance needs, we can sub-route drivers, keeping them in a smaller geographic area for faster, more efficient service.

Food Safety

From Canteen's industry-leading food safety program for vending and unattended retail markets to USDA- and FDA-regulated commissary kitchens, our end-to-end approach to food safety includes a series of checks and balances to track results, measure compliance and build continuous improvement. Canteen's food safety standards are based on sound science, regulatory requirements and industry best practices.

All of the commissary kitchens in our network adhere to our retail fresh food program requirements, so you can be assured you're receiving products that meet the highest level of food safety, operational excellence and culinary professionalism. Our requirements include:

- Proper oversight and licensing with the appropriate federal, state and local regulatory agency of food processing for retail sale
- FDA/USDA registration for the facility
- Written and approved food safety plan, HACCP or FDA Food Safety Plan in place
- FDA-compliant retail labeling system
- Allergen management system that includes allergen labeling meeting Food Allergen Labeling and Consumer Protection Act regulations
- Effective environmental microbial monitoring in the processing environment
- Traceability system – Lot code tracing for recall purposes
- Annual audit from an independent third party for compliance with Good Manufacturing Practices and Preventive Controls

RISK REDUCTION

We identify and reduce product risk and the associated threat of foodborne illness and food-related injury through:

- Comprehensive standards and compliance with HACCP, U.S. Public Health, FDA and Restaurant and Foodservices Association recommendations
- Associate, driver and manager education and training
- Self-inspection
- Third-party audits
- Effective facilities design
- Vendor certification

FOOD SAFETY TRAINING

We reach beyond the technical minimums by providing extensive and ongoing training to our associates, reinforcing our food safety principles and practices on a daily basis to safeguard you and your guests. Our teams focus on:

- **Food supply and storage –** Proper labeling, dating, placement and product temperatures.
- **Proper food handling –** Preparation, delivery and service.
- **Standard operating procedures (SOPs) –** Adherence to SOPs, from farm to guest.
- **Record keeping –** Detailed records for optimal traceability.

We take thorough steps on a daily basis to ensure your food is protected from any potential hazards, and is a source of fuel and nutrition for your guests.

PURCHASING

Foodbuy vets all potential suppliers, scrutinizing facilities and products to minimize the risk of contamination.

All foods are purchased from the Managed Order Guide, a fully vetted group of suppliers that undergo continuous monitoring by the Quality Assurance Department for food safety, so you never have to wonder where your food came from.

RED ALERTS

The Quality Assurance Department monitors recalls and market withdrawals on a daily basis and issues Red Alerts regarding food and products that may be purchased or used by Compass Group businesses or by Foodbuy-committed customers.

CRISIS AND COMPLAINTS

Compass Group maintains a crisis management hotline – one call from an associate or manager will alert appropriate resources who provide a prompt and accurate response to minimize the impact on our clients and their businesses.

2. Provide a description of the revenue control system to be used at the Airport, including a description of the audit trail; such system shall, at a minimum, permit obtaining a monthly summary of sales by item or category.

IVEND TECHNOLOGY

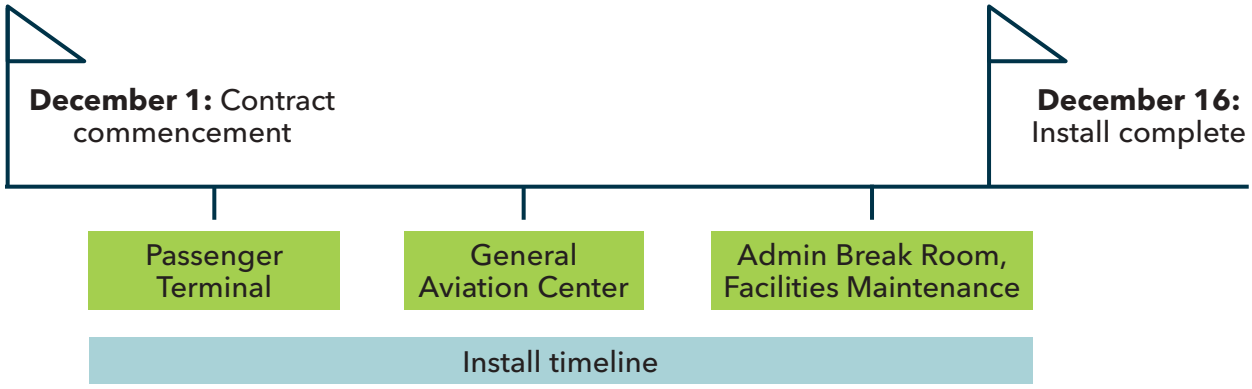
With help from our proprietary route accounting system, iVend, we know what you need, when you need it. iVend provides instant access to product-specific sales and reports enabling us to make sure the right product is where it needs to be, when it needs to be there. Each product we offer has a unique bar code number, or SKU, assigned to it, allowing our route drivers to identify how each SKU is performing by hand-held scanner. This vital insight lets our teams build the right product mix for every machine, plus these extras:

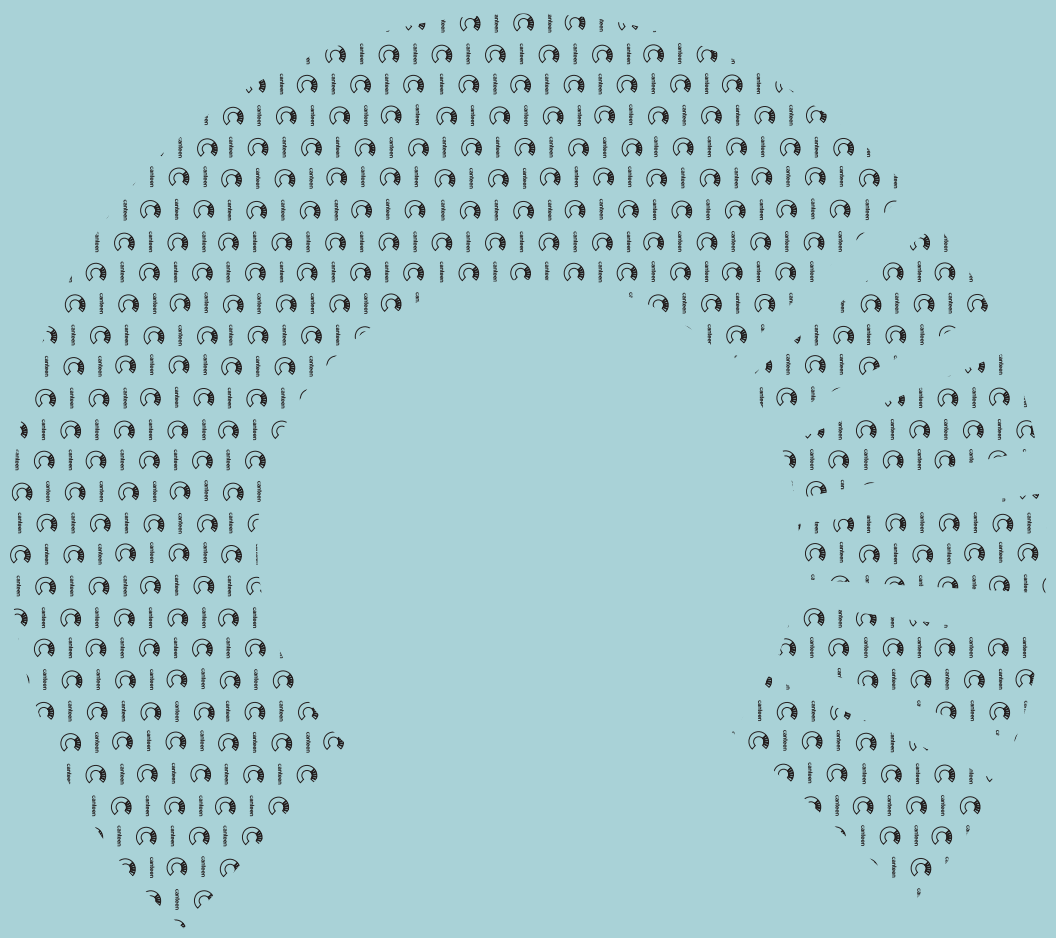
- Replace slow sellers with popular products
- Keep machines fully stocked
- Customize the product mix based on machine-specific data
- Regularly introduce new items and rotate selections for more variety
- Reliable delivery processes through online route scheduling
- Provide machine inventory tracking
- Cash auditing and credit collections via cash room automation and card processor integration
- Accurate sales recognition by using electronic data (DEX) from vending machines
- Ensure accuracy of commission information
- System is capable of providing sales data by item or category

Tab H – Transition Plan

Provide a transition plan, that includes a time schedule, for implementing the proposed Vending Concession program. Contract commencement is December 1, 2023. Complete installation and operation of all equipment must be no later than December 16, 2023.

Canteen is excited to provide an upgraded experience for vending services within the airport areas. We ensure a successful transition with our detailed process to upgrade accounts. Our methodical approach ensures that we have a seamless transition with continuity of service that is least disruptive for travelers and employees





Tab I –Airport Concession Disadvantaged Business Enterprise (ACDBE)

If Offeror is not a certified ACDBE by the Arizona UCP, Offeror shall submit the following. If Offeror is a certified ACDBE by the Arizona UCP, then it shall be deemed to have met these requirements and no submittal information for this section is required.

1. Documentation of Outreach Efforts

a. Copy of notification sent to ACDBE firms and small businesses that the Offeror has identified opportunities to participate in the project and is requesting bids/quotes/ proposals. This should include the scope of work to be bid/quoted/proposed on and performed on the project.

b. Documentation of each ACDBE firm and small business contacted and the response of the ACDBE firms / small businesses or other action taken as a result of the contact. Documentation of contact with ACDBE firms / small businesses may include, fax logs, telephone logs, mail receipts, etc. including documentation of the number of times that firms were contacted, the dates of contact, the name, phone number, fax number, and address of the contact person associated with each ACDBE firm / small business.

c. Documentation of responses/quotes from all ACDBEs / small businesses who bid/ quoted/proposed to perform work and/or participate on the project in the areas that ACDBE firms / small businesses were also bidding/quoting/proposing on, including information regarding the reasons why ACDBE / small business bids/quotes/proposals were not considered or chosen.

d. Any additional documentation Offeror may have that demonstrates outreach efforts were made.

2. Complete Attachment D.

3. For any proposed joint ventures, a draft joint venture operating agreement must be submitted with offeror's proposal.

Please see the next four pages.

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Attachment D
Proposed ACDBE and Small Business Participation

To be completed by the Offeror for ACDBE / Small Business participation – if none, state "NONE" in the first field in the table below
Offerors must submit outreach documentation in addition to this Attachment C even if no participation by ACDBEs / SBEs

Name of Offeror Canteen Vending **Vending Concessions at Phoenix Mesa Gateway Airport Authority**

ACDBE/SMALL BUSINESS FIRM NAME	ADDRESS/PHONE	NAICS CODE(S) FIRM IS CERTIFIED TO PERFORM PER AZ UCP	DESCRIPTION OF SCOPE OF WORK TO BE PERFORMED UNDER THIS PROJECT	NAICS CODE(S) FOR SCOPE OF WORK TO BE PERFORMED UNDER THIS PROJECT BY FIRM	Firm is an ACDBE (Y/N)	Firm is an SBE (Y/N)
Trans 1 Graphix	2105 S. 48th Street Tempe, AZ 800-390-0566	541430	Truck Graphics / Vinyl Vehicle Wrap	541810	Y	Y
Discount Cell	350 West 500 South Provo, Utah 84601	443112	Wireless cell phone accessories		Y	Y
Duck Head LLC	44111 N. 43rd Drive Phoenix, AZ 480-332-1016	446199	Face mask manufacturer	621999	Y	Y

Signed By: Shawn Grider Title: Division President Date: June 22, 2023

Solicitation 2023-021-RFP

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Gamage, Jennifer

From: Terrance Hooks <thooks@trans1graphix.com>
Sent: Wednesday, June 7, 2023 2:01 PM
To: Partyka, Michael
Cc: trans1industries@gmail.com; Terrance Hooks
Subject: [Ext] Re: Canteen Vending Phoenix

CAUTION:This email contains a link or attachment. Please make sure it's from a trusted source before you open the attachment or click on the link.

Fantastic Michael,

Can you send us a layout or mock-up of the creative? Also the quantity.

Thank you so much.

Terrance M Hooks
President
2105 S. 48th St
Suite 103
Tempe, AZ 85282
800-390-0566
www. trans1graphix.com
www.trans1industries.com

From: Partyka, Michael <Michael.Partyka@compass-usa.com>
Sent: Tuesday, June 6, 2023 5:30 PM
To: Terrance Hooks <thooks@trans1graphix.com>
Cc: trans1industries@gmail.com <trans1industries@gmail.com>
Subject: Canteen Vending Phoenix

Terrance/Donavon,

We will be bidding on the Mesa Gateway Airport vending concessions. Your company was identified as a possible partner/supplier for this bid. We are looking to have our new vehicles that will be servicing this account vinyl wrapped. We also have aging wraps on vehicles on-site I will also need wrapped. Can you please provide a quote for to wrap our vehicles. Most vehicles are standard F-350 chassis with a 16ft box. The vinyl material itself is provided due to proprietary images. Quote would just be for cost of installation. Please call me with any questions or if you would like to view our fleet.

Thank you for your time.

Michael Partyka | Operations Manager
m. 602.284.8944
Michael.Partyka@compass-usa.com

1

This email is subject to certain disclaimers, which may be reviewed via the following link. http://www.compass-usa.com/disclaimer/

Gamage, Jennifer

From: Jennifer King <jking@discountcell.com>
Sent: Tuesday, June 6, 2023 7:15 PM
To: Partyka, Michael
Cc: info@discountcell.com
Subject: [Ext] Re: Canteen Vending Phoenix

CAUTION:This email contains a link or attachment. Please make sure it's from a trusted source before you open the attachment or click on the link.

We are actually looking at reducing our cell phone accessory business and wouldn't be able to assist with this. Sorry, but thanks for reaching out.

Jennifer King
DiscountCell, Inc
jking@discountcell.com
801-235-9809 office; fax: 801-705-0324
801-310-0539 direct

www.discountcell.com
DBE Certified and WBE# 2005108479
NASPO ValuePoint Wireless Contract # PD180-1
Solutions include Otterbox, Lifeproof, Gadget Guard, CradlePoint, Sierra Wireless, Peplink, SureCall, WEBoost, Speck, Belkin and much more

On 6/6/2023 6:23 PM, Partyka, Michael wrote:

> Jennifer,
>
> We will be bidding on the airport concessions for Mesa Gateway Airport. Your company was identified as a possible partner/supplier for goods we would like to sell in our vending machines. Can you please provide pricing and order minimums for specialty cell phone, electronics, and headphone accessories that would be likely purchased in an airport. Please call me directly if you have any questions.
>
> Thank you!

Michael Partyka | Operations Manager
m. 602.284.8944
Michael.Partyka@compass-usa.com
2675 S 12th Place, Phoenix, AZ 85034

This email is subject to certain disclaimers, which may be reviewed via the following link.
http://www.compass-usa.com/disclaimer/

1

Gamage, Jennifer

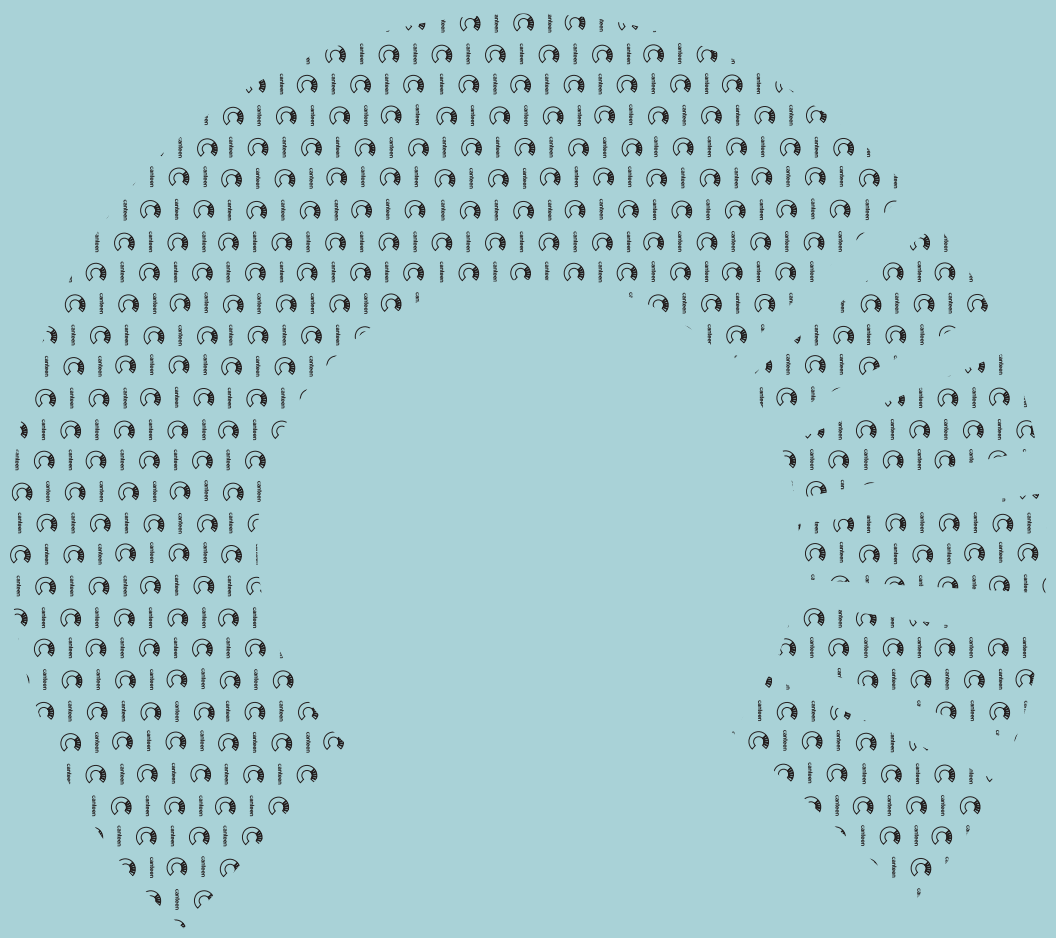
From: Partyka, Michael
Sent: Tuesday, June 6, 2023 5:26 PM
To: kelcwal25@yahoo.com
Cc: myduckheadllc@gmail.com
Subject: Canteen Vending Phoenix

Kelci/Robert,

We will be bidding on airport concessions at Mesa Gateway Airport. Your company was identified as a possible partner/supplier in products we would stock in our Outbound vending machines. Can you please send me pricing and order minimums on masks.

Thank you for your time.

Michael Partyka | Operations Manager
m. 602.284.8944
Michael.Partyka@compass-usa.com
2675 S 12th Place, Phoenix, AZ 85034



Tab J - Appendices

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Attachment E
Standard Certifications

Complete Attachment E by checking the applicable box(s) and/or providing responses.
Failure to complete this Attachment E in its entirety and submit with Offeror's proposal will result in Offeror's submittal being deemed nonresponsive and not evaluated.

If Offeror cannot affirmatively certify to statement numbers 1 and 2 below, Offeror's submittal will be rejected and will not be evaluated.

1. Offeror hereby ☑ certifies ☐ does not certify
That this engagement, if selected, will not result in a conflict of interest.

2. Offeror hereby ☑ certifies ☐ does not certify
That the firm, and proposed team members, meet the Minimum Requirements/Qualifications as stated in Section Two B, of this RFP.

If Offeror cannot affirmatively certify to statement number 3 below, PMGAA will consider Offeror's written response to determine if it's submittal will be accepted and be evaluated.

3. Offeror hereby ☑ certifies ☐ does not certify
That it has no known business or financial relationships between Offeror or Offeror's firm and members of the PMGAA Board.

If Offeror does have known business or financial relationships, please list them below:

_____

_____

_____

_____

_____

By signature below, Offeror certifies that the information in this Attachment is true, and accurate.

By: DocuSigned by: Shawn Grider 4F4C0B48CA1C489 _____ Shawn Grider, Division President
Signature Printed Name/Title

Compass Group USA, Inc., by and through its Canteen Division June 20, 2023
Company Name Date

DocuSign Envelope ID: 6861A799-B43D-482B-8AED-67FACD1C1CEC

Phoenix-Mesa Gateway Airport

Attachment F

Authorization for Release of Performance Information and Waiver

The purpose of this disclosure is to provide references to PMGAA. Offeror hereby consents that as an Offeror to PMGAA's Solicitation 2023-021-RFP, Airport Vending Concessions for Phoenix-Mesa Gateway Airport, Offeror authorizes those companies and government entities listed in Offeror's RFP submittal and any other government entity for whom this company has performed Vending Services, to disclose and release to PMGAA, or their representatives, information, records and opinions concerning this company's past performance.

Compass Group USA, Inc., by and through its Canteen Division (Offeror) hereby waives any claim it may have against PMGAA or any company or entity providing information to PMGAA by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for one (1) year.

This consent or copy of this authorization shall be as valid and effective as the original.

DocuSigned by:
Sleawn Grider
4F4C0B4BCA1C4B8

Signature of Offeror

June 20, 2023

Date

DocuSign Envelope ID: 6861A799-B43D-482B-8AED-67FACD1C1CEC

Phoenix-Mesa Gateway Airport

Attachment G
Offer Agreement

OFFER TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY:

The Offeror hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Request for Proposal and any Terminal Concession Lease Agreement, Exhibit 4.

Company Name: Compass Group USA, Inc., by and through its Canteen Division

Federal Tax Identification Number: 56-1874931

Sales Tax Identification Number: 410-6138-3

By: DocuSigned by: Shawn Grider
4F4DE94BCA1C489
Signature

Shawn Grider
Printed Name/Title

Compass Group USA, Inc., by and through its Canteen Division
Company Name

June 20, 2023
Date

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Phoenix-Mesa Gateway Airport

Attachment H

Insurance Requirements and Certificate of Insurability

During the term of this Contract, Offeror shall maintain in full force at its own expense, each insurance noted below normally associated with the goods and materials and/or services covered by this Contract:

GENERAL LIABILITY ☒ Required by PMGAA ☐ Not required by PMGAA

General liability insurance with limits no less than **$1,000,000** per occurrence and **$2,000,000** general aggregate for Bodily Injury and Property Damage. It shall include contractual liability coverage for the insurable portions of the indemnity provided under this Contract. Any supplementary payments, including defense costs, shall be in addition to the policy limits. It shall provide that the Phoenix-Mesa Gateway Airport Authority, its agents, officials, officers and employees are Additional Insureds but only with respect to the Offeror's services to be provided under this Contract.

AUTOMOBILE LIABILITY ☒ Required by PMGAA ☐ Not required by PMGAA

Automobile liability insurance with a combined single limit, or the equivalent, of not less than
☐ **$200,000** ☐ **$500,000** ☒ **$1,000,000** ☐ **$2,000,000**
for each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable. Certificate of insurance as insurance as ~~P~~proof of coverage may be required. All vehicles used by Offeror on PMGAA property shall carry appropriate proof of insurance.

PROFESSIONAL LIABILITY ☐ Required by PMGAA ☒ Not required by PMGAA

Professional liability insurance with a combined single limit, or the equivalent, of not less than
☐ **$200,000** ☐ **$500,000** ☐ **$1,000,000** ☐ **$5,000,000**
for each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. Only a certificate is required.

WORKERS' COMPENSATION ☒ Required by PMGAA ☐ Not required by PMGAA

The Offeror shall maintain Workers' Compensation insurance with statutory limits as required by the State of Arizona and Employer's Liability insurance in the amount of *One Million Dollars ($1,000,000)*. The policy shall contain a waiver of subrogation in favor of PMGAA.

COMMERCIAL PROPERTY INCLUDING BUSINESS INTERRUPTION ☒ Required by PMGAA ☐ Not required by PMGAA

Commercial Property Insurance including Business Interruption insurance covering actual loss sustained or 12 month's loss of income from operations/activities occurring on the Airport due to fire or other catastrophe.

CERTIFICATES OF INSURANCE AND ENDORSEMENTS.

Check one or both if insurance is required: ☒ Certificate Required
☒ Endorsement Required

As evidence of the insurance coverages required by this Contract, the Offeror shall furnish industry standard or other acceptable insurance certificates and required endorsements to PMGAA prior to commencement of any work under this Contract. For work performed under this Contract, the ~~insuring~~ company's certificates of insurance and required additional insured endorsements shall ~~be endorsed to~~ include ~~the following additional insured language: "~~The Phoenix-Mesa Gateway Airport Authority shall be included ~~named~~ as an additional insured with respect to the commercial general liability policy required herein arising out of the activities performed by, or on behalf of Offeror."~~ If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to PMGAA~~. The Offeror shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

NOTICE OF CANCELLATION OR CHANGE.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days' written notice from the Offeror or its insurer(s) to PMGAA.

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Phoenix-Mesa Gateway Airport

Attachment H (Continued)

Offeror hereby certifies that as an Offeror to PMGAA's Solicitation 2023-021-RFP for Airport Vending Services for Phoenix-Mesa Gateway Airport, Offeror is fully aware of Insurance Requirements as specified in this Attachment H as well as those contained in the sample Terminal Concession Lease Agreement (Exhibit 4) and by the submission of this RFP submittal, Offeror hereby assures PMGAA that Offeror is able to produce the insurance coverage required should Offeror be selected to be awarded the Terminal Concession Lease Agreement.

Should Offeror be awarded the Terminal Concession Lease Agreement by PMGAA, and then become unable to produce the insurance coverage specified within ten working days, Offeror is fully aware and understand that PMGAA may not consider Offeror for this and future projects.

DocuSigned by:
Shawn Grider
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Signature of Offeror

June 22, 2023

Date

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Phoenix-Mesa Gateway Airport

Attachment I

Agreement Review Statement

As an Offeror to PMGAA's Solicitation 2023-021-RFP, Airport Vending Services, Offeror hereby certifies that Offeror has reviewed the PMGAA sample Terminal Concession Lease Agreement (Exhibit 4) and Section Three, Standard Terms and Conditions and have listed any objections to them below. The response shall clearly identify if the attached sample Terminal Concession Lease Agreement is acceptable in all respects. If the Agreement is not acceptable, the response shall identify the unacceptable clauses and shall provide suggested alternate language. General or vague statements or invitations to discuss further are not adequate answers.

Offeror is aware any objections to the sample Terminal Concession Lease Agreement (or to Section Three, Standard Terms and Conditions) will be considered and included in PMGAA's evaluation of my firm's qualifications. Offeror is also aware, if Offeror fails to list any objections to PMGAA's sample Terminal Concession Lease Agreement, including the Standard Terms and Conditions, Offeror will not be allowed to raise any objections later if selected as the most qualified Offeror.

DocuSigned by:
Shawn Grider
4F4CD3A8CA1C489

Signature of Offeror

June 23, 2023

Date

Specific Objections:

As you may already be aware, Canteen and PMGAA are currently parties to an existing agreement. We are confident that we will be able to continue our partnership with PMGAA to develop an agreement that mirrors the terms of the existing agreement between the parties. Accordingly, Canteen's proposal is subject to and conditioned upon the negotiation of a mutually agreeable resulting agreement between the parties.

Sample Lease Agreement, Section 10.3 - Canteen requests to revise the language in the foregoing section with the following to mirror the language in the existing agreement:
Each party shall indemnify, defend, and hold harmless the other from any and all losses, damages, or expenses, including reasonable attorneys' fees, arising out of or resulting from claims or actions for bodily injury, death, sickness, property damage, any breach or default hereunder, or other injury or damage if caused by any negligent act or omission of such party (except to the extent. caused by the negligent act or omission or breach or default of the other party, its employees, or agents). Notification of an event giving rise to an indemnification claim must (a) be received by the indemnifying party no later than ten (10) days after the party to be indemnified receives notice of the claim or lawsuit accompanied by copies of the summons, complaint, or other relevant documents relating to the claim or lawsuit; and (b) include a brief factual summary of the damage and cause thereof. Indemnification hereunder is expressly subject to, and conditioned upon, compliance with the foregoing notice provisions.

Sample Lease Agreement, Section 12.1 - Canteen requests to revise the language in the foregoing section with the following to mirror the language in the existing agreement:
I"f Concessionaire within thirty (30) calendar days of receiving notice, has not corrected the event leading to termination as stated herein, PMGAA may terminate this Agreement immediately."

Sample Lease Agreement Section 3.7.2 - Canteen requests to replace "Concessionaire shall, within FIVE (5) business days after written notice.." to "Concessionaire shall, within THIRTY (30) business days after written notice.." from the foregoing section.

Sample Lease Agreement Section 4.1.1 - Canteen requests to replace this section with the following: "With respect to its activities at the Premises and on the Airport, Concessionaire shall keep true and accurate records, books and data which shall show all sales made and services performed for cash or credit or otherwise, whether paid or not. Said records, books and data, upon written PMGAA request, shall be made available for audit at the Airport, within TEN (10) business days after such request."

Sample Lease Agreement, Section 5.1 - Omit this section as Canteen would like to retain rights and title to its equipment.

Sample Lease Agreement, Section 3.7.1 – Revise the performance guarantee is due date to 30 days from notice date

Sample Lease Agreement, Section 10.1.4 - omit this section to mirror existing agreement

Tab K – Addenda Acknowledgment (if applicable)

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Phoenix-Mesa Gateway Airport

Attachment J
Addenda Acknowledgement

Offeror is responsible for obtaining all addenda, if issued, via the PMGAA website at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section or by other means (see Section One, Subsection A, paragraph 2, Addenda).

Failure to acknowledge, and include this form in Offeror's submittal, may cause Offeror's proposal to be deemed nonresponsive. If no addenda were issued, Offeror does not need to include this attachment in its proposal.

Offeror hereby acknowledges receipt of the following addenda issued by PMGAA for solicitation 2023-021-RFP (fill in Addendum Number and Date Issued).

Addendum No. 1	Date Issued: June 6, 2023
Addendum No. 2	Date Issued: June 20, 2023
Addendum No. _____	Date Issued: _____
Addendum No. _____	Date Issued: _____
Addendum No. _____	Date Issued: _____

By: DocuSigned by: Shawn Grider
Signature

Shawn Grider, Division President
Printed Name/Title

Compass Group USA, Inc., by and through its Canteen Division
Company Name

June 23, 2023
Date

Appendix

Our Leadership

Erik Snyder
CEO

David Goldring
CFO

Michael Coffey
Chief Innovation Officer

Neil Donahue
SVP, Sales

Christine Woodward
SVP, Marketing & Retail Excellence

Ashley Kakas
VP, Marketing

Joann Canaday
VP, Human Resources

Betsy O'Brien
VP, Business Excellence & Innovations

Marcus Boni
CEO, Tradecraft

Our Leadership

John Fourqurean
President, Commissary Network

Jessi Moffitt
VP, Product Innovation

Marc Boman
President, Pacific Division

Tim Bailey
President, Mid-South Division

Steve Luccia
President, Southeast Division

Porter Hinton
President, Midwest Division

Joe Benti
President, Northeast Division

Phil Richard
President, Canteen One

Dale Whetstone
President, Franchise

Shawn Grider
SVP, Southwest Division

The Power of Compass Group

Compass Group operates as a family of great companies. We believe our sectorization strategy is a key advantage. It enables us to be closer to our clients and consumers to better understand their unique needs. This way, we can create an innovative, custom offer to meet Phoenix-Mesa Gateway Airport Authority's specific requirements and, in doing so, truly differentiate ourselves. We have teams of specialists and the support of a large organization that has the benefit of size and scale.

Compass Group provides the highly specialized resources, brands and partnerships that only the world's largest hospitality company can deliver. Utilizing a dedicated single point of contact, we operate under a "One Team" approach across all sectors – streamlining processes and communication, sharing best practices, implementing state-of-the-art innovations and ensuring consistency across the enterprise that delivers positive results*.

COMPASS GROUP®

GLOBAL KEY FIGURES

$33B revenue in FY22

500K+ associates

5.5B meals served per year

55K+ client locations in 40+ countries

**Canteen does not provide dining foodservices within any correctional facilities, nor does any other Compass Group operating company in the United States.*

MOST NOTABLE AWARDS

MOST TRUSTWORTHY COMPANIES IN AMERICA 2023 Newsweek statista

FORTUNE WORLD'S MOST ADMIRED COMPANIES

Forbes 2022 THE BEST EMPLOYERS FOR DIVERSITY

Forbes AMERICA'S BEST LARGE EMPLOYERS

Forbes 2022 THE BEST EMPLOYERS FOR NEW GRADS

HEALTHIEST EMPLOYERS WINNER

Best Employers Excellence in Health & Well-being

CYBERSECURITY

We invest $27 million each year to ensure the data of our clients, as well as their employees, customers and guests, is protected against all cyber intrusion attempts. Our cybersecurity team works around the clock so our clients can focus on their core businesses.

BALANCE SHEET

Our high credit rating and low debt levels, as well as a strategic equity raise, mean our balance sheet is the best in company history. While our competitors are burdened with debt, we're able to be nimble and smart, investing in our business and continuing to bring the best to our clients.

STRATEGIC PROJECTS

This internal team's deep knowledge of transition – and their extensive experience in change management – are key to us ensuring the contract transition for each new Compass Group client is seamless and successful.

COMPASS DIGITAL

Dedicated to innovation and consumer engagement, this internal team of developers and data scientists delivers technology strategies and solutions to meet complex business needs.

PEOPLE AND LABOR STRATEGY

In addition to our specialized HR support and unmatched people management skills, our proprietary labor platform, SmartLabor, processes and manages our workforce by finding inefficiencies, capturing data and driving change.

E15

Using data and market research, our E15 team finds patterns, correlations and insights that our clients use to make more informed decisions. The data optimizes their business operations and improves the consumer experience.

ENVISION GROUP

From strategic space design to eliminating food waste, this visionary team is focused on building partnerships and business growth that promotes the well-being of people and planet.

Fleet Management

Through the GPS-Telematics program, over 3,000 vehicles are equipped with GPS devices that increase safety awareness and reduce the amount of fuel used per vehicle. The program monitors speed, idling and start and stop for each vehicle – resulting in an average 10% fuel reduction per vehicle.

FLEET SAFETY WITH REAL-TIME ALERTS

Partnering with **Mobileye**, an Intel company, we've equipped our vehicles with real-time collision avoidance systems, utilized by over 60 million vehicles worldwide. The Mobileye forward-facing camera is part of an advanced driver assistance system that helps eliminate crashes altogether, or mitigate the severity of a crash by warning the driver of potentially dangerous driving scenarios with real-time proactive alerts.

The Mobileye system meets the guidelines established by the National Highway Traffic Safety Administration for forward collision and lane departure warnings, setting the standard for collision avoidance systems worldwide. It includes lifesaving alerts that help reduce collisions and improve driver behavior, not only providing a proactive solution, but also helping train drivers to avoid dangerous situations in the first place.

Acuity

The Acuity dashboard connects key performance indicators, metrics and other key data points from almost any source to provide a comprehensive picture of operational performance.

Acuity presents that information in customized, interactive and easy-to-read dashboards accessible on any online device. Acuity is in place at more than 200 U.S. accounts and in thousands of locations:

- Combine multiple internal and external data sources into an easy-to-use dashboard
- Access hundreds of charts and infographics
- Save countless hours with automated reports and visualizations
- Find and analyze trends
- Access data anytime, anywhere and on any device

canteen acuity

VIEW ORDERS AND DOWNLOAD REPORTS

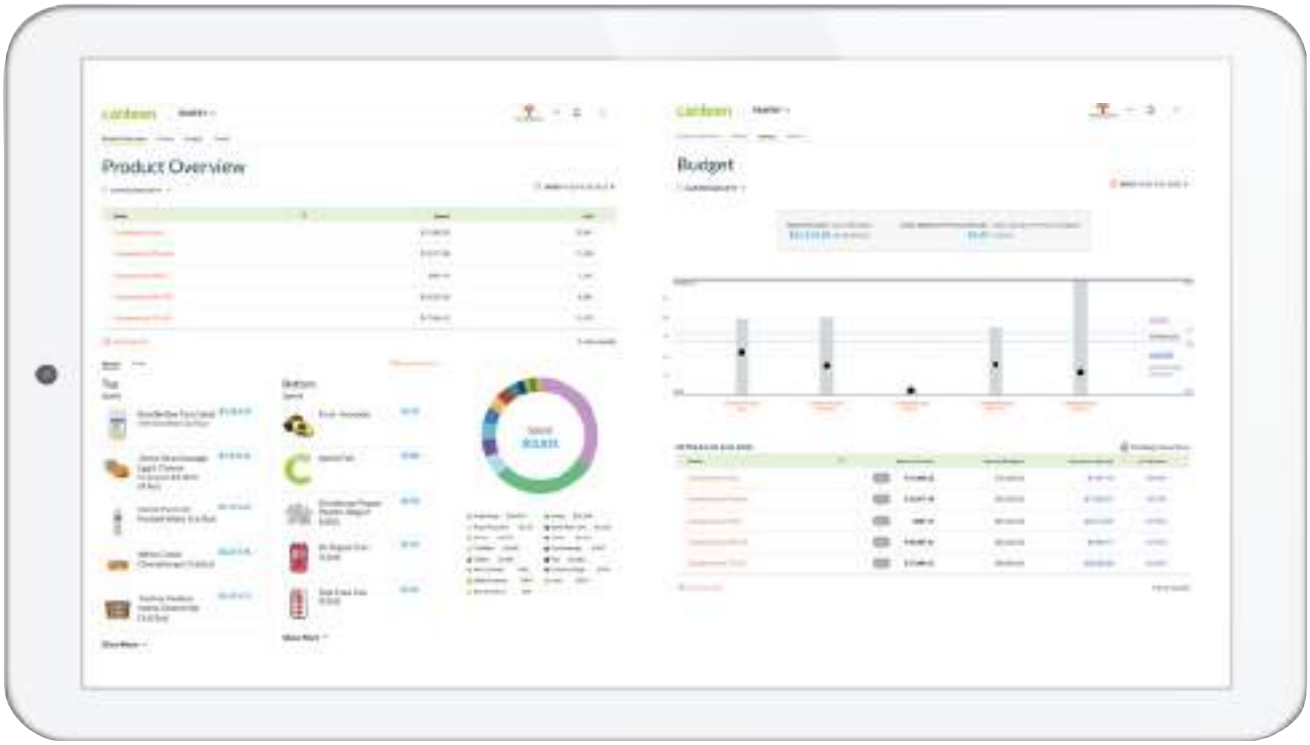
Detailed data and reports for ordered items are updated at the touch of a button.

SPEND BY CATEGORY

Stay on top of your spending; powerful sorting and search help you determine what your team loves and what products are unpopular.

BUDGETING

Besides tracking product usage, you can manage orders, see trends and add new products.



Cashless Technology

Speed, convenience and flexible payment options are key to success. Technology is changing quickly and we have the options you need to keep up with today's savvy consumer.

370,000+ devices deployed

Contactless methods of payment credit/debit cards, student/employee cards, mobile wallets, apps and more

50%+ of our transactions are credit cards

Payment Card Industry (PCI) compliance

2.5 M+ credit and debit transactions per month

51% Americans use contactless payments according to a Mastercard poll

Cuts transaction time by as much as 50%

Increases customer satisfaction

Enables multiple vends with a single transaction

Gives customers a fast way to pay

Data and Analytics

E15

Canteen partners with E15, Compass Group's industry-leading analytics firm, to make better business decisions using data and advanced analytical methodologies. E15 empowers our operators and clients to manage complexity by harnessing data to gather needed insights. This is done by leveraging experiences of some of the largest and most forward-thinking companies today.

Since 2014, E15's team of over 90 dedicated data scientists, business analysts and consumer researchers have uncovered opportunities for improvement, including food and beverage assortments, behavioral motivators, technology usage and operational processes.

Benefits of E15 include market research, revenue optimization, strategic pricing, guest satisfaction, social media scraping, speed of service, predictive modeling, data services, category management and labor management.

MARKET RESEARCH

E15's approach to market research enables us to know what guests want, when they want it. E15 synthesizes the demographic and socioeconomic data to create consumer profiles in ZIP codes surrounding our locations to better understand customer behaviors and product preferences.

DATA-DRIVEN PRODUCT MIX

E15 relies on data, not hunches, when helping clients develop a product variety that will resonate with their customer base. The insights uncovered go beyond what's selling inside our locations and get at what's going on in the broader market where we do business. What types of snacks and beverages are most popular? What tastes are unique to this market or region? What are the up-and-coming items customers are craving? E15's analytics programs go beyond transactional data to answer these questions and more.

HOW E15 ANALYZES TRENDS

E15 takes a holistic approach when analyzing trends, starting with consumers – understanding who they are, how they're changing and why. E15 uses syndicated data to uncover who guests are now, and to conduct primary research via surveys and focus groups to predict how their behaviors and attitudes will change over time.

Nielsen DATASSENTIAL

E15 also relies on industry-leading data partners, like **Nielsen** and **Datassential**, to forecast things that aren't popular or known yet. Using the data they have been collecting for more than 10 years, E15 creates artificial intelligence programs that learn from past performance to predict future trends.

As an innovation and services leader in the industry, we stay abreast of current and evolving trends through a variety of avenues.

- Compass Group's partnerships with companies like SPINS, Datassential, Forbes and other consumer marketing groups provide insights into the ever-changing world of consumer behaviors and industry trends.
- As a sector partner, we have the advantage of working side-by-side with industry experts within each market segment who know their consumers best.
- We leverage research and data from Foodbuy, our purchasing organization.
- Our supplier partners conduct and provide their own extensive research.
- We review industry data and research through trade publications, media and trade shows.

What's Trending?

1. **Yuba Noodles:** Made from tofu skin, this plant-based noodle option works in bowls, stir fries and soups.
2. **Black Salt:** Giving plant-based "egg" dishes their sulfurous flavor, this unique salt has been rediscovered.
3. **Sikil Pak:** This Mayan pumpkin seed could become the next hummus or guacamole.
4. **Chiltepin Peppers:** These tiny powerhouses are the only wild pepper native to North America.
5. **Hearts of Palm 2.0:** They're coming back as plant-based "seafood" and in Latin-inspired dishes.
6. **Chaat:** India's favorite savory, crunchy, spiced street snacks, chaat, are trending in the U.S.
7. **Next-Level Non-Dairy Ice Cream:** As potato and squash "milks" trend, look for non-dairy ice creams next.
8. **Indian Pizza:** Tikka masala and butter chicken pizza are among the offerings at growing Indian pizza chains.
9. **Shashlik:** These meat kebabs are appearing on more menus with traditional Central Asian and Russian flavors.
10. **Asian Rum:** New distillers are celebrating a modern age of rums from Asia, the birthplace of rum.

Innovative Partnerships

Canteen is committed to innovative partnerships. One way we approach this is by knowing consumer eating habits. Partnerships allow us to leverage experts, curators, specialists and subject matter experts to provide our clients with the best products in the most convenient way.

FOOD AND SNACK DELIVERY

DOORDASH

DoorDash is a technology company that connects people with the best in their cities. By leveraging what started as facilitated door-to-door delivery, Canteen partners with DoorDash to offer our clients group ordering from a daily curated list of restaurants, convenient delivery and on-site market drinks and sides to complete the meal. Together, we bring the virtual cafe to our guests.

FOODSBY

Guests who shop our markets want variety and have little time to grab a meal. Through our partnership with **Foodsby**, guests have lunch delivered from their favorite local restaurant to be picked up at their on-site Avenue C. Using the Foodsby app, guests can order on the go and then receive notification when lunch arrives. It's that easy to enjoy food you love.

DIGITAL MARKETING

Compass Digital

Available in our market and pantry service, Canteen partnered with **Compass Digital** to create a feedback solution to capture which items guests like and dislike, allowing us to rotate out slow movers with new items and provide more variety for guests.

FANDANGO

Canteen has partnered with **Fandango** to offer free movie tickets to guests who download the Connect & Pay® app. Guests save time by using the app to shop and then, as a perk, enjoy a movie later on.

GROUPON

Groupon offers a mobile marketplace where people discover and save on things to do, eat and buy. Available in Avenue C, our guests can get deals and savings on their favorite snacks, drinks and meals through the Groupon app.

We know we have to keep innovating and partnering with emerging companies to enhance our capabilities. Here is how we approach innovation:

Partner

FARMER'S FRIDGE
FOODSBY
GRUBHUB
Postmates
Steelcase

Acquire

COMPANY CK KITCHEN
FRESH & READY
MG FOODS
Tradecraft

Develop

avenue C
CONNECT
FEEDBACK · NUTRITION · SERVICE
ecostream
enjoy
JACK & OLIVE
EAT WELL. BE HAPPY.
SMARTSERVICE

Data Insights

We prioritize data protection for every client to avoid network intrusions that can inflict serious damage and create a major breach of trust with its customers.

INFORMATION SECURITY PROGRAM

A strong business reputation depends on a robust information risk management strategy. We address data privacy and information security with a formal information security program and Key IT Control Framework. Our information security tools, policies and procedures follow the Information Security Forum, whose Standard of Good Practice (SoGP) is mapped to the National Institute of Standards and Technology, Payment Card Industry and Control Objectives for Information and Related Technologies (CoBIT).

IT AUDIT AND CONTROL

Our accounting and General IT Controls are continuously evaluated by several assurance functions including independent auditors, KPMG (one of the Big Four accounting organizations), and our own team of internal auditors. Compass Group businesses are also governed by rigorous internal policies and procedures for the highest level of integrity of our internal control environment.

INFORMATION SECURITY TECHNOLOGY

In addition to annual network penetration testing, we deploy technology such as data loss prevention software, malware and antivirus protection to all company servers and computers, as well as multifactor authentication for companywide email accounts.

Compass Group also employs a security information and event management solution for all devices, servers and security systems, to which our unified threat management solution is centrally linked. Working in concert, our solutions continuously monitor for malicious behavior and protect against sophisticated, targeted and persistent threats.

PAYMENT CARD INDUSTRY DATA SECURITY STANDARDS

As an early member of the PCI Standards Council, we were among the first in our industry to offer mobile point-of-sale solutions with point-to-point encryption (P2PE) and end-to-end encryption (E2EE), protecting customer data from the point of swipe through transmission to the payment processor. Our clients span verticals that require a high degree of security, auditing and control compliance, which is why all our payment solutions have P2PE/E2EE as a minimum standard, and why we also observe and adhere to any relevant regulations and legislation.

BUSINESS CONTINUITY AND DISASTER RECOVERY

Compass Group is migrating all services and applications to our cloud-based network to ensure greater business continuity. As part of this transition, we are amending documents, plans and procedures to align with new recovery processes, and conducting annual recovery testing of critical systems and applications. Should business processes be interrupted, field sites are capable of completing day-to-day activities in the interim until systems are back online.

INCIDENT RESPONSE

Our internal policy and process provide a coordinated, effective and cohesive approach to privacy and information security incidents – ranging from unauthorized system intrusions to compromised privacy, data integrity or protection of confidential information.

The Cybersecurity Department coordinates investigations with other departments to research and resolve any incidents. To assist our efforts, a 24-hour Rapid Response Retainer with a leading security investigator is in place to perform extensive incident forensics and analyses when needed.

DATA PRIVACY

We believe in the importance of data privacy and security as a fundamental principle of our operations. Compass Group has engaged in a comprehensive effort to inventory, map and classify the data we use. This effort supports our core principles of data minimization, privacy by design and honoring consumers' rights to their data.

We have implemented a centralized, highly efficient method to process consumer data requests and communicate with them in a timely manner. Such efforts are reflected in our privacy policies found on our company web pages.

Investment Metrics

$27M invested annually

4K+
Next generation firewalls

46K+ total number of merchant IDs (MIDs)

ONGOING POS UPGRADE AND ENHANCEMENT PLANS

1 TB DATA/DAY FED INTO CYBERSECURITY ANALYTICS TOOL

55K+
devices with Advanced Malware Protection (AMP)

31,000+ corporate devices
24,000+ POS devices

250K+
intrusion attempts blocked annually

Marketing and Promotions

We strategically place signs in gathering spaces and high-traffic areas to communicate the latest features, offers and promotions to your team. Marketing vehicles include flyers, table tents, posters, e-blasts, LCD monitors and digital displays.

Transition

We make transitioning easy. A typical implementation takes 30 to 45 days. The process begins once a letter of intent or a contract is signed. This includes a detailed survey of your measured available space for machines, an evaluation of details that need to be taken into consideration, and market research. We understand the ratio of total population versus the amount of equipment you'll need and make recommendations accordingly.

Our Commitment to Diversity

Diversity, equity and inclusion are key to innovation, providing insights into our business that allow us to provide culturally sensitive products and services across all markets. Continued partnerships with our vast supplier network allow us to expand the breadth of available products to satisfy multicultural marketplaces across the country.

By celebrating diversity, equity and inclusion, we foster welcoming environments that nurture creativity and promote collaboration. We create opportunities for team members to learn, grow and achieve a culture of inclusion, reaping benefits for our associates, the organization and our client partners.

Diversity is emphasized through our Diversity and Inclusion Week, as well as our Diversity Champions and Diversity and Inclusion Action Council. These organizations promote diversity through awareness-building, communication and community events. We also developed National Inclusion Day to allow our teams to engage in fun activities, raising awareness and encouraging inclusive behavior among associates.

In addition, Compass Group's strategic partnership with Thompson Hospitality is superior to any other aimed at helping clients meet supplier diversity goals. For 25 years, we've developed a model to leverage the best of both worlds – proven economic savings and direct (i.e., Tier 1) Minority Business Enterprise participation. The outcome is a partnership that delivers valuable, streamlined solutions to every client we serve.

SUPPLIER DIVERSITY

Canteen is dedicated to supporting diverse-owned businesses across the country through our inclusive procurement initiatives. From snacks and beverages to cleaning supplies and coffee filters, our robust portfolio of over 100 (and growing!) diverse-owned suppliers allows you to support diverse and disadvantaged business and your communities through our partnership.

Our support for diverse-owned businesses includes:

- A dedicated team of product innovation experts that forages for certified diverse-owned brands across the country
- Identifying opportunities for those brands within our business and partnering with them to determine how to best provide their items within our portfolio

If there are roadblocks to success, we will help businesses navigate those challenges through programs like our Diverse Supplier Accelerator program and Emerging Brand Contracting processes. Bottom line, we want to make it easy for these brands to find success in our business.

As a Canteen client, you receive:

- Access to a local supplier diversity catalog, showcasing the items available in your area
- Monthly reporting on the amount of diverse supplier business you have supported
- Marketing support to help your customers understand how their purchases are making a difference

WHERE SPECIALTY COFFEE MEETS COMMUNITY IMPACT

BLK & Bold was born to help everyday coffee consumers increase their social impact footprint domestically via assisting urban youth defy their odds in pursuit of better futures. BLK & Bold's founders, Pernell and Rod, created the company with a desire to make purpose popular. They welcome the obligation to equip young people with tools to live their best lives and overcome familiar unfortunate circumstances by turning a daily ritual, enjoying a cup of coffee and tea, into a means of giving back.

BLK & Bold's Core Values

- Top-tier coffee, sustainably produced
- Uncompromised access
- Youth-centered
- B Corp. and M/WBE-certified

Top-Tier Quality

- 100% arabica, specialty coffee
- Fair and/or direct trade
- Naturally processed coffees
- Premium loose-leaf tea

Uncompromised Access

Normalizing access to specialty coffee via prioritizing mass retail, grocery and convenience.

Connecting with the Consumer

- Authentic, culturally relevant
- Diverse consumer community
- Nonpretentious voice, one with the people

BLK & Bold pledges 5% of its profits to initiatives aligned with sustaining youth programming, enhancing workforce development and eradicating youth homelessness.

We strongly believe having a well-rounded supplier base helps Compass Group better anticipate the needs of the people we serve, be innovative and be intentional about building community.

Twin Bee Coffee is a Black and woman-owned business based in Massachusetts. At Twin Bee Coffee, coffee is believed to be a source of good in the world. Beyond the unique fruitiness and sparkling acidity of its Burundi coffees, its direct trade partnerships empower growers, encourage gender equity and help build self-sustaining communities.

The origin of the name Twin Bee is the Kirundi word Uruyuki ("bee"), which acknowledges the industrious nature of the Burundian people and the natural dependency coffee plants have on our other partners, bees.

Founded in 1983, Le Chef Bakery specializes in high-end baked goods ranging from decadent desserts, various breads and a comprehensive line of breakfast pastries to frozen dough and more.

Le Chef continues to be family-owned and operated, and unwavering in its emphasis on providing customers, vendors and employees with personalized and customized service. Fair business practices, a longstanding respect for the workforce and a steadfast allegiance to world-class customer service have earned Le Chef lasting relationships in the industry.

Founded in 2014, Oakland-based Red Bay Coffee has deep roots in the San Francisco Bay Area specialty-coffee industry. Red Bay Coffee's firm commitment to ensure coffee production as a vehicle for diversity, inclusion, social and economic restoration, inclusive hiring practices and environmental sustainability makes it a perfect match for Phoenix-Mesa Gateway Airport Authority.

We will be proud to serve the delicious roasts created by this minority-owned Bay-area favorite.

Our People

We know our associates are a key component to our continued success and client satisfaction. We empower each associate with an entrepreneurial spirit and encourage multidisciplinary leaders to work without walls, providing fully integrated solutions to both associates and clients. By breaking down barriers, we provide holistic solutions to solve even the most challenging business issues.

BENEFITS

We pride ourselves on providing holistic solutions for our clients, but for our associates as well. Instead of offering a one-size-fits-all benefits programs, we offer flexible choices so each associate can customize benefits based on individual needs. Core benefits include health insurance consisting of medical, dental and vision; personal accident insurance; long-term and short-term disability; healthcare spending account; associate, spouse/partner and child life insurance; dependent-care spending account; employee assistance program; and matched 401(k) program. We offer our associates benefit credits, which work like cash and are based on salary, completed years of service and the cost of basic long-term disability coverage.

altogethergreat

At altogethergreat.com, Canteen associates can find information about benefits and employee programs, discover road maps for career advancement and connect with fellow associates. The site is continually updated with news, feature stories and associate programs including:

- **Online Benefits Center –** A convenient portal for associates to enroll in and manage health benefits, retirement and savings accounts.
- **Wellness Center –** A comprehensive approach to wellness offering health assessments and preventive care, as well as paid time off to receive such care.
- **Career Center –** An extensive range of learning opportunities for associates, whether they are at the beginning of their career or are a senior-level manager, including mentoring program, online job search agent, educational assistance and communications center.

ACCELERATED MANAGER PROGRAM

Career path planning is part of our culture. Whether you join us in our Accelerated Manager Program (AMP) or as a seasoned professional, we have the tools and training to ensure long-term success.

COMMITMENT TO ADVANCEMENT

Mentorship

Canteen offers our associates opportunities to advance both their own personal development and that of our organization – providing support, encouragement and rewards every step of the way. Our mentorship and leadership development programs help to prepare our talented employees to achieve new career heights.

Cash In On Growth

Our Cash In On Growth program is a universal incentive program that provides an opportunity for every Canteen associate, hourly or salaried, to earn quarterly incentives. Working together to achieve shared goals pays off.

Proudly Hiring Veterans

Canteen is now leveraging **Military.com** as an important part of our effort to hire those who have served our country. This partnership enables us to connect directly with service members, allowing us to utilize their skills and experiences to help our organization grow. Each November, we celebrate our veterans with special recognition and group outings, making sure to say "thank you" to those who have proudly served our country.

And through Tradecraft we support **Veteran Roasters Coffee**, whose mission is to find veterans who are homeless or at risk of becoming homeless and help them gain back their dignity while roasting some great coffee. In partnership with a Chicago roasting company, Passion House Coffee Roasters, Veteran Roasters trains and employs Chicagoland veterans.

Sustainability

DRIVING AWARENESS WITH INDUSTRY-LEADING MEASURES

At Canteen, doing the right thing is at the core of our balanced culture. This approach empowers us to advocate for change, push for transparency, and look to be more socially and environmentally responsible. For over a decade, Canteen and our parent company, Compass Group, have been pioneers in the industry for our sustainability commitments.

Our sustainability journey began in 1995 and has been building momentum ever since. In 2007, we were the first foodservice company to commit to sourcing cage-free eggs. In 2010, we developed the first version of our **Carbon Foodprint** tool. In 2015, we created **Imperfectly Delicious Produce**, where we partner with our suppliers to rescue unattractive produce that is perfectly safe to eat, but for cosmetic reasons would have been discarded. In 2017, we launched our back-of-house waste tracking tool, **Waste Not**, and celebrated our first annual **Stop Food Waste Day**, a day of action that focuses on how we can minimize food waste. In the fall of 2021, we announced our Science-Based Targets initiative (SBTi) and net-zero commitment, and today we continue to look for ways to ensure healthy people and planet.

carbon foodprint™
Taking Action for a Healthy Planet

Our Sustainability Journey

1995
FLIK & Bon Appétit Management Company commit to zero trans-fat frying oil

2005
Forms partnership with Monterey Bay Aquarium's Seafood Watch Program

2007
Commits to purchasing 100% Certified Humane cage free shell eggs

Commits to using oils and other products free from artificial trans-fat

Commits to reduce sodium by 10% by 2010

2009
Implements the 'Be a Flexitarian' campaign

2010
Creates Carbon Foodprint

Signs agreement with Coalition of Immokalee Workers

2011
Receives Goldie Award for Best Healthy Menu Concept for Whole + Sum

2013
Joins Menus of Change

2015
Starts the Imperfectly Delicious Produce program

Joins the Seafood Roundtable to accelerate positive change for our oceans

2016
Receives the Good Egg Award in honor of our cage-free egg commitment

2017
Creates first Annual Stop Food Waste Day

Transitions ground turkey to No Antibiotics Ever

Develops Waste Not

2018
Restaurant Associates and Bon Appétit Management Company commit to ban plastic straws

Implements Chef Appreciation Week

2019
Receives the Sustainability, Environmental, Achievement and Leadership (SEAL) Award for Carbon Foodprint

Joins the U.S. Food Loss & Waste Champions 2030 Group

Commits to reducing food waste by 50% by 2030

2020
Develops Waste Not 2.0

Partners with Google Food and Arizona State University to launch RePlant Your Menus Culinary Training

2021
Sets Net Zero Targets

Transitions 100% of our liquid eggs to Certified Humane cage free

Partners with FoodTank for Stop Food Waste Day Virtual Event

Joins the Single Use Materials Decelerator Group

Implements Regenerative Agriculture program

Creates the Supplier Diversity Accelerator

2022
Releases the SFWD Cookbook

Becomes first foodservice company to issue a Sustainable Bond

Participates in the UN Forum on Business and Human Rights

Our Sustainability Road Map

Our Sustainability Road Map is the next chapter of our journey – and our vision for the future. We are being bold in the areas where we have direct control. Where we don't, we are using our scale and relationships to influence our suppliers and improve the food system. Our philosophy is built on the belief that through better sourcing practices, championing farmworker rights, reducing food waste and promoting supplier diversity, we can lower our carbon impact, strengthen our communities and create a healthier planet.

Global Road Map to Net Zero

What sets us apart is that our **Global Road Map to Net Zero** is built on a foundation of approved science-based targets, our commitment to carbon neutrality in our operations by 2030 and our commitment to reach climate net zero by 2050. We will work to achieve these targets through a variety of ways, such as combating food waste, promoting plant-forward menu options, upgrading and enhancing our warehouse operations, and electrifying our fleet. It's important to note that the radical change needed cannot be made without the support of others. We must work collaboratively with our partners and suppliers to ensure they're also making progress with their climate goals. If they have yet to set goals, we'll encourage them to do so. It will take all of us working together to make real change.

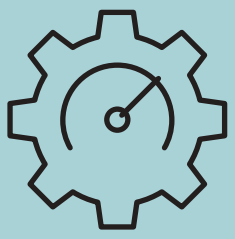
Canteen will always leverage our scale, passion and expertise to target areas that significantly impact the environment. This means we will work together with clients, consumers and suppliers to take measurable steps to create a sustainable future for all.

Our Balanced Culture Approach

Our approach ensures people and purpose are equally as important as strong financial performance. Providing services and products that are more socially responsible and better for our planet drives our approach and long-term strategy.

PEOPLE
Well-being • Socially Responsible

PURPOSE
Good for People • Good for the Planet



PERFORMANCE
Commercial Results

OUR PARTNERSHIP COMMITMENTS

At Canteen, we know sustainability is not just about the planet – it's also smart business. We offer our clients efficient solutions that deliver progress through innovation and measurable practices.

As your partner, we can support your sustainability goals with a wide variety of initiatives. Our specialized team of innovators provide industry knowledge that reaches far beyond what's typically offered and will customize your sustainability platform to reflect the needs of your organization. Actions include:

Creating a circular economy

- Zero-waste and circular solutions like reusable totes in our warehouses versus cardboard boxes
- Reusable pallet wraps instead of plastic
- Plastic-free beverage programs
- Package-reduced options and package-free bulk snack and beverage dispensing programs in certain markets
- Recycled or repurposed materials in shelving, racks and build-outs

Reducing carbon impact

- Low-carbon break rooms with greenhouse gas (GHG) consultation and quantification
- Energy conservation devices on equipment to reduce power consumption
- LED lighting in snack and beverage machines
- Energy Star equipment

PRIORITIZING RESPONSIBLE SOURCING

Canteen leads the industry in responsible sourcing. Our team is committed to continuous improvement of our socially responsible sourcing practices in alignment with industry-accepted certifications and standards. We source:

- Products from certified diverse suppliers, from small business enterprises to veteran-, women- and minority-owned businesses
- Local and regional products
- Ethical coffee
- rBGH-free milk and yogurt products
- Cage-free eggs

Performance Tracking

Canteen tracks performance against product category targets in pursuit of continuous improvement. Accomplishments from 2022:

- 97% of milk and 95% of our yogurt was rBGH-free
- 90% of our eggs were cage-free
- 24% of coffee was certified through one of the following industry-accepted ethical and sustainable production standards: Fair Trade, Rainforest Alliance and CAFE Practices

canteen cares

MAKING AN IMPACT IN THE COMMUNITIES WE SERVE

As a company and a family, we pride ourselves on being active members of the community. We strive to empower the communities where we live and work through our Canteen Cares initiative, whether it's producing meal kits for remote school feeding, supplying food and water for disaster relief, providing clean drinking water to communities around the world and so much more. Additionally, we focus on celebrating and supporting military veterans, as well as fighting for hunger relief with food recovery partnerships and innovations. We also encourage every local Canteen team to take part in their own initiatives, spreading our passion for involvement to communities, families and individuals across the country.

These are just some of the groups our teams support with local partnerships that strive to make a difference.

- **AMIkids** helps at-risk youth find a brighter tomorrow. https://www.amikids.org
- **Ark of Hope** is a transitional living program committed to serving formerly incarcerated individuals. https://aohdallas.org
- **Camp SOAR** (Special Olympics Athlete Retreat) encourages current athletes and recruits new athletes to the Special Olympics. https://sonc.net/local-programs/mecklenburg-county/camp-soar
- **Covenant House** provides housing and supportive services to youth facing homelessness. https://www.covenanthouse.org
- **Mooseheart** is a residential childcare facility, located on a 1,000-acre campus 38 miles west of Chicago. https://www.mooseheart.org
- **U.S.VETS** is on a mission to end veteran homelessness in the United States. https://usvets.org/locations/phoenix

Licenses, Permits and Insurance

All licenses and permits required for your services will be provided by Canteen. All necessary insurance coverage is carried by Canteen.

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 09/22/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
MARSH USA, INC.
TWO ALLIANCE CENTER
3560 LENOX ROAD, SUITE 2400
ATLANTA, GA 30326

CN102832071-Compa-UMB10-22- COMPA COMPA 41594

CONTACT NAME: Randi K. Nowell, CPCU, ARM
PHONE (A/C, No, Ext): 404-995-3102 **FAX (A/C, No):**
E-MAIL ADDRESS: Compasscerts@Marsh.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : National Union Fire Ins Co. of Pittsburgh PA	19445
INSURER B : AIU Insurance Co	19399
INSURER C : ACE Property And Casualty Ins Co	20699
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Compass Group USA, Inc.
2400 Yorkmont Road
Charlotte, NC 28217

COVERAGES **CERTIFICATE NUMBER:** ATL-005034758-28 **REVISION NUMBER:** 17

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			GL 6547187	09/30/2022	09/30/2023	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE / X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
	X SIR: $1,000,000						MED EXP (Any one person)	$
	X Contractual Liability						PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 10,000,000
	X POLICY / PRO-JECT / LOC						PRODUCTS - COMP/OP AGG	$ 5,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			CA 7030998 (AOS)	09/30/2022	09/30/2023	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
A	X ANY AUTO			CA 7031001 (VA)	09/30/2022	09/30/2023	BODILY INJURY (Per person)	$
A	OWNED AUTOS ONLY / SCHEDULED AUTOS			CA 7030999 (MA)	09/30/2022	09/30/2023	BODILY INJURY (Per accident)	$
A	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			CA7031003 (Garage Liability)	09/30/2022	09/30/2023	PROPERTY DAMAGE (Per accident)	$
				Self Insured for Physical Damage				$
C	X UMBRELLA LIAB / X OCCUR			XOO G27738631 008	09/30/2022	09/30/2023	EACH OCCURRENCE	$ 10,000,000
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$ 10,000,000
	DED / X RETENTION $ 0							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N / A		WC 035901901 (AOS)	09/30/2022	09/30/2023	X PER STATUTE / OTH-ER	
B	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			WC 035901902 (CA)	09/30/2022	09/30/2023	E.L. EACH ACCIDENT	$ 2,000,000
				See Acord 101			E.L. DISEASE - EA EMPLOYEE	$ 2,000,000
							E.L. DISEASE - POLICY LIMIT	$ 2,000,000
A	Liquor Liability			GL6547185	09/30/2022	09/30/2023	Each Common Cause	1,000,000
				SIR: $1,000,000			Aggregate	10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Evidence of Insurance

CERTIFICATE HOLDER
Compass Group USA, Inc.
2400 Yorkmont Road
Charlotte, NC 28217

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Marsh USA Inc.

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AGENCY CUSTOMER ID: CN102832071
LOC #: Atlanta

ADDITIONAL REMARKS SCHEDULE

AGENCY MARSH USA, INC.	NAMED INSURED Compass Group USA, Inc. 2400 Yorkmont Road Charlotte, NC 28217
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Workers Compensation Continued:

Workers Compensation Policy #WC 035901901 (AOS POLICY) Covers ALL States except: CA, WI and OH

Carrier: New Hampshire Insurance Company
Policy Number: WC 035901903
Effective Date: 09/30/2022
Expiration Date: 09/30/2023
Policy Covers States of: WI
Stop Gap Coverage: ND, OH, WA, WY.
Limit:
E.L. Each Accident: $2,000,000
E.L. Disease-Policy: $2,000,000
E.L. Disease Each Employee: $2,000,000

Workers Compensation Continued:
Carrier: National Union Fire Ins. Co. of PA
Policy Number: XW 1647353
Effective Date: 09/30/2022
Expiration Date: 09/30/2023
Policy Covers States of: OH (Excess WC)
Limit:
E.L. Each Accident: $2,000,000
E.L. Disease-Policy: $2,000,000
E.L. Disease Each Employee: $2,000,000

ADDITIONAL INFORMATION

Umbrella is follow form of primary Commercial General Liability, Automobile Liability, Liquor Liability and Employers Liability policies subject to policy terms, conditions and exclusions

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Letter of Intent

Date: _____

Michael Partyka
Operations Manager
Canteen
2675 S. 12th Place
Phoenix, AZ 85034

Dear Michael,

Please accept this letter as our official notification to you of our acceptance of Canteen's proposal for vending services for Phoenix-Mesa Gateway Airport Authority.

We will expect your firm to be fully operational in our facilities beginning on _____.

_____
Company

_____
Name

_____
Title

_____
Signature

Let Us Know How We Can Serve You

www.canteen.com

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canteen

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-47

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**CIP 1247, Service Truck Replacements**
Date:	**September 19, 2023**

Proposed Motion
To authorize the purchase of two vehicles from San Tan Auto Partners, LLC, dba San Tan Ford (San Tan Ford), in an amount not to exceed $52,827.69.

Narrative
FY24 approved capital plans included the replacement of two airport service vehicles.

The purchase includes two service body trucks. Currently two 2008 service vehicles are beyond their service life due to age and normal wear and tear.

PMGAA and San Tan Ford are both participants of the Arizona Department State Procurement Office (ADSPO). Under ADSPO, San Tan Ford was awarded the New Vehicle Purchase Contract #CTR059323, and it is through this competitive selection that PMGAA will utilize San Tan Ford for the new vehicle purchases. This contract is available upon request.

Fiscal Impact
This purchase was included in the FY24 capital budget and is funded with CIP #1247.

Attachment(s)
Quote

RESOLUTION NO. 23-47

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of two vehicles from San Tan Auto Partners, LLC, dba San Tan Ford (San Tan Ford), in an amount not to exceed $52,827.69;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of two vehicles from San Tan Auto Partners, LLC, dba San Tan Ford (San Tan Ford), in an amount not to exceed $52,827.69. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 19th day of September, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

2024 Maverick FWD SuperCrew 4.5' box 121.1" WB XL (W8A)

Quote ID: 72323-1

Pricing Summary - Multiple Vehicles

Vehicle Quantity: 2

	MSRP
Vehicle Pricing	
Base Vehicle Price	$46,800.00
Options	$230.00
Colors	$0.00
Upfitting	$0.00
Fleet Discount	$0.00
Fuel Charge	$0.00
Destination Charge	$3,190.00
Subtotal	$50,220.00

Pre-Tax Adjustments

Code	Description	MSRP
Discount	San Tan Ford Vehicle Discount	-$3,014.00
Tint	Window Tint	$600.00
Bed Liner	Spray-in Bedliner	$1,190.00
Subtotal		$48,996.00

Sales Taxes

Code	Description	MSRP
City Sales Tax	Gilbert Sales Tax	$734.94
State Tax	Arizona State Sales Tax	$3,086.75
Subtotal		$52,817.69

Post-Tax Adjustments

Code	Description	MSRP
Tire Tax	Tire Tax	$10.00
Subtotal		$52,827.69
Total		$52,827.69

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-48

To:	**Board of Directors**
From:	**Art Montoya, Information Technology Director**
Through:	**Chuck Odom, Chief Financial Officer**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**VMS Procurement – CIP 1233**
Date:	**September 19, 2023**

To authorize the procurement of Video Management Software (VMS) and licensing from Convergint Technologies (Convergint) in an amount not to exceed $79,020.01.

The Phoenix-Mesa Gateway Airport Authority's (PMGAA's) Information Technology Service (ITS) ensures the Airport's operation, compliance, and disaster recovery functionality relative to information technology industry standards. A refresh life cycle program of servers, security cameras and equipment replacements per a pre-established schedule is an implemented practice including necessary software updates. The airport recently updated to the most current and last available update to the Lenel VMS in conjunction with a server upgrade. After the server upgrade and software update were complete, the system became severely unstable and camera performance had to be downgraded. During the specification phase of the server replacement there was erroneous information related to the correct specification for the servers provided by Lenel. Due to this, the current state of the system will not support the imminent completion of the current 5 Gate Passenger Terminal Expansion Project, that is scheduled to have a significant VMS load increase.

VMS is necessary to monitor camera activity and is a critical component of the Airport's responsibility to monitor, detect, and resolve all security incidents at the Airport and to remain in compliance with 49CFR1542 and the Airport Security Program. The procurement of new software is necessary to ensure camera monitoring and recording for security, safety, wildlife control and incident investigation and critical security needs are met.

The Airport's current Lenel Value Added Retailer (VAR) Convergint Technologies (Convergint) has coordinated with Lenel to develop a resolution. In anticipation of the discontinuation of their VMS product, Lenel has partnered with an industry leading vendor of VMS, Milestone. Considering the circumstance of the Airport's VMS, Lenel's partner Milestone, through Convergint has offered their VMS product at a temporarily discounted rate. The rate is below MSRP, as well as being significantly less than utilizing the Cooperative Purchasing contract under Sourcewell and a competitive proposal received by staff.

Convergint Discounted Price	$ 79,020.01
Sourcewell Cooperative Price	$112,345.82
Genetec Price	$ 87,159.74

PMGAA's Procurement Policy requires staff to issue a formal solicitation for this procurement. Due to the significant fiscal savings provided to the Airport in contrast to other procurement options, the unstable condition of the current VMS, and the pending specter of a projected VMS failure, PMGAA staff is

recommending to procure the Milestone VMS product under Impractical Procurements, as defined in PMGAA's Procurement Policy.

Fiscal Impact
This purchase was included in the FY23 Capital Improvement Projects and is funded under CIP 1233.

Attachment(s)
Quote

RESOLUTION NO. 23-48

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the procurement of Video Management Software (VMS) and licensing from Convergint Technologies (Convergint) in an amount not to exceed $79,020.01;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the procurement of Video Management Software (VMS) and licensing from Convergint Technologies (Convergint) in an amount not to exceed $79,020.01. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of September, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

2330 W. University Dr. , Tempe,Arizona 85281
Phone Mobile 480-828-9449
allen.mcleod@convergint.com

August 18, 2023

Phoenix-Mesa Gateway Airport Authority
Phoenix Mesa Gateway Airport

5835 S Sossaman Rd Mesa, Arizona 85212
Attention: Ivan Smith

Quotation: AMC1573066P
RFP#:
Sourcewell Contract #: 030421-CTL
License/Cert

Reference: PMGAA VMS Milestone LNVR Discount
Temporary Discount - July 2023

On behalf of our thousands of global colleagues, I want to personally thank you for considering Convergint Technologies for this project and for providing us with the opportunity to present this proposal addressing your electronic security needs. We are confident that this proven solution is both comprehensive and customized to meet your needs today and in the years ahead.

Convergint has developed a strong reputation for service excellence and is the only company recognized twice as the Systems Integrator of the Year by SDM Magazine. Most recently, Convergint was ranked the 4th largest global systems integrator. This recognition is, in part, a reflection of the strong relationships Convergint has developed with the industry's top technology manufacturers. Convergint Technologies has a strong history of success with similar solutions provided to other clients and would be happy to provide these references upon request.

Our guiding principal has always been to be a customer-focused and service-based company, supported by dedicated and certified professionals who strive to make a daily difference. Our vision of becoming our customers' best service provider is what drives everything we do. After achieving a successful on-time and on-budget project installation, Convergint will provide you with the industry's best on-going service. This service includes our 24/7 customer portal (iCare), designed to track service work orders, project progress, and provide you with detailed metric reporting for continuous improvement.

The following security proposal is specifically designed to meet your needs. As your single point of contact, please feel free to contact me with any additional questions you may have. Thank you again for considering Convergint Technologies as your partner for your electronic security needs.

Scope of Work

- Convergint Technologies will provide and install a new Milestone Video Management Software solution.
- Software will be loaded on existing client provided servers.
    - System parameters will need to be identified and programming configured prior to cutover.
    - Landing scheduled will need to be determined prior to start of installation.
- All video workstations will require new software and connection to the server(s) when ready.
- A new Milestone Husky recorder must be purchased as part of the manufacturer's discount program.
    - While it is not required to be used, it is recommended to transition predetermined cameras to the Husky recorder to create space on the existing server and optimize performance.
- Reconnect and test all camera and server communications.
- Assumes free and clear access to the work space.

Clarifications

- Please reference the provided Convergint VMS Narrative 6-8-23 for further information regarding the upgrade program.
- Offer is for a limited time, available only top tier Lenel clients still utilizing OnGuard on LNVR.

Materials

Line	Qty	Part	Description	Unit Price	Extended Price
1	Sourcewell Contract 030421-CTL				
2	VMS Software				
3	1.00	ML-XPCOBT-01	Milestone XProtect Corporate base license	$ 3,023.87	$ 3,023.87
4	205.00	ML-XPCODL-01	Milestone XProtect Corporate device license	$ 254.97	$ 52,268.85
5	1.00	ML-YXPCOBT-01	Milestone one year Care Plus for XProtect Corporate base license	$ 546.25	$ 546.25
6	205.00	ML-YXPCODL-01	Milestone one year Care Plus for XProtect Corporate device license	$ 0.00	$ 0.00
7	1.00	ML-XPABL-01	Milestone XProtect Access base license	$ 121.56	$ 121.56
8	300.00	ML-XPADL-01	Milestone XProtect Access door license	$ 0.00	$ 0.00
9	300.00	ML-ONG-VIDINT	Video channel license for integrating Milestone video channels into OnGuard [includes DV-CH-1UP channel device license]	$ 0.00	$ 0.00
10	1.00	ML-OGINT-ADV	Integration of Milestone XProtect platform into OnGuard ADV systems [includes licenses for bi-directional integration]	$ 0.00	$ 0.00
11	1.00		Milestone Husky Box - VMS Recorder; 32TB, 360GB, up to 50 channels.	$ 6,406.82	$ 6,406.82
12	Labor was Quoted IAW Sourcewell Contract No.: 030421-CTL				

Equipment Total	$ 62,367.35
Program Manager	$ 0.00
Professional Services	$ 1,600.40
Project Management	$ 1,013.58
Specialist-Programming	$ 3,307.44
Specialist-Testing	$ 413.43
Installation-Foreman	$ 0.00
Installation	$ 0.00
Engineering	$ 337.86
Drafting/CAD	$ 0.00
Subcontractors/Other Costs	$ 0.00
Freight/Warranty	$ 9,979.95
Total Project Price	$ 79,020.01

Clarifications and Exclusion

1. All work proposed herein, shall be performed during normal business hours Monday through Friday 8:00 am - 5:00 pm.
2. Low voltage wiring shall be installed via open air code approved methods.
3. Provision or installation of conduit, wire, boxes, fittings or other electrical installation materials unless specifically listed under Inclusions or Bill of Materials.
4. Permits or associated fees are not included.
5. Customer to provide static IP addresses and network connections at panel locations.
6. Customer to provide a secured staging & storage area for project related materials.
7. Pricing assumes that electronic Auto CAD files are available from customer for our use in creating submittal drawings.
8. Twenty-Five percent (25%) of the proposed sell price shall be payable to Convergint Technologies for project mobilization. Mobilization shall be invoiced and due upon customer acceptance of this proposal.
9. Proposal does not include sales tax unless otherwise noted.
10. Anything in the Contract Documents notwithstanding, in no event shall either Contractor or Subcontractor be liable for special, indirect, incidental or consequential damages, including commercial loss, loss of use, or lost profits, even if either party has been advised of the possibility of such damages.
11. Convergint Technologies reserves the right to negotiate mutually acceptable contract terms and conditions with customer by making mutually agreeable changes to the formal contract included in the Bid Documents.

Performance Items

Items Included	
Material (listed in the BOM)	One-Year Warranty on Labor
One-Year Warranty on Parts	Project Management
Servers by Convergint	System Programming
Testing of all Proposed Devices	Workstations by Others

Items Excluded	
120 VAC Power and Fused Disconnect Switch	120 VAC Power Receptacles
Additional Lighting Requirements for Cameras	Applicable Taxes
Attend General Contractor Project Meetings	Attend Owner Project Meetings
Authority having Jurisdiction permit drawing (requires customer CAD)	Cable
Ceiling Tiles and Ceiling Grid Repairs	Connection to Building Fire Alarm Panel
Correction of Wiring Faults Caused by Others	Door wiring typical connections
Electrical Installation Permit	Electrified Door Locking Hardware
Engineering and Drawings	Equipment rack layout drawing
FA Permit and Plan Review Fees	Fire Stopping (Excludes Existing Penetrations)
Fire Watch	Floor Coverings for Lifts
Floor plan with device placement and numbering (requires customer CAD)	Freight (prepaid)
Horizontal Core Drilling	Installation of Bridle Rings
Installation of CCTV Cameras	Installation of Conduit, Boxes and Fittings
Installation of Control Equipment Enclosures	Installation of Control Panels
Installation of Intercom Systems	Installation of Intrusion Panels
Installation of Low Voltage Wire	Installation of Network Cabling to Card Readers
Installation of Network Cabling to IP Cameras	Installation of Network Cabling to IP Intercoms
Installation of Specialty Backboxes	Installation of Terminal Cabinets
Installation of Video Recorders (DVR/NVR)	Installation of Wire and Cable
Installation of Wire Hangars	Lifts
Loading Software on Customer Provided Computer	Low Voltage Permits
Mounting/Termination of Proposed Devices	On-Site Lockable Storage Facility
Operations & Maintenance Manuals	Owner to Provide DHCP Lease Reservations for Network Connected Devices
Owner to Provide Static IP Addresses	Owner Training
Panel Wall Elevation drawing (may require customer CAD)	Panel wiring point with to point connections
Patch and Paint	Payment & Performance Bonds
Record Documentation (As-Built)	Riser drawing with home run wiring
Servers by Others	Specialty Backboxes
Submittal Drawings	System Engineering
System is Design-Build	System Meets Plans/Drawings
Terminal Cabinets	Termination of Control Equipment Enclosures
Vertical Core Drilling	Wire
Workstations by Convergint	

Total Project Investment: **$ 79,020.01**

Thank you for considering Convergint Technologies for your Security needs. If you have any questions or would like additional information, please don't hesitate to contact me immediately. If you would like to proceed with the scope of work as outlined in this proposal, please sign below and return to my attention.

Sincerely,

Allen McLeod
Convergint Technologies
Allen McLeod

By signing below, I accept this proposal and agree to the Terms and Conditions contained herein

Ivan Smith	
Customer Name (Printed)	Date
Authorized Signature	Title

Throughout this Installation Proposal, the term, "Convergint" refers to the Convergint Technologies' affiliate operating in the state/province in which the work is being performed, specifically, "Convergint Technologies LLC" or "Convergint Technologies LTD".

SECTION 1. THE WORK

This Installation Proposal takes precedence over and supersedes any and all prior proposals, correspondence, and oral agreements or representations relating to the work set forth in the attached scope of work ("Work"). This Installation Proposal commences on the Start Date as specified in the attached scope of work, and represents the entire agreement between Convergint and Customer (the "Agreement") and it may only be amended by a written document signed by both Convergint and Customer. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force.

Convergint agrees in accordance with the mutually agreed project schedule:

a. To submit shop drawings, product data, samples and similar submittals if required in performing the Work;
b. To pay for all labor, materials, equipment, tools, supervision, programming, testing, startup and documentation required to perform the Work in accordance with the Agreement;
c. Secure and pay for permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work; and
d. Hire subcontractors and order material to perform part of the Work, if necessary, while remaining responsible for the completion of the Work.

Customer agrees in accordance with the mutually agreed project schedule, and at no cost to Convergint:

a. To promptly approve submittals provided by Convergint;
b. To provide access to all areas of the facility which are necessary to complete the Work;
c. To supply suitable electrical service as required by Convergint; and
d. That in the event of any emergency or systems failure, reasonable safety precautions will be taken by Customer to protect life and property during the period of time from when Convergint is first notified of the emergency or failure and until such time that Convergint notifies the Customer that the systems are operational or that the emergency has cleared.

SECTION 2. PRICING

Pricing and amounts proposed shall remain valid for 30 days unless otherwise specified. Price includes only the material listed based on Convergint's interpretation of plans and specifications unless noted otherwise. Additional equipment, unless negotiated prior to order placement, will be billed accordingly. Sales taxes, (and in Canada GST/PST) and any other taxes assessed on Customer shall be added to the price upon invoice to Customer.

SECTION 3. INVOICE REMITTANCE AND PAYMENT

Customer agrees to pay Convergint twenty-five (25%) percent of the total price as a mobilization fee at the time of executing this Agreement.

If the Work is performed over more than a month, Convergint will invoice Customer each month for the Work performed during the previous month. Customer agrees to pay the amount due to Convergint as invoiced, within thirty (30) days of the date of such invoice. If the Work is completed in less than one month, Customer agrees to pay Convergint in full after the Work has been performed within thirty (30) days of the date of being invoiced. Invoices shall not include or be subject to a project retention percentage. If Customer is overdue in any payment to Convergint, Convergint shall be entitled to suspend the Work until paid, and charge Customer an interest rate 1 and 1/2% percent per month, (or the maximum rate permitted by law), and may avail itself of any other legal or equitable remedy. Customer shall reimburse Convergint costs incurred in collecting any amounts that become overdue, including attorney fees, court costs and any other reasonable expenditure.

SECTION 4. WARRANTY

Convergint provides the following warranty to the Customer:

For the period of one (1) year, commencing at the earlier of substantial completion of the Work, or first beneficial use, ("Warranty Period"):

a. That Work performed under this Agreement will be of good quality;
b. That all equipment will be new unless otherwise required or permitted by this Agreement;
c. That the Work will be free from defects not inherent in the quality required or permitted; and
d. That the Work will conform to the requirements of this Agreement.

The Customer's sole remedy for any breach of this warranty is that Convergint shall remove, replace and/or repair at its own expense any defective or improper Work, discovered within the Warranty Period, provided Convergint is notified in writing of any defect within the Warranty Period.

Any equipment or products installed by Convergint in the course of performing the Work hereunder shall only carry such warranty as is provided by the manufacturer thereof, which Convergint hereby assigns to Customer without recourse to Convergint. Upon request of Customer, Convergint will use all reasonable efforts to assist Customer in enforcing any such third party warranties. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by Convergint, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. NO FURTHER WARRANTIES OR GUARANTIES, EXPRESS OR IMPLIED, ARE MADE WITH RESPECT TO ANY GOODS OR SERVICES PROVIDED UNDER THIS AGREEMENT, AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

SECTION 5. CHANGES

Without invalidating this Agreement or any bond given hereunder, Customer or Convergint may request changes in the Work. Any changes to the Work and any adjustment to the Agreement Price or the time for completion of the Work shall be in writing signed by both Customer and Convergint. If Customer orders any additional work or causes any material interference with Convergint's performance of the Work, Convergint shall be entitled to an equitable adjustment in the time for performance and in the Agreement Price, including a reasonable allowance for overhead and profit.

SECTION 6. FORCE MAJEURE

Neither Customer nor Convergint shall be responsible or liable for, shall incur expense for, or be deemed to be in breach of this Agreement because of any delay in the performance of their respective obligations pursuant to this Agreement due solely to circumstances beyond their reasonable control ("Force Majeure") and without the fault or negligence of the party experiencing such delay, provided that the party experiencing the delay shall promptly give written notification to the other party within five (5) days after such party has learned of the Force Majeure. A Force Majeure event shall include, but not be limited to: accident, fire, storm, water, flooding, negligence, vandalism, power failure, installation of incompatible equipment, improper operating procedures, source current fluctuations or lighting. If performance by either party is delayed due to Force Majeure, the time for that performance shall be extended for a period of time reasonably necessary to overcome the effect of the delay. Any Services required by Convergint due to reasons set forth in this Force Majeure Section shall be charged to Customer in addition to any amounts due under this Agreement.

SECTION 7. INSURANCE

Convergint shall have the following insurance coverage during the term of this Agreement, and shall provide certificates of insurance to the Customer prior to beginning work hereunder:

Worker's Compensation	Statutory Limits
Employer's Liability	$1,000,000 per occurrence /aggregate
Commercial General Liability	$1,000,000 per occurrence/aggregate
	$2,000,000 general aggregate
Automobile Liability	$1,000,000 per occurrence/aggregate
Excess/Umbrella Liability	$4,000,000 per occurrence/aggregate

All insurance policies carried by Convergint hereunder shall be primary to and noncontributory with the insurance afforded to Customer, and shall name the Customer as "additional insured", with respect to liability arising out of work performed by Convergint, as applicable, but only to the extent of liabilities falling within the indemnity obligations of Convergint, pursuant to the terms of this Agreement. Convergint shall provide to the Customer no less than thirty (30) days notice prior to the termination or cancellation of any such insurance policy.

SECTION 8. INDEMNIFICATION

Convergint shall indemnify and hold Customer harmless from and against claims, damages, losses and expenses, (including, but not limited to, reasonable attorney's fees), attributable to bodily injury, sickness, disease or death, or to destruction of tangible property, but only to the extent caused by: a) the negligent or willful acts or omissions of Convergint or Convergint's employees or subcontractors while on Customer's site, or b) the malfunction of the equipment supplied by Convergint, or c) Convergint's breach of this Agreement.

IN NO EVENT SHALL EITHER CONVERGINT OR CUSTOMER BE LIABLE TO THE OTHER PARTY HERETO FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING COMMERCIAL LOSS, LOSS OF USE OR LOST PROFITS, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILTY OF SUCH DAMAGES. IN NO EVENT WILL CONVERGINT BE LIABLE TO CUSTOMER FOR ANY AMOUNTS IN EXCESS OF THE AMOUNTS PAID BY CUSTOMER TO CONVERGINT.

It is understood and agreed by the parties hereto that Convergint is or may be providing monitoring and or intrusion products which are designed to provide notification of certain events but are not intended to be guarantees or insurers against any acts for which they are supposed to monitor or inform. As required by the monitoring and intrusion industry and the manufacturers thereof, Convergint's indemnification obligation pursuant to Section 8 herein, does not apply to the extent the loss indemnified against is caused by any monitoring or intrusion product or software provided by but not manufactured by Convergint. Convergint shall have **no** liability to Customer for any losses to the extent such losses are caused by the monitoring or intrusion product or software. Customer shall indemnify, defend, and hold harmless Convergint, from and against all claims, lawsuits, damages, losses and expenses by persons not a party to this Agreement, but only to the extent caused by such monitoring or intrusion product or software provided by but not manufactured by Convergint.

SECTION 9. COMPLIANCE WITH LAW, EEO & SAFETY

This Agreement shall be governed and construed in accordance with the laws of the state/province in which the Work is being performed. Convergint agrees to comply with all laws and regulations relating to or governing the Work. Convergint agrees to comply with all reporting requirements imposed by law or this Agreement. Convergint shall comply with all safety related laws and regulations and with the safety program of the Customer, provided such program is supplied to Convergint prior to beginning work.

In the event that Convergint discovers or suspects the presence of hazardous materials, or unsafe working conditions at Customer's facility where the Work is to be performed, Convergint is entitled to stop the Work at that facility if such hazardous materials, or unsafe working conditions were not provided by or caused by Convergint. Convergint in its sole discretion shall determine when it is "safe" to return to perform the Work at Customer's facility. Convergint shall have no responsibility for the discovery, presence, handling, removing or disposal of or exposure of persons to hazardous materials in any form at the Customer's facility. Customer shall indemnify and hold harmless Convergint from and against claims, damages, losses and expenses, including but not limited to, reasonable attorney's fees, arising out of or resulting from undisclosed hazardous materials, or unsafe working conditions at Customer's facility.

SECTION 10. DISPUTES

In the event of any dispute between Convergint and Customer, Convergint and Customer shall first attempt to resolve the dispute in the field, but if that is not successful, then in a meeting between authorized officers of each company. If settlement attempts are not successful, then the dispute shall be subject to and decided by mediation or arbitration. Such mediation or arbitration shall be conducted in accordance with the Construction Industry Mediation or Arbitration Rules of the American Arbitration Association currently in effect and shall be a final binding resolution of the issues presented between the parties.

SECTION 11. MISCELLANEOUS

Neither party to this Agreement shall assign this Agreement without the prior written consent of the other party hereto. Convergint may assign this Agreement to any of its parents, subsidiary or affiliated companies or any entity majority owned by Convergint.

Notices shall be in writing and addressed to the other party, in accordance with the names and addresses of the parties as shown above. All notices shall be effective upon receipt by the party to whom the notice was sent.

A waiver of the terms hereunder by one party to the other party shall not be effective unless in writing and signed by a person with authority to commit the Customer or Convergint and delivered to the non-waiving party according to the notice provision herein. No waiver by Customer or Convergint shall operate as a continuous waiver, unless the written waiver specifically states that it is a continuous waiver of the terms stated in that waiver.

The Sections regarding invoicing, warranty and indemnity shall survive the termination of this Agreement.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-49

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**CIP 1029, Passenger Boarding Ramps Replacement**
Date:	**September 19, 2023**

Proposed Motion
To authorize the purchase of two ADA Passenger Boarding Ramps from Timberline GSE, Inc. (Timberline) in an amount not to exceed $181,838.90.

Narrative
The ADA Passenger Boarding Ramps will be utilized to supplement passenger operations and provide passenger level-boarding and disembarking capabilities for a variety of aircraft in accordance with FAA Advisory Circulars and the Air Carrier Accessibility Act. This purchase will replace two aged ramps acquired in 2009.

Invitation for Bid No. 2024-004-IFB for two ADA Passenger Boarding Ramps was issued on July 6, 2023, and advertised in the Arizona Business Gazette on July 13, 20, and 27 and August 3, 2023. The notice was also posted on the Airport's website as well as the Arizona Airports Association and the ACI-NA. In addition, the IFB notice was emailed to the only two vendors that meet the required FAA specifications: Keith Consolidated Industries, Inc. and Timberline.

PMGAA staff received one bid, from Timberline. Following PMGAA's Procurement Policy 22-01 when only one submittal is received, PMGAA staff confirmed that the specifications contained in the IFB were not overly restrictive and performed a price analysis to ensure the pricing received was in line with the equipment requested. PMGAA staff are recommending to award the purchase of two (2) ADA Passenger Boarding Ramps to Timberline.

Fiscal Impact
This purchase was included in the FY24 capital budget and is funded with CIP 1029.

Attachment(s)
Bid

RESOLUTION NO. 23-49

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of two ADA Passenger Boarding Ramps from Timberline GSE, Inc. (Timberline) in an amount not to exceed $181,838.90;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of two ADA Passenger Boarding Ramps from Timberline GSE, Inc. (Timberline) in an amount not to exceed $181,838.90. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of September, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

Attachment B
Offeror's Bid

Item	Price
Two (2) New ADA Passenger Boarding Ramps, To Meet the Minimum Specifications per Attachment A	$ 158,300.00
Manuals on Maintenance, Operations, and Parts – 2 Sets (Hard Copy & Digital)	$ 0.00 (included in base price)
On-Site Setup and Training	$ 0.00 (included in base price)
Sales Tax, 8.3% **PMGAA is NOT tax exempt.**	$ 13,138.90
Warranty, To Meet Minimum Specifications Per Attachment A (2 ADA Passenger Boarding Ramps)	$ 0.00 (included in base price)
On-Site Setup and Training	$ 0.00 (included in base price)
Shipping (2 ADA Passenger Boarding Ramps)	$ 10,400.00
Total	$ 181,838.90

Offeror's Payment Terms: Equipment: Net 30

Parts: Please find parts list attached to bid docs

Discounts:
Prompt Payment: The price(s) quoted above can be discounted by 1 % if payment is made within 10 days.

Parts: PMGAA price for purchasing parts direct from the Offeror shall be discounted by _____ % of the current list price for parts published by Offeror.

Exceptions / Clarifications of Offeror:

Delivery Time Estimate: 10-12 weeks

Equipment is Manufactured in (Country): United States of america

Todd Gardner
Printed Name

Signature

8-8-2023
Date

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-50

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Roofing Repairs – Jim Brown & Sons Roofing Co., Inc. dba JBS Roofing**
Date:	**September 19, 2023**

Proposed Motion
To authorize a Contract with Jim Brown & Sons Roofing Co., Inc. dba JBS Roofing (JBS Roofing) for Roofing Repair Services for PMGAA facilities, in an amount not to exceed $75,000 under CIP1269.

Narrative
The Phoenix-Mesa Gateway Airport Authority's (PMGAA) Engineering and Facilities Department is responsible for the maintenance and repair of the Airport's facilities. Many of the roofing systems on PMGAA buildings are in need of repairs and maintenance, which will assist in extending their useful life.

PMGAA and JBS Roofing are both participants of the Mohave Educational Services Cooperative (MESC) Purchasing Group. Under MESC, JBS Roofing was awarded Roofing and Roofing Systems Installation, Products, and Services Contract #18R-JBSR1-0418, and it is through this competitive selection that PMGAA will utilize JBS Roofing for these roofing services. This contract is available upon request.

The Scope of Work/Fee received from the vendor totaled $65,800; however, due to the age and condition of these roofs, staff is requesting to have an additional $9,200 available in the event the contractor runs into unexpected issues, and additional funds are needed to complete the repairs.

Fiscal Impact
This project is included in the FY24 Capital Budget, utilizing PMGAA non-grant funding, under CIP1269.

Attachment(s): Scope of Work/Fee

RESOLUTION NO. 23-50

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Contract with Jim Brown & Sons Roofing Co., Inc. dba JBS Roofing (JBS Roofing) for Roofing Repair Services for PMGAA facilities, in an amount not to exceed $75,000 under CIP1269;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Contract with Jim Brown & Sons Roofing Co., Inc. dba JBS Roofing (JBS Roofing) for Roofing Repair Services for PMGAA facilities, in an amount not to exceed $75,000 under CIP1269. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of September, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Date: August 24, 2023

Billing Name: Phoenix Mesa Gateway Airport
Address: 5835 S Sossaman Rd
City, State, Zip Code: Mesa, AZ. 85212
Attn:

Grand Total: $5,320.00

Project Name: Allegiant Air Hanger NE deck Drip Edge 3 course
Address: 6250 S Taxiway Circle
City, State, Zip Code: Mesa, AZ. 85212

MESC #18R-JBSR1-0418
Square Feet 150 SF

Scope of Work

- Wash edge of roof clean with bio degradable detergent and high-pressure water and let dry
- Install a 3-course repair at the drip edge covering aa seams located at the gutter 150 LF each side using acrylic coatings and 12" wide polyester web
- Jim Brown and Sons Roofing Co. will provide a Labor Only Warranty for a period of 2 years from the date of completion

- **Exclusions: Night Time Working Hours, Building Permit, NESHAP Report, Asbestos Abatement, Structural Report and Davis Bacon Prevailing Wages**

Chester Goldmeer

Bids good through 9/20/2023

JBS ROOFING
JIM BROWN & SONS ROOFING

RCC 061127, 082024, 198099, 287012

Industrial | Commercial | Residential | Maintenance

MESC #18R-JBSR1-0418

JOB NAME: Phoenix - Mesa Gateway Airport Allegiant Air Hanger Side roof restoration

ADDRESS, CITY, STATE, ZIP: 6250 S Taxiway Circle Mesa, AZ

ITEM #	DESCRIPTION	UNIT	QUANTITY	COST	TOTAL	LOCATION
1.121r	roof investagation and repair 2 man	HR	28	$190.00	$5,320.00	
	TOTAL				**$5,320.00**	

DATE	SQUARE FEET	QUOTE VALID
August 24, 2023	**15,000**	**9/20/2023**

Date: August 22, 2023

Billing Name: Phoenix Mesa Gateway Airport
Address: 5835 S Sossaman Rd
City, State, Zip Code: Mesa, AZ. 85212
Attn:

Grand Total: $60,480.00

Project Name: Phase II of roof restoration over baggage claim
Address: 5835 S Sossaman Rd
City, State, Zip Code: Mesa, AZ. 85212

MESC #18R-JBSR1-0418

Scope of Work

- Wash roof clean with bio degradable detergent and high-pressure water and let dry
- Make repairs to the TPO roof using the 3 course method products include acrylic coatings and or brush grade caulking and polyester web
- Spray and back roll a base coat of acrylic coatings at the rate of 1.5 gallons for every 100 square feet and allow to cure
- Spray a final coat of acrylic coatings at the rate of 1.5 gallons for every 100 square feet and let cure
- Provide manufactures 10-year warranty when complete and paid in full
- Jim Brown and Sons Roofing Co. will provide a Labor Only Warranty for a period of 2 years from the date of completion

- **Exclusions: Night Time Working Hours, Building Permit, NESHAP Report, Asbestos Abatement, Structural Report and Davis Bacon Prevailing Wages**

Chester Goldmeer

Price good through 9/20/2023

JBS ROOFING
JIM BROWN & SONS ROOFING

RCC 061127, 082024, 198099, 287012

Industrial | Commercial | Residential | Maintenance

MESC #18R-JBSR1-0418

JOB NAME: Phoenix - Mesa Gateway Airport Bagage Claim Roof Restoration Phase II

ADDRESS, CITY, STATE, ZIP: 6033 S Sossaman Rd Mesa, AZ

ITEM #	DESCRIPTION	UNIT	QUANTITY	COST	TOTAL	LOCATION
1.88n	Add acryllic coatings 2 coats	SF	27000	$2.24	$60,480.00	
	TOTAL				**$60,480.00**	

DATE	SQUARE FEET	QUOTE VALID
August 22, 2023	**27,000**	**9/20/2023**

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-51

To:	**Board of Directors**
From:	**Lori Collins, Director of Business and Economic Development** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Boyer Gateway East – CC&Rs, Development Lease and First Adjustment Amendment to Master Lease**
Date:	**September 19, 2023**

Proposed Motion

To authorize (i) the recording of the Declaration of Covenants, Conditions and Restrictions for Gateway East ("CC&Rs"); (ii) the Development Lease with Boyer Gateway East Mesa Building 1, L.C. for 16.95 acres located within the Gateway East master development project and identified as Lot 210. The lease term is SIXTY-FIVE (65) years commencing on October 1, 2023; and (iii) the First Adjustment Amendment to the Master Lease with Boyer Gateway East, L.C.

Narrative

The Phoenix-Mesa Gateway Airport Authority ("PMGAA") and Boyer Gateway East, LC. (Boyer) entered into a Master Lease Agreement on June 21, 2022 for approximately 273 acres located on the east side of the airport, south and west of Ellsworth Road and State Route 24.

Covenants, Conditions and Restrictions

Staff recommends authorizing the recording of the Declaration of Covenants, Conditions and Restrictions for Gateway East ("CC&Rs") against the property leased to Boyer under the Master Lease. The CC&Rs primarily define common areas, common area expenses, expense reimbursement, and restrictions for the benefit of the development. If authorized, the CC&Rs will be recorded as soon as the property legal description is finalized.

Development Lease - Boyer Gateway East Mesa Building 1, L.C.

The Master Lease Agreement transferred leasehold control of the Property to Boyer, but it did not convey vertical development rights. As part of the Master Lease, PMGAA and Boyer agreed to "spin out" property from the Master Lease into Development Leases as projects become ready for vertical development.

Boyer has proposed to construct a two hundred seventy-eight thousand (278,000) square foot building to house the headquarters, manufacturing, storage, product showroom and testing space to be subleased to XNRGY, a climate technology company. Lot 210 is seven hundred thirty-eight thousand, six hundred seventy (738,670) square feet and has been identified as a non-aeronautical parcel. The proposed development is compliant with the Gateway East Master Plan.

The Lot 210 Development Lease proposes a lease term of SIXTY-FIVE (65) years. The base rent for Lot 210 will be $0.00 annually through the end of the second (2nd) lease year and $406,268.50 annually beginning on the

2nd Anniversary of the effective date. Additional base rent adjustments and market adjustments are stipulated in the Development Lease.

First Amendment to Master Lease

Staff recommends approving the First Amendment to the Master Lease, which inserts language into the Agreement to 1) recognize and declare that the Property is subject to and subordinate to the Declaration of Covenants, Conditions and Restrictions for Gateway East ("CC&Rs"); 2) appoints Boyer as the Designated Manager as defined in the CC&Rs; and 3) updates Section 10 (event of Default) to reflect that a failure to perform under the Declaration constitutes an Event of Default, as defined in the Master Lease.

Additionally, the amendment will formally remove approximately 16.95 acres, described as Lot 210, from the Master Lease to allow it to be included in the proposed Development Lease.

Attachment(s)
Declaration of Covenants, Conditions, Restrictions and Easements
Development Lease
Adjustment Amendment

RESOLUTION NO. 23-51

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize (i) the recording of the Declaration of Covenants, Conditions and Restrictions for Gateway East ("CC&Rs"); (ii) the Development Lease with Boyer Gateway East Mesa Building 1, L.C. for 16.95 acres located within the Gateway East master development project and identified as Lot 210. The lease term is SIXTY-FIVE (65) years commencing on October 1, 2023; and (iii) the First Adjustment Amendment to the Master Lease with Boyer Gateway East, L.C;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes (i) the recording of the Declaration of Covenants, Conditions and Restrictions for Gateway East ("CC&Rs"); (ii) the Development Lease with Boyer Gateway East Mesa Building 1, L.C. for 16.95 acres located within the Gateway East master development project and identified as Lot 210. The lease term is SIXTY-FIVE (65) years commencing on October 1, 2023; and (iii) the First Adjustment Amendment to the Master Lease with Boyer Gateway East, L.C. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 19th day of September, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

for

GATEWAY EAST

Dated as of _____, 2023

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DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
[Gateway East]

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (this "Declaration") is made as of the ____ day of _____, 2023, by Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("Declarant"), whose address is 5835 S. Sossaman Road, Mesa, Arizona 85212.

RECITALS

A. Declarant is the fee simple owner of the Land (as defined below).

B. Declarant desires and intends that the Development (as defined below) be operated as a first-class business park supporting a mix of uses to be called Gateway East and to impose upon the Development and all Lots (as defined below) from time to time created within the Development, mutual and beneficial restrictions, covenants, agreements, easements, conditions and charges as hereinafter set forth, under a general plan for the benefit of all of the Development.

IN CONSIDERATION of the mutual benefits to be derived from this Declaration, the Parties agree as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the meaning indicated:

"Annexable Property" shall mean any real property adjacent to the Development not yet annexed or made a portion of the Development in accordance with the provisions hereof.

"Boyer" shall mean Boyer Gateway East, L.C., a Utah limited liability company.

"Buildings" means all buildings located in the Development at any time that are intended for permanent use or occupancy, including the area directly below such buildings, all projections and extensions of, and additions to, such buildings and all areas used exclusively by the Lessee or Occupants of such buildings, including, without limitation, drive-through areas, trash enclosures, playgrounds and platforms, ramps, docks and signage affixed to the outside of such buildings. "Building" means any of the Buildings.

"Common Area" means all property within the Development intended for the common use and enjoyment of all of the Lots, including, but not limited to, (a) the Common Landscape and Signage Areas, (b) the Common Vehicular and Pedestrian Areas, (c) the Common Utility Facilities and the Common Utility Easement Area, (d) any amenities which may now or hereafter be established by Declarant for the common use and enjoyment of all Lots, (e) all land or right-of-way easements within the Development which are dedicated to the public or to the City of Mesa, but which the City of Mesa or other governmental agency requires the Declarant to maintain; and (f) any other areas with respect to which the Declarant has assumed in writing administrative or maintenance responsibilities. Common Area shall not include public right of way (except to the extent covered by (e) or (f) above), or Lots.

"Common Expense Percentage" for any particular Lot is calculated as follows: (a) divide the total gross square footage of the Lot concerned by the total gross square footage of all Lots located in the Development; (b) multiply the resulting quotient by 100 and round to the third (3rd) decimal place; and (c) express the resulting product as a percentage. The Common Expense Percentages of the Lots shall be

adjusted from time to time by written notice given by the Manager to each Lessee and Declarant as of the date on which one or more Lots are annexed to the Development.

"Common Expense Share" means the product obtained by multiplying the Common Expenses for the relevant period by the Common Expense Percentage for the Lot concerned.

"Common Expenses" means the following:

(a) reasonable costs, expenses, fees, charges and other amounts (including appropriate reasonable reserves) paid or incurred by the Manager in connection with the improvement (excluding the initial improvement and development), operation, management, maintenance, repair and replacement of the Common Area and the performance of the Manager's duties and rights under Paragraphs 6 or 7 or any other provision of this Declaration, including, without limitation, all reasonable costs, expenses, fees and other amounts (including, without limitation, those that are properly capitalized under generally accepted accounting principles) relating to utilities, cleaning, sweeping, rubbish removal, landscaping, resurfacing, re-striping, replacing damaged or worn-out Improvements (including lighting and signage) located on the Common Area, taxes imposed on the Common Area, insurance, signage, licenses and permits, supplies, traffic regulation and control, security services, personnel (other than managerial personnel) necessary to perform any of the foregoing and depreciation allowance on any machinery or equipment owned by the Manager and used exclusively in connection with such matters;

(b) managerial, clerical and overhead costs, expenses, fees and other amounts, all of which shall be deemed to be equal to fifteen percent (15%) of the total of all other Common Expenses; and

(c) Common Expenses due but not paid to the Manager, which are determined by the Manager not to be legally or practicably recoverable after the Manager has exercised its commercially reasonable efforts to collect the same from the Lessee and has determined that all reasonable remedies for collection have been exhausted, together with all interest on, and costs and attorneys' fees incurred in connection with, such unpaid Common Expenses; provided, however, that if such unpaid Common Expenses are later received by the Manager from or on behalf of the Lessee, any amounts previously paid by any other Lessees pursuant to the preceding portion of this sentence shall be refunded pro rata to such other Lessees.

"Common Landscape and Signage Areas" means any Landscaping installed by Declarant or Manager for the general benefit of the Development (and not for the benefit of just one Lot), and any monument or other signage advertising the entire Development (as distinguished from signage advertising particular Building(s) or its Occupant(s) in the Development). The Common Landscape and Signage Areas shall be used for the purposes set forth in Paragraph 5.3 and, subject to reimbursement in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate the Common Landscape and Signage Areas and/or additional or different Common Landscape and Signage Areas from time to time.

"Common Utility Easement Area" means the Common Vehicular and Pedestrian Areas together with all Improvements on such land, and any real property defined as an additional part of the Common Utility Easement Area from time to time. The Common Utility Easement Area shall be used for the purposes set forth in Paragraph 5.2 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate the Common Utility Easement Areas and/or additional or different Common Utility Easement Areas from time to time.

"Common Utility Facilities" means all pipes, lines, wires, conduits and related facilities and improvements for electricity, natural gas, other fuels or power sources, telephone, data, video, telecommunication and similar uses, sewer, storm drainage (including retention ponds) and all types of water that are intended, designed or used for the benefit of the Common Area or more than one Lot. The Common Utility Facilities shall be used for the purposes set forth in Paragraph 5.2 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6.

"Common Vehicular and Pedestrian Areas" means all Common Areas from time to time designed to be used for pedestrian or vehicular movement, including, without limitation, roads, driveways, walkways, sidewalks, trails and paths that are installed by or at the direction of Manager and serving more than one Lot. The Common Vehicular and Pedestrian Areas shall be used for the purposes set forth in Paragraph 5.1 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate Common Vehicular and Pedestrian Areas and/or additional or different Common Vehicular and Pedestrian Areas from time to time.

"Design Guidelines" means the standards, requirements and restrictions set forth in Design Guidelines and the Planned Area Development (PAD) for the Development, each approved by the Mesa City Council on June 19, 2023, as may be amended by Mesa City, Arizona from time to time to the extent approved by Declarant and the Manager.

"Development" means the Land, together with all Improvements located on such Land, and any portions of the Annexable Property annexed pursuant to this Declaration, together with all Improvements located on the Lot or Common Area or such additional real property.

"Improvements" means all Buildings, Common Utility Facilities, Landscaping, parking areas, roads, driveways, walkways, curbs, gutters, medians, flower boxes, sidewalks, trails, paths, exterior lighting (including, without limitation, lights for traffic control or pedestrian safety), fences, walls, signs, utility systems and facilities, trash enclosures, bike racks, and other improvements located on the realty concerned. "Improvement" means any of the Improvements.

"Land" means land located in the City of Mesa, County of Maricopa, Arizona and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference, and any real property defined as an additional part of the Land in any amendment to this Declaration executed and recorded pursuant to Paragraph 11.

"Landscaping" means all outdoor areas in the Development landscaped with lawn, flowers, ground cover, shrubbery, trees, storm water retention areas, ponds, fountains, gardens, berms or similar improvements.

"Lessee" means any person or entity (including, without limitation, Manager if applicable) having a leasehold interest in a Lot, excluding any Mortgagee unless and until such Mortgagee is in actual possession of any Lot by foreclosure or otherwise, and including any person or entity taking the leasehold interest from any such Mortgagee.

"Lots" means development lots within the Land and shown on that certain Master Plan for the Development approved by Declarant, the current version of which is located at _____ [***Website information to be added***] as such Master Plan may be amended from time to time, or as otherwise approved in writing by Declarant and, so long as the Manager is Boyer, the Manager. "Lot" means any of the Lots.

"Manager" means a manager designated by the Declarant in accordance with Paragraph 3. As of the Effective Date, the Manager is Boyer.

"Mortgage" means a mortgage or a deed of trust recorded in the Official Records.

"Mortgagee" means the mortgagee or beneficiary under a Mortgage.

"Occupant" shall mean anyone occupying or using a Lot under or through a Lessee, including, without limitation, any Lessee, licensee, subtenant, user or their employees, agents, contractors, licensees, customers, guests, or invitees.

"Official Records" means the official records of the Maricopa County, Arizona Recorder.

"Qualified Mortgagee" means a Mortgagee of which Manager and Declarant have been given written notice, including such Mortgagee's name and address.

2. Property Bound.

2.1 General Declaration. Declarant hereby declares that the Development is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration, as the same may be amended or modified from time to time. This Declaration shall run with the Development for all purposes and shall be binding upon and inure to the benefit of Declarant, and all Lessees, and their respective successors in interest and assigns. All of the covenants, conditions, and restrictions provided in this Declaration shall also be binding upon all Occupants of the Development, as well as their respective successors-in-interest and assigns.

2.2 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development the Development can or will be carried out, or that the Land is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Lessee entering into a lease in reliance on one or more of such restrictive covenants agrees that it will not challenge the validity or enforceability thereof; but such Lessee assumes all risks of the validity and enforceability thereof and by accepting a lease to a Lot agrees that Declarant shall have no liability with respect thereto.

3. Manager.

3.1 Appointment of Manager. Declarant shall appoint a Manager from time to time and shall have the right to revoke any designation and designate a different Manager at any time. Declarant may appoint itself as Manager. Declarant hereby designates Boyer Gateway East, L.C., a Utah limited liability company, as the initial Manager.

3.2 Professional Management Company. The Manager shall have the right, but not the obligation, to enter into a management agreement with a professional property management company to perform the functions of Manager. As used herein, "professional property management company" shall mean a person or entity (i) that is considered within the community to be primarily involved in the management of real property similar to the Development (ii) whose primary business consists of the

management of real property similar to the Development and (iii) that has had their primary source of income derived from the management of real property similar to the Development for not less than the three (3) years immediately preceding the execution of a property management agreement for the Development. All costs associated with the management agreement and property manager, including without limitation a commercially reasonably property management fee, shall be included in Common Expenses. Any professional property management company employed by the Manager shall be required to maintain with an insurer lawfully authorized to do business in the State of Arizona with a Best Rating of not less than A-VIII commercially reasonable insurance policies covering professional liability and general commercial liability.

4. Improvements.

4.1 Use. No part of the Development may be used or occupied for any use that violates any applicable law, ordinance, rule or regulation or that is inconsistent with this Declaration. Buildings shall be used only for commercial purposes, including, without limitation, retail, hospitality, manufacturing and office uses. All Buildings shall be:

(a) first-class buildings of the type and quality typically found in first-class, high-quality commercial developments;

(b) architecturally and aesthetically compatible with all other then-existing Buildings; and

(c) constructed in compliance with all applicable state, county and municipal subdivision, building, zoning, sign and other laws, ordinances, rules and regulations and the Design Guidelines.

4.2 Improvements. All Improvements in the Development shall be in compliance with the Design Guidelines.

5. Common Area Easements.

5.1 Access Easement. Each Lot shall have appurtenant thereto and be benefited by, and the Common Vehicular and Pedestrian Areas shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for vehicular and pedestrian ingress and egress (without charge) on, over and across those areas designed for such use.

5.2 Utility Easement. Each Lot shall have appurtenant thereto and be benefited by, and the Common Utility Easement Areas shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of underground utility pipes, lines, wires, conduits and related facilities (including, without limitation, any underground Common Utility Facilities and, whether or not the same are part of the Common Utility Facilities, underground pipes, lines, wires, conduits and related facilities for electricity, natural gas, other fuels or power sources, telephone, data, video, telecommunication and similar uses, sewer, storm drainage [including retention ponds] and all types of water) under, through and across the Common Utility Easement Area. Prior to installation, the location of such pipes, lines, wires, conduits and related facilities must be approved by the Manager and Declarant, such approval not to be unreasonably withheld. If the rights provided for in this Paragraph 5.2 are exercised, the Lessee intended to be served by the easement concerned shall pay the cost involved with such exercise and, at such Lessee's sole cost, restore to their previous condition any

Improvements that may be damaged as a result of such exercise. Each utility pipe, line, wire, conduit and related facility located in the Development shall be located underground to the extent reasonably possible.

5.3 Common Areas. The Common Areas shall be subject to and be burdened by a perpetual, nonexclusive easement for maintenance and repair by the Manager pursuant to Paragraph 6.

5.4 No Obstruction. No Lessee or Occupant shall permit to be constructed or placed on any portion of the Common Area any fence, wall, barricade or other obstruction, whether temporary or permanent in nature, which materially limits or impairs vehicular and pedestrian traffic over any part of the Development, or shall otherwise obstruct or interfere with the free flow of such traffic, except as may be reasonably necessary or appropriate during periods that construction activities are ongoing or to the extent that the Manager reasonably deems it necessary to do so temporarily to prevent a public dedication of, or the accrual of any rights of the public in, the Common Area. Any obstruction or interference permitted under this Paragraph 5.4 shall be done in a manner reasonably calculated to minimize its impact on businesses in the Development.

6. Manager's Duties Regarding Common Area.

6.1 Generally. The Manager shall timely perform or cause to be performed (for example, through subcontractors, including affiliates of the Manager) the duties set forth in this Paragraph 6.

6.2 Maintenance of Common Area. After the Common Area is initially improved and developed, the Manager shall keep the Common Area in a clean condition and in good order, condition and repair consistent with a Class A business park in the Phoenix-Metropolitan area (except that as regards the Common Utility Facilities, the Manager shall be obligated to accomplish the foregoing only to the extent that such matters are not the responsibility of or accomplished by the respective utility companies involved). The foregoing shall include, without limitation, inspection, servicing, maintenance, repair and replacement, as necessary and appropriate, of all Landscaping and other Improvements located on the Common Area, including, without limitation, maintaining, repairing and replacing asphalt, and keeping the Common Vehicular and Pedestrian Areas free of snow, ice and rubbish.

6.3 Insurance on Common Area. The Manager may maintain commercial general liability insurance and/or property insurance insuring Manager and any employees or agents of Manager as Manager may designate against all claims for bodily injury, death or property damage occurring on the Common Area, and such other insurance on the Common Areas as reasonably determined by Manager. Declarant shall be named as an additional insured to any liability insurance policy and as an additional loss payee (to the extent of its interest therein) on any property insurance acquired in accordance with this Paragraph 6.3.

6.4 Damage of Common Area. If all or any part of the Common Area is damaged or destroyed through casualty, the Manager shall, as soon as reasonably possible, rebuild and restore the same to substantially the same condition as existed prior to the damage or destruction concerned. Prior to such rebuilding and restoration, each Lessee shall, within thirty (30) days after notice of the amount due, contribute an amount equal to the product obtained by multiplying the Common Expense Percentage of such Lessee by the projected cost of such rebuilding and restoration (net of any insurance proceeds or recoveries from persons or entities causing such damage actually received by the Manager). Appropriate additional payments by, or refunds to, each Lessee shall be made on completion of such rebuilding or restoration. Alternatively, the Manager may collect the actual or projected cost of such rebuilding or restoration following commencement or completion of such rebuilding or restoration.

7. Common Expenses.

7.1 Obligation to Pay Common Expense Share. Each Lessee, by entering into a lease for any Lot, whether or not it shall be so expressed in such lease, agrees and is deemed to covenant and agree to pay to the Manager its Common Expense Share duly imposed pursuant to this Declaration, such Common Expense Share to be established and collected as provided herein.

7.2 Collection. The Manager is expressly authorized to incur all costs, expenses, fees and other amounts included within the definition of "Common Expenses" set forth in Paragraph 1, and each Lessee shall contribute such Lessee's Common Expense Share in the manner described in this Paragraph 7. The Manager shall make reasonable, good faith efforts to collect from each Lessee such Lessee's Common Expense Share and may, at its option, do either of the following: (a) invoice each Lessee for such Lessee's Common Expense Share on a monthly, quarterly or other periodic basis as the actual amount of the Common Expense Share becomes known (in which event the Common Expense Share shall be due and payable within thirty (30) days after the delivery of such invoice); or (b) invoice each Lessee in advance based on the Manager's reasonable estimate of the Common Expense Share for the period concerned, which estimate shall be provided to each Lessee at least annually. If the Manager adopts the second alternative, each Lessee shall pay such Lessee's Common Expense Share in equal installments on the first day of each month, and within ninety (90) days after the end of each calendar year, the Manager shall furnish each Lessee with a reasonably detailed final statement of the actual amount of such Lessee's Common Expense Share for such calendar year. If such final statement reveals that the monthly installments made by a Lessee aggregate less than such Lessee's Common Expense Share for such calendar year, such Lessee shall pay the amount owing to the Manager within thirty (30) days after such final statement is furnished. If such final statement reveals that a Lessee's payments aggregate more than such Lessee's Common Expense Share for such calendar year, the excess amount shall, at the option of the Manager, either be returned to such Lessee or be applied by the Manager to amounts next due from such Lessee under this Paragraph 7. Any amount required to be paid under this Paragraph 7 that is not timely paid shall accrue interest on and after the date due until paid in full, before and after judgment, at the rate of eighteen percent (18%) per annum. In addition, a late charge of five percent (5%) of such payment may be charged by the Manager for any payment not made on the date when due. Such late charge is payable not as a penalty, but in order to compensate the Manager for the additional expense involved in handling the delinquent payment. The acceptance by the Manager of any payment that is less than the entire amount then due shall be on account only and shall not constitute a waiver of the obligation to pay such entire amount. All records and accounts maintained by the Manager that relate to the Common Expenses shall be open to examination and audit by any Lessee on at least ten (10) days' prior written notice to the Manager.

7.3 Default. If any Lessee fails to perform any obligation under this Declaration (other than the payment of money) and such failure continues for a period of thirty (30) days after written notice of such failure is given to such Lessee by the Manager, or if the performance of such obligation would reasonably require more than thirty (30) days, if such Lessee fails to commence such performance within such thirty (30) day period or thereafter diligently prosecute such performance to completion, the Manager may, on written notice to such Lessee, perform such obligation in the stead of such Lessee, or exercise any other right or remedy existing at law or in equity. The Manager shall be reimbursed by such Lessee on demand for all costs and expenses (including attorneys' fees) incurred in connection with such performance, with interest on such costs and expenses, both before and after judgment, at the rate of eighteen percent (18%) per annum. The Manager shall send to Declarant a duplicate copy of any notice given under this Paragraph 7.3.

7.4 Certain Obligations and Rights. The obligations of each Lessee under Paragraph 7.1 and all other provisions of this Declaration are the personal obligations of such Lessee and may be enforced by the Manager or Declarant. No Lessee may avoid or diminish the personal nature of such

obligations by waiver of the use and enjoyment of the Common Area, by abandonment of such Lessee's interest in its Lot or any Improvements on such Lot or by waiver of any of the services or amenities provided for in this Declaration. All remedies set forth in this Paragraph 7 are cumulative and are in addition to any remedies otherwise available at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation of this Declaration and to compel by decree specific performance, it being agreed that the remedy at law for any breach may be inadequate.

8. Mortgagee Protection.

8.1 Obligations of Mortgagee. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting any part of the Development shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, this Declaration.

8.2 Notices; Right to Cure. Manager, on delivering to any Lessee any notice, demand or other communication pursuant to the provisions of this Declaration, shall at the same time deliver by certified mail, return receipt requested, copies of such notice to each Qualified Mortgagee of such Lessee at the latest address provided to the notifying Manager by such Lessee or such Qualified Mortgagee. Although otherwise effective with respect to the Lessee receiving such notice, no notice delivered to any Lessee shall affect any rights or remedies of any Qualified Mortgagee unless a copy of such notice has been delivered to such Qualified Mortgagee in accordance with the immediately preceding sentence. Each Qualified Mortgagee shall have the right to remedy a default, or cause the same to be remedied within the time allowed to the defaulting Lessee plus, in the case of monetary defaults, an additional fifteen (15) days and, in the case of non-monetary defaults, an additional thirty (30) days; provided, however, that if a non-monetary default reasonably requires more than thirty (30) days to cure, each Qualified Mortgagee shall have the right to remedy such default if such Qualified Mortgagee commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion. Notwithstanding the foregoing, in no event shall the time period for a Qualified Mortgagee to remedy a default exceed ninety (90) days from the commencement of the time period during which such Qualified Mortgagee may cure or remedy a default in accordance with this Paragraph 8.2.

8.3 Performance. Each Qualified Mortgagee shall have the right to act for and in the place of the Lessee of the Lot covered by its Mortgage, to the extent permitted by the applicable Mortgage or otherwise agreed to by such Lessee in writing. Manager shall accept performance by or on behalf of any Qualified Mortgagee as if the same had been performed by the other Lessee. Each Qualified Mortgagee shall have the right, to the extent the Lessee of the Lot covered by the Mortgage concerned agrees in writing, to appear in a legal action or proceeding on behalf of such Lessee in connection with such Lot and the obligation under this Declaration.

8.4 Recognition. On request, the Manager agrees to execute, acknowledge and deliver to any Qualified Mortgagee an instrument prepared by the Qualified Mortgagee concerned, acknowledging that such Qualified Mortgagee is a "Qualified Mortgagee" entitled to the benefits of this Paragraph 8.

9. Annexation and De-Annexation.

9.1 Annexation of Annexable Property. Declarant may at any time and from time to time, annex to the Development any Annexable Property (or the applicable portion or portions thereof). To effect such annexation, a Declaration of Annexation covering the Annexable Property (or the applicable portion or portions thereof) to be annexed shall be executed and recorded by Declarant, which instrument may contain additional covenants, conditions, restrictions, or other terms. A Declaration of Annexation may contain such complementary additions to and modifications of this Declaration as may be necessary

to reflect the different character, if any, of the Annexable Property (or the applicable portion or portions thereof) or other property to be annexed. In no event, however, shall any such Declaration of Annexation revoke or conflict with this Declaration except to the extent specifically permitted hereby. Upon annexation, all of the provisions of this Declaration shall apply to or encumber such Annexable Property (or the applicable portion or portions thereof). So long as Manager is Boyer, the annexation of any Annexable Property shall also require the written consent of Manager.

9.2 De-Annexation of Covered Property. Declarant may at any time and from time to time up to the date which is 30 years after the date this Declaration is recorded, de-annex or withdraw from the Development any portion or portions thereof (subject to the written consent of any Lessee of the portion or portions to be de-annexed or withdrawn). So long as the Manager is Boyer, any de-annexation or withdrawal shall also require the written consent of Manager. To effect such de-annexation or withdrawal, Declarant shall execute and record a Declaration of De-Annexation setting forth the legal description of the portion or portions of the Development to be de-annexed or withdrawn, and such Declaration of De-Annexation shall be executed by (a) Declarant, (b) the Lessee, if any, of the land to be withdrawn, and (c) so long as the Manager is Boyer, the Manager. The land to be withdrawn may include any portion of the Development, including Lots and Common Area. Recording such Declaration of De-Annexation shall constitute and effectuate the de-annexation and withdrawal of the applicable portion or portions of the Development described therein, and such property and the Lessees and Occupants thereof shall no longer be subject to, or benefitted by, this Declaration.

10. Covenants to Run with Land. Each provision of this Declaration shall constitute a covenant running with the land. This Declaration shall be binding on each part of the Development, and all interests in any part of the Development shall be subject to this Declaration. The interests in and rights concerning any portion of the Lots held by or vested in Declarant or any other person or entity on or after the date of this Declaration shall be subject to this Declaration.

11. Amendment. This Declaration may be modified only by the recordation, in the Official Records, of an agreement or document of modification executed by Declarant; provided, however so long as Boyer is Manager, any amendment shall require the written consent of Boyer.

12. Attorneys' Fees. If any action is brought because of a default under or to enforce or interpret this Declaration, in addition to the relief to which such party is entitled, the party prevailing in such action shall be entitled to recover from the unsuccessful party reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

13. Release on Transfer. On and after the date a Lessee transfers (other than merely for purposes of security) or is otherwise divested of such Lessee's interest in any Lot, such Lessee shall be relieved of all liabilities and obligations under this Declaration related to such Lot, except for such liabilities or obligations as may have accrued as of the date of such transfer or divestiture.

14. No Merger. The easements, covenants, restrictions and other provisions contained in this Declaration shall remain in full force and effect despite the fact that all or a part of the Development may be owned by the same person or entity from time to time, it being the intention of Declarant to create a common scheme for the development and operation of the Development that will not be terminated by the doctrine of merger or otherwise, unless this Declaration is terminated in accordance with Paragraph 16.

15. Force Majeure. The Manager and any Lessee or other person or entity obligated under this Declaration shall be excused from performing any obligation set forth in this Declaration, except the payment of money, for so long as (but only for so long as) the performance of such obligation is prevented

or delayed by an act of God, weather, avalanche, fire, earthquake, flood, explosion, act of the elements, war, terrorism, invasion, insurrection, riot, malicious mischief, vandalism, larceny, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, order of government or civil defense authorities or any other cause reasonably beyond the control of the Manager, the Lessee or other person or entity prevented or delayed.

16. Effective Dates and Duration. This Declaration and any amendment to this Declaration shall take effect as of the date on which they are recorded in the Official Records. This Declaration shall remain effective until terminated and extinguished by an instrument recorded in the Official Records and executed by Declarant. So long as the Manager is Boyer, any termination shall also require the written consent of Manager.

17. Notices. Any notice or demand required or appropriate hereunder shall be given in writing by personal service, fax (provided that a hard copy of any such notice has been dispatched by one of the other means for giving notice within twenty-four (24) hours after faxing), express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested. All notices sent by mail as aforesaid shall be addressed as follows:

If to Declarant:	Phoenix-Mesa Gateway Airport Authority Attn: Business Development Department 5835 South Sossaman Road Mesa, Arizona 85212
If to any other Lessee or Occupant:	To such address as such Lessee or Occupant shall designate in writing to Declarant and Manager, or to the Lessee's or Occupant's address in the Development, if no other address is designated.
If to Manager (if Boyer is the Manager):	Boyer Gateway East, L.C. c/o The Boyer Company, L.C. 101 South 200 East, Suite 200 Salt Lake City, Utah 84111 Attention: Jake Boyer
If to the Manager (if Boyer is not the Manager):	To the address of the current principal office of the Manager.

Any party may change the address at which it desires to receive notice by written notice of such change to the Manager and Declarant. Any notice or demand given under this Declaration shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change that was not properly communicated shall not defeat or delay the giving of a notice.

18. General Provisions. Titles and headings of Paragraphs of this Declaration are for convenience of reference only and shall not affect the construction of any provision of this Declaration. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the state of Arizona. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of

this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration. Except as otherwise provided in this Declaration, no remedy provided in this Declaration shall be exclusive of any other remedy at law or in equity (whether existing on or created after the date of this Declaration), and all remedies under this Declaration may be exercised concurrently, independently or successively from time to time. The failure on the part of any person or entity to promptly enforce any right under this Declaration shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

[*Signature Page Follows*]

DECLARANT:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A

to

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

LEGAL DESCRIPTION OF THE LAND WITHIN DEVELOPMENT

Phoenix-Mesa Gateway Airport Authority

DEVELOPMENT LEASE

with

BOYER GATEWAY EAST MESA BUILDING 1, L.C.

Effective Date: October 1, 2023

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Phoenix-Mesa Gateway Airport Authority

DEVELOPMENT LEASE

This Development Lease (the "**Lease**") is executed to be effective the 1ST day of OCTOBER, 2023 (the "**Effective Date**") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **BOYER GATEWAY EAST MESA BUILDING 1, L.C.,** a Utah limited liability company authorized to do business in the State of Arizona ("**Lessee**"). Lessor and Lessee may be referred to jointly as "**Parties**," and each separately may be referred to as a "**Party**."

WITNESSETH:

A. Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "**Airport**"); and

B. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport located at 9019 East Technology Avenue, Mesa, Arizona 85212, consisting of Seven Hundred Thirty-Eight Thousand Six Hundred and Seventy (738,670) square feet, and described as Lot 210, as set forth in **EXHIBIT A** attached hereto (the "**Premises**") on the terms and conditions set forth herein; and

C. The Premises is identified in the Master Plan and the Airport Layout Plan as a Non-Aeronautical Development Parcel;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. LEASE.

Lessor hereby leases the Premises to Lessee, subject to the matters set forth on **EXHIBIT C**, (the "**Permitted Exceptions**"), and further subject to all operational and use restrictions and other terms and conditions set forth in this Lease.

1.1 Right to Use Premises. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor and those claiming through Lessor. Lessee specifically acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed, except for representations and warranties contained in this Lease. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense. Lessor agrees to cooperate with Lessee, at no or nominal cost to Lessor, in connection with such activities and undertakings.

1.2 Reserved.

1.3 Access. Lessee is granted the right of reasonable access to and from the Premises via such portions of the Airport as are or may be necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport. Lessor reserves the right to designate the location of such access and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 Permitted Uses. Subject to the provisions of SECTION 1.5, Lessee may use the Premises for general office, light manufacturing, warehousing, and distribution uses and for no other use. Lessee shall not use any portion of the Premises for a Prohibited Use, which Prohibited Uses are set forth on **EXHIBIT F**. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules and regulations of any governmental authority, including Lessor.

1.5 Prohibited Activities. Lessee shall not use or permit its agents, employees, contractors, invitees, licensees or customers to use the Premises or the Airport for any use that is in violation of the Permitted Exceptions or applicable laws, rules, regulations and operating policies of any governmental authority, including Lessor, or for any other activity or operation not specified in SECTION 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director.

1.6 On-Site Manager. Upon commencement of business operations at and on the Premises and the Airport, Lessee shall designate a manager for the Term (as defined below) who shall be available to Lessor and Lessee's customers, if any, during normal business hours.

1.7 Lessee Acknowledgement. Lessee acknowledges and agrees that its obligations to pay Base Rent and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Lessor or the United States of America or anyone else for any reason whatsoever; (ii) the Permitted Exceptions; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

2. TERM.

The initial term of this Lease shall be for a period of SIXTY-FIVE (65) years, commencing on the Effective Date and terminating on SEPTEMBER 30, 2088 thereafter (the "**Term**").

3. NONEXCLUSIVE RIGHTS.

Lessee shall have the exclusive right to occupy and use the Premises while in compliance with the terms and conditions of this Lease, subject to Section 27 below. All other rights granted to Lessee under this Lease with respect to the Airport, not including the Premises, are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport (but not the Premises except as set forth in Sections 26.1.3 and 27 below) that Lessor deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with Lessee's use of the Premises.

4. RENT.

4.1 Base Rent. Subject to Section 4.3 and 4.4 herein, Lessee agrees to pay Lessor rent for the use of the Premises (the "**Base Rent**") as follows:

Period	Rent PSF Per Year	Monthly Installment	Annual Rent
Effective Date through end of the SECOND (2nd) Lease Year	$0.00	$0.00	$0.00
SECOND (2nd) anniversary of the Effective Date to the first Adjustment Date	$0.55	$33,855.71	$406,268.50

The Base Rent shall be payable in advance, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer.

4.2 Reserved.

4.3 Annual Increases. Starting on the THIRD (3rd) anniversary of the Effective Date and every anniversary of the Effective Date thereafter other than on an anniversary where the annual Base Rent will be adjusted pursuant to Section 4.4, the annual Base Rent paid by Lessee shall be increased by two and one-half percent (2.5%).

4.4 Market Adjustments to Base Rent.

4.4.1 In addition to the annual increases provided for in Section 4.3, on (a) the FIFTEENTH (15th) anniversary of the Effective Date of this Lease, and (b) each subsequent FIFTEEN (15) year anniversary of the date set forth in preceding subsection (a), the annual Base Rent shall be increased (but never decreased) (the "**Adjustment Date(s)**") as hereinafter set forth in this SECTION. On each such Adjustment Date, the Base Rent shall be adjusted to the Fair Market Base Rent of the Premises. For purposes hereof, "**Fair Market Base Rent**" shall mean the amount that a willing, comparable, non-equity lessee would pay, and a willing, comparable landlord of in the same market as the Premises would accept, for comparable (in quality, size, and value) airport-related leasehold interest in vacant land, and specifically excluding any improvements constructed or caused to be constructed by Lessee and/or its affiliates to the Premises or the Airport and any lease or sublease for such improvements ("**Fair Market Base Rent**"). No single adjustment to the annual Base Rent pursuant to this Section 4.4 shall increase the annual Base Rent by more than TEN PERCENT (10%) from the annual Base Rent in effect immediately prior to the increase pursuant to this Section 4.4.

4.4.2 Lessor's determination of such Fair Market Base Rent for the Premises shall be delivered to Lessee no later than NINETY (90) calendar days prior to the Adjustment Date along with any and all substantiated information used by Lessor in connection with such determination. If Lessee disputes Lessor's determination of such Fair Market Base Rent, Lessee shall deliver written notice of such dispute, together with Lessee's determination of such Fair Market Base Rent, to Lessor within THIRTY (30) calendar days of Lessee's receipt of Lessor's determination. The Parties shall then attempt in good faith to agree upon such Fair Market Base Rent. If the Parties fail to agree within FIFTEEN (15) business days, they shall, within SEVEN (7) calendar days thereafter, mutually appoint an appraiser to determine the Fair Market Base Rent. Said appraiser shall have at least FIVE (5) years of full-time commercial appraisal experience and be a member of the Appraisal Institute or comparable professional organization. Within SEVEN (7) calendar days of the appointment of the appraiser, the Parties shall submit to the appraiser, with a copy to the other Party, their respective determinations of the Fair Market Base Rent and any/all substantiated information. Within TWENTY (20) business days thereafter, the

appraiser shall review each Party's submittal and shall select one Party's submittal as representing the most reasonable approximation of such Fair Market Base Rent. The appraiser shall promptly notify the Parties of their decision, which shall be final and binding upon Lessor and Lessee. The appraiser's fees and expenses shall be paid by the Party whose submittal was not selected.

4.4.3 If the Parties are unable to agree upon an appraiser pursuant to Section 4.4.2 within such SEVEN (7) calendar days, then within THREE (3) business days after expiration of the 7-day period, Lessor and Lessee shall each (a) appoint an appraiser with the above qualifications, and (b) give notice to the other identifying that party's appraiser. If a Party fails to timely appoint an appraiser, the other Party's appraiser shall determine the Fair Market Base Rent in accordance with this Section 4. Not later than SEVEN (7) calendar days after both appraisers have been appointed, Lessor and Lessee shall each submit to each appraiser, with a copy to the other Party, their respective determinations of the Fair Market Base Rent and any/all substantiated information. Within TWENTY-ONE (21) days after receipt of both Parties' proposals, the appraisers shall review the submissions and shall select one Party's submittal as representing the most reasonable approximation of such Fair Market Base Rent. The appraisers shall promptly notify the Parties of their decision, which shall be final and binding upon Lessor and Lessee. Each Party shall be responsible for the fees and expenses of their own selected appraiser.

4.4.4 If the appraisers selected pursuant to Section 4.4.3 do not agree as to which party's proposal is closest to the actual Fair Market Base Rent, then not later than TEN (10) business days after the appraisers have notified the parties of this fact, unless both Lessor and Lessee direct otherwise, the appraisers shall jointly select an arbitrator who shall determine which proposal is the closest to the actual Fair Market Base Rent. The arbitrator must have the same qualifications stated for an appraiser under Subsection 4.4.2 above. The arbitrator shall conduct an arbitration under the provisions of the commercial arbitration rules of the American Arbitration Association. The arbitrator shall decide only which Fair Market Base Rent submission is closest to the actual Fair Market Rent for the Premises. The arbitrator's decision shall be binding on all parties and shall apply retroactively as of the Adjustment Date. The arbitrator shall make a final decision within THIRTY (30) days of the arbitrator's appointment.

4.5 Airport Rates and Charges Schedule. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* and *Airport Fees, Services and Rental Rates Schedule* are included as **EXHIBIT B** and are subject to change without prior notice to or approval of Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at any time at Lessor's sole discretion. No fee shall apply to the use of the Premises or access to the Premises.

4.6 Payment.

4.6.1 Unless otherwise specified herein, the first payment of Base Rent shall be paid to Lessor upon the delivery of this Lease, for the period from the Effective Date until the end of the calendar month in which the Effective Date occurs, prorated on the basis of the number of such days to the total number of days in said month. Thereafter, all Base Rent payments shall be paid in monthly installments, in advance, on the first day of each calendar month. On each such date, Lessee shall pay the full Base Rent payment.

4.6.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any

check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.6.3 All payments required by this SECTION 4.6 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by Lessor to Lessee.

4.7 Finance Charges and Late Fees. If Lessee fails to pay any installment of Base Rent or any other charge due and owing to Lessor in full on or before the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (but not to exceed the maximum interest rate permissible by law), from the due date until payment in full is made. In addition, in the event any installment of Base Rent or other charge owing to Lessor is paid more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent Base Rent installment or other charge shall be due and payable in addition thereto.

4.8 Taxes. Lessee shall pay, prior to delinquency, any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax or assessment imposed during the Term against the Premises or as the result of Lessee's occupancy of Premises or conduct of any activity at the Premises under the authority of this Lease, including any such tax assessable on Lessor. Lessee shall pay such taxes and assessments directly to the taxing authority charged with collecting such taxes and assessments, provided that in the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor and to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business thereon, Lessee shall pay such amounts to Lessor in the manner set forth in Section 4.6. Such taxes to be paid directly to Lessor include, without limitation, payment of all rent taxes, i.e., taxes imposed specifically on the gross receipts in the form of rent received by Lessor.

4.9 Survival. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

5. PERFORMANCE GUARANTEE.

5.1 Security Deposit.

5.1.1 On or before the Effective Date, Lessee shall pay to Lessor an amount equivalent to the first monthly installment of Base Rent due after the second (2nd) anniversary of the Effective Date (SIXTY-SEVEN THOUSAND SEVEN HUNDRED AND ELEVEN DOLLARS AND FORTY-TWO CENTS ($67,711.42)), as a security deposit (the "Security Deposit") to insure the faithful performance of all of Lessee's obligations hereunder.

5.1.2 The Security Deposit, at the election of Lessor, may be applied in reduction of any loss and/or damage sustained by Lessor by reason of the occurrence of any breach, nonperformance or default by Lessee under this Lease without the waiver of any other right or remedy available to Lessor at law, in equity or under the terms of this Lease. If any portion of the Security Deposit is so used or applied, Lessee shall, within FIVE (5) business days after written notice from Lessor, deposit with Lessor immediately available funds in an amount sufficient to restore the Security Deposit to its original amount. In the event of a sale or other transfer of the Premises by Lessor, Lessor

shall transfer the remaining balance (if any) of the Security Deposit to Lessor's successor in interest, whereupon the transferor Lessor shall be released from liability to Lessee for the return of such Security Deposit. Unless this Lease is terminated as a result of Lessee's default whereupon Lessee shall immediately forfeit its Security Deposit to Lessor, upon termination, Lessor shall return to Lessee all portions of the Security Deposit which were not otherwise applied by Lessor as permitted above. Lessor shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

Following the timely payment when due by Lessee of thirty-six (36) consecutive monthly installments of Base Rent due after the second (2nd) anniversary of the Effective Date, Lessor shall return the Security Deposit to Lessee and the terms of this Section 5.1 shall thereafter be null and void; provided that, except as otherwise set forth in Section 22 with respect to an Enforcement Action (as defined in Section 22.11 below), upon any assignment of this Lease to a third party, such assignee shall be required to deposit the Security Deposit with Lessor in accordance with, and subject to, this Section 5.1, including, without limitation, the return of such Security Deposit to Lessee upon the timely payment when due of thirty-six consecutive monthly installments of Base Rent by such assignee.

5.2 Construction Payment and Performance Guarantees.

5.2.1 Payment Guarantee. Notwithstanding and in addition to the Security Deposit, Lessee shall protect claimants supplying labor and materials in connection with any construction on the Premises, by providing, at Lessee's sole cost and expense and prior to commencement of construction of any improvements on the Premises, one of the following instruments, chosen at Lessee's discretion:

(a) Payment Bond. Lessee shall provide a labor and materials payment bond in the full contract amount to protect claimants supplying labor and materials in connection with the construction. The bond shall comply in all respects with the requirements of A.R.S. § 33-1003 as it may be amended or renumbered from time to time. The Parties agree that Lessee is not a public body, and the improvements to be constructed under this Lease by Lessee at Lessee's sole cost are not public buildings, public works or public improvements. The bond shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety. The bond and a copy of the contract shall be recorded in the office of the Maricopa County Recorder as required under A.R.S. § 33-1003, and a copy of the bond shall be provided to Lessor; or

(b) Letter of Credit. A letter of credit ("**Letter of Credit**") shall be irrevocable, in an amount equal to the total amount of the construction contract(s) for the construction of the Improvements (as defined in Section 7 below) plus TEN PERCENT (10%) of such amount and be issued to Lessee by a financial institution ("**Bank**") reasonably acceptable to Lessor. The Letter of Credit shall have a term extending from the date of commencement of construction until the date which is TWENTY-FOUR (24) months thereafter, after which date it shall be renewed on a year-to-year basis until the earlier of (a) construction of the Improvements are completed, and final and unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction, or (b) six (6) months after the issuance of a Certificate of Occupancy for the Improvements (as defined below). Should Lessee utilize the Letter of Credit option hereunder, and should Lessee fail to pay any sum owing to contractors supplying labor and materials in connection with the construction then, in addition to any other remedies set forth in this Lease, Lessor shall be entitled to apply to the Bank, following a period of THIRTY (30) calendar days prior written notice to Lessee (which notice shall include a reasonably-detailed description of Lessee's failure to pay any sum owing), for release to Lessor (in accordance with the terms of the Letter of Credit) from the Letter of Credit of a dollar amount sufficient to pay amounts owing to contractors supplying labor and materials in connection with the construction and obtain final, unconditional lien waivers in connection therewith. Lessor's application shall contain evidence of the failure of payment and the estimated dollar amount needed to satisfy payment

obligations. The terms of the Letter of Credit shall require prompt payment to Lessor for the amount set forth in Lessor's application upon satisfaction of the conditions set forth in the Letter of Credit. Upon and following any partial payment to Lessor, the Letter of Credit shall remain in full force for the remaining undisbursed amount of the Letter of Credit to accommodate further applications, if any, and shall not be subject to cancellation or revocation until fully drawn or otherwise released or satisfied upon completion of construction of the Improvements and final, unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Lessor must approve the form and content of any Letter of Credit in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.

(c) Parent Guaranty. A payment guaranty from The Boyer Company, L.C., a Utah limited liability company ("**Guarantor**") in favor of Lessor guarantying the prompt and complete payment of all amounts due in connection with the construction of the Improvements in form and substance reasonably satisfactory to Lessor, which payment guaranty shall provide that Guarantor shall maintain, during the construction of the Improvements, a minimum net worth of at least $100,000,000 and liquidity of not less than $10,000,000.

5.2.2 Performance Guarantee. Lessee's obligation to timely complete the Improvements shall be secured, at Lessee's sole cost and expense and prior to commencement of construction of said Improvements, by any one of the following instruments, chosen at Lessee's discretion:

(a) Performance Bond. Lessee shall require the contractor to provide a performance bond in the full contract amount conditioned upon the faithful performance of the contract in accordance with plans, specifications and conditions thereof. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety; or

(b) Completion Bond. Lessee shall deliver to Lessor a completion bond in form and substance reasonably acceptable to Lessor pursuant to which Lessor shall have the unconditional, direct and unilateral right to draw upon or use such bond for completion of construction of the Improvements under Section 7.1 of this Lease if an Event of Default occurs and is continuing under Section 7.2 of this Lease. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.

(c) Parent Guaranty. A completion guaranty from Guarantor in favor of Lessor guarantying the timely completion of the Improvements in form and substance reasonably satisfactory to Lessor, which guaranty shall provide that Guarantor shall maintain, during the construction of the Improvements, a minimum net worth of at least $100,000,000 and liquidity of not less than $10,000,000.

6. INTENTIONALLY DELETED

7. IMPROVEMENTS.

7.1 Construction by Lessee. Lessee shall, at its sole cost and expense, construct improvements on the Premises that generally shall consist of a building which will be comprised of approximately 250,000 square feet of manufacturing space and approximately 50,000 square feet of office and support space, together with related improvements, including, without limitation, sidewalks, drive aisles, access drives and parking improvements, which are estimated to cost approximately $46,989,495.00, as generally depicted in **EXHIBIT D** (the "**Improvements**") and in accordance in all material respects with a site plan approved by Lessor's Design Review Committee, such approval not to be unreasonably withheld or delayed, and in compliance with all

applicable governmental regulations, restrictions and building codes and any declaration of covenants, conditions, restrictions and easements of record affecting the Premises (including, without limitation, the Declaration as set forth in Section 43 hereof) and any design guidelines that are applicable to the Premises. Lessor and Lessee agree that Lessee shall be solely responsible for: (i) any required connection(s) between the Premises and the terminating point of the existing vehicular access way to the Premises, as reasonably required by Lessor; (ii) constructing all Improvements necessary to bring all utilities onto the Premises, including, without limitation, electrical, gas, water, sewer, cable and telephone utilities; and (iii) installing all utility meters and water and sewer lines to service all Improvements constructed on the Premises.

7.2 Construction Milestones; Termination. Lessee shall construct its Improvements pursuant to the following schedule (each of which events are herein called a "**Construction Milestone**"):

7.2.1 Lessee shall submit its Improvement design plans to Lessor for review and approval no later than THREE (3) months from the Effective Date. Lessor shall promptly, and in all events within TWENTY-ONE (21) calendar days, notify Lessee in writing if Lessee believes such plans (or any revised plans submitted by Lessee) would cause the Improvements to fail to comply with the Master Plan. Any such notice shall specify in reasonable detail the items Lessor believes do not comply with the Master Plan and the changes, which if made, would cause the Improvements to comply with the Master Plan. Thereafter the Parties will negotiate in good faith to resolve any concerns raised by Lessor. If Lessor fails to timely provide any objections to such plans, such plans shall be deemed to be approved by Lessor.

7.2.2 Lessee shall submit its Improvement construction plans to the City of Mesa for a construction permit no later than NINETY (90) calendar days from the date Lessor approved or is deemed to have approved Lessee's Improvement design plans and shall thereafter diligently pursue;

7.2.3 Reserved.

7.2.4 Lessee shall diligently prosecute construction of all Improvements and shall complete construction of all Improvements to be constructed by Lessee at and on the Premises and shall obtain a certificate of occupancy (a "**CofO**") (or its equivalent) from the City of Mesa therefor, no later than THIRTY (30) months from the date the City of Mesa issues a building permit for the Improvements and all government approvals required for such, including any approvals required from the FAA (the "**Outside Completion Date**"). If Lessee is unable to meet a Construction Milestone due to Unavoidable Delay (as set forth and defined in Section 39), then the Outside Completion Date shall be extended by ONE (1) day for each day of such Unavoidable Delay impacting the Construction Milestone.

7.2.5 If Lessee fails to obtain a temporary or final CofO by the Outside Completion Date, Lessee shall pay to Lessor an amount equal to Five Hundred Dollars ($500.00) for each day that Lessee is late obtaining a temporary or final CofO (a "**Late Completion Fee**"), which payment by Lessee shall be in addition to any Base Rent due from Lessee hereunder. Lessee shall pay Lessor all Late Completion Fees to Lessor on the FIRST (1st) day of the month following the date on which such Late Completion Fees first accrues, until such time as all Late Completion Fees are paid in full. If Lessee fails to obtain a temporary or final CofO within one (1) year after the Outside Completion Date, Lessee shall have no further obligation to pay a Late Completion Fee for any days following such one-year period and Lessor can pursue its other remedies available under this Lease.

7.2.6 If Lessee fails to commence construction within SIXTY (60) calendar days after the issuance of all necessary construction permits and receipt of all approvals required for such, including any approvals required from the FAA, but subject to any applicable notice and cure periods provided for in Section 11, Lessor shall have the right to terminate this Lease by written notice to Lessee

delivered at any time prior to commencement of construction. For purposes of this section "**commencement of construction**" shall be the date on which Lessee has obtained it permits, has executed a contract for construction of the Improvements and engaged in material work, such as grading and pouring of footings and slabs.

7.3 No Alterations. Lessee shall make no material improvements or alterations to the exterior of any building on the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld or delayed and, if and to the extent applicable, without the approval by Lessor's Design Review Committee. Lessee shall provide Lessor with electronic as-built drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 Title to Alterations and Improvements. Title to all improvements and alterations on the Premises (but not personal property or trade fixtures) shall automatically vest in Lessor upon the expiration or termination of this Lease, and Lessee agrees to execute and deliver to Lessor, within TEN (10) business days after Lessor's request therefor, a quitclaim deed or other instrument satisfactory to Lessor and Lessee confirming that title to such improvements and alterations is vested in Lessor. This Section 7.4 shall survive the termination of this Lease.

7.5 Mechanics' Liens. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens arising by, through or under Lessee. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within SIXTY (60) calendar days of written notice thereof.

7.6 Permit Required. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to applicable City of Mesa (the "**City**") building/construction codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City, if any. To the extent required by applicable City building/construction codes, all such work shall be permitted, inspected and approved by the City prior to concealment or use. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and the associated plans and specifications.

7.7 Damage or Destruction. Lessee shall maintain insurance on all of Lessee's Improvements to the Premises, including any subsequent alterations and improvements thereto. In the event that all or any portion of Lessee's Improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall, at Lessee's election, either:

7.7.1 replace, repair, restore, modify or improve said Improvements, subject to the provisions of Section 7.6, using available insurance proceeds (which shall be paid to Lessee or its Leasehold Mortgagee, as required by Leasehold Mortgagee, if any) together with any additional funds from other available sources; or

7.7.2 raze the Improvements and return the Premises to the condition that existed prior to the construction of the Improvements (until such time as Lessee elects to construct additional Improvements on the Property as market conditions permit) and following Lessee's razing of the Improvements apply the balance of such insurance proceeds to the payment of a Leasehold Mortgage, if any; provided, however, Lessee shall continue to be obligated to perform its obligations under this Lease (including, without limitation, paying all Rent, but excluding any obligation to construct a new building until such time as Lessee elects to commence construction of such new building in accordance with the terms of this Lease, including without limitation the provisions of Sections 7.3 and 7.6).

Notwithstanding the foregoing to the contrary, if any damage or destruction occurs to the Premises during the last five (5) years of the Term or any and the cost to repair the damage exceeds Five Hundred Thousand Dollars ($500,000.00), then, subject to the provisions of Section 22 hereof, Lessee may terminate this Lease upon giving Lessor (30) days written notice. In the event Lessee elects to terminate this Lease pursuant to this Section, all property insurance proceeds will be allocated between Lessee and Lessor, with Lessee receiving such proceeds up to the value of the Improvements for the remaining Term (but for the damage and destruction) and Lessor receiving such proceeds up to the residual value of the Improvements after the Term (but for the damage and destruction); provided, however, Lessee's insurance proceeds shall be applied first to the cost of razing the Improvements and returning the Premises to the condition that existed prior to the construction of the Improvements. Each Leasehold Mortgagee shall have the right to participate in the adjustment of any insurance proceeds for insurance maintained by Lessee. If required by a Leasehold Mortgagee in the Leasehold Mortgage or other loan documents, the senior most Leasehold Mortgagee shall have the right to supervise and control the receipt and disbursement of insurance proceeds payable to Lessee pursuant to this Lease for purposes of the restoration and/or repair of the Improvements.

7.8 Condemnation.

7.8.1 Condemnation of Premises. If any portion of the Premises is taken by a government entity exercising the power of eminent domain or sold to a government entity by Lessor under the exercise of said power (final judicial order that permits the taking is herein referred to as "**Condemnation**"), this Lease shall terminate, without any requirement for consent or approval from a Leasehold Mortgagee, as to the part so taken as of the date the condemning authority takes possession of the condemned portion of the Premises ("**Condemnation Date**"). If so much of the Premises is taken that, in Lessee's business judgment, the Premises is no longer reasonably suitable for Lessee's operations in Lessee's reasonable business judgment, subject to the provisions of Section 22.3 hereof, Lessee may terminate this Lease at any time after Lessee receives the Condemnation Notice by giving Lessor thirty (30) days written notice, but not later than sixty (60) days following the Condemnation Date. If the entire Premises are condemned, then this Lease shall automatically terminate as of the Condemnation Date. The party who receives the condemnor's notice of intention to take ("**Condemnation Notice**") shall immediately give a copy of such notice to the other party.

7.8.2 Allocation of Award Following Lease Termination. The total award in the condemnation proceedings, whether payable due to a purchase in lieu of condemnation, a settlement reached after the initiation of condemnation proceedings, a final judgment or otherwise, will be allocated between Lessor and Lessee as follows:

(a) Lessee and Leasehold Mortgagee shall be entitled to seek and claim and receive the value of Lessee's interest in the Improvements and Lessee's leasehold interests in the Premises (including, without limitation, any loss or rents, relocation and moving costs), and any other amounts payable in connection with Lessee's leasehold interest in the Premises and the Improvements; and

(b) Lessor shall be entitled to seek and claim and receive the value of its fee interest in the land constituting the part of the Premises taken and the reversionary interest of Lessor in the Improvements.

7.8.3 Allocation of Award without Lease Termination. If this Lease is not terminated as provided in Section 7.8.1, Lessee shall, at Lessee's election, either:

(a) replace, repair, restore, modify or improve said Improvements, subject to the provisions of Section 7.6, using available award proceeds (which shall be paid to Lessee or its Leasehold Mortgagee, as required by such Leasehold Mortgagee, if any) together with any additional funds from other available sources; or

(b) restore any damage to the Property which resulted in an unsafe condition (including, if required, raising any improvements subject to such Condemnation)and then apply the balance of such award proceeds to the payment of a Leasehold Mortgage, if any; provided, however, Lessee shall continue to be obligated to perform its obligations under this Lease (including, without limitation, paying all Rent, but excluding any obligation to construct a new building until such time as Lessee elects to commence construction of such new building).

7.8.4 Temporary Taking. In the event of a taking of all or any portion of the Premises for temporary use, the foregoing provisions of this Article shall be inapplicable thereto, this Lease shall continue in full force and effect without reduction or abatement of rent and Lessee, alone (subject to the rights of the Leasehold Mortgagee), shall be entitled to make claim for, recover and retain any award recoverable in respect of such temporary use whether in the form of rental or otherwise. If the award is made in a lump sum covering a period beyond the expiration of the Lease Term, Lessor also shall be entitled to make claim for and participate in the award proportionately. If any portion of the award for such temporary use is intended to cover the cost of restoration of the Improvements located on the Premises to the condition they were in prior to such temporary use or to make repairs occasioned by or resulting from such temporary use, such portion shall be (i) so long as any portion of the debt securing a Leasehold Mortgage remains unpaid, applied in accordance with the terms of the Leasehold Mortgage, and thereafter, (ii) used by Lessee to cover the cost of such restoration and repair, and any balance remaining shall belong to and be paid to Lessee.

7.8.5 Leasehold Mortgagee. In the event of any Condemnation, each Leasehold Mortgagee shall have the right to participate in the adjustment of any portion of the condemnation award belonging to Lessee. In addition, the senior most Leasehold Mortgagee shall have the right to hold, control and disburse any portion of the condemnation award belonging to Lessee, so long as such proceeds are used as required by the provisions of this Lease.

8. MAINTENANCE.

8.1 Lessee Responsibilities. Lessee shall, at its sole cost and expense, keep the Premises and all improvements thereon in a neat and clean condition and in good order and repair throughout the Term. Lessee shall prepare, maintain and follow a preventative maintenance schedule in keeping with industry-standard good practices for all mechanical, electrical plumbing, drain, piping, and air conditioning systems on the Premises. Lessee's maintenance of the Premises shall include, without limitation, the inspection, servicing and repair of all improvements, including pest control, landscaping and grounds maintenance.

8.2 Damage to Premises. Any real or personal property of Lessor damaged or destroyed by Lessee as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the satisfaction of Lessor. In lieu of such repair or replacement, where required by Lessor, Lessee shall pay to Lessor an amount sufficient to compensate for the loss sustained by Lessor. Any real or personal property of Lessee damaged or destroyed by Lessor shall be promptly repaired or replaced by Lessor to the satisfaction of Lessee. In lieu of such repair or replacement, where required by Lessee, Lessor shall pay to Lessee an amount sufficient to compensate for the loss sustained by Lessee.

8.3 Trash Removal. Lessee shall at all times keep the Premises in a neat, clean, safe, sanitary and orderly condition and shall keep such area free of all trash and debris. Lessee shall be responsible for all trash removal from the Premises and Lessee shall deposit all trash and debris only at collection stations located on or in proximity to the Premises, in accordance with City code.

8.4 Emergency Repairs. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as they occur.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS.

9.1 Any Transfer of Lease Interest Requires Lessor Advance Written Approval. Except as set forth in Section 22.11 to a Leasehold Mortgagee or a purchaser at a foreclosure sale, or in accordance with Section 9.4 below, in the event Lessee desires to transfer, assign, encumber, pledge or hypothecate any portion of its interest in this Lease or any right or interest hereunder (individually and collectively, "**Transfer**"), or sublet the Premises or any part thereof, Lessee must obtain the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. In connection with Lessee's request for Lessor's approval of a Transfer, Lessee and or the proposed transferee shall provide to Lessor written financial assurances, including, but not limited to financial statements, business plans and other information related to the financial condition and plans of any proposed transferee. Unless otherwise agreed upon in connection with Lessor's approval of a Transfer, or as otherwise expressly provided herein, Lessee shall remain liable under the Lease for all of Lessee's obligations under this Lease. Lessee understands and agrees to these terms and conditions regarding any proposed Transfer, and that any violation of this Section 9, may irreparably harm Lessor as the requirements set forth herein are directly related to Lessor's (and any Lessee's) legal and financial obligations to the Federal Aviation Administration. This Section 9 shall remain valid and enforceable even in the event of amendment to or repeal of FAA regulations, so long as this Section 9 does not directly conflict therewith.

9.2 Lessee's Required Advance Notice to Lessor of Proposed Transfer. In order for Lessor to consider approval of a Transfer, Lessee must: (i) notify Lessor in writing at least Forty-five (45) days prior to such proposed transfer; (ii) deliver to Lessor, at the time of Lessee's notice, current financial statements of Lessee and the proposed transferee (along with transferee's business plans) that are reasonably acceptable to Lessor; and (iii) the transferee assumes and agrees in writing to perform Lessee's obligations under this Lease. However, nothing herein shall be construed as Lessor providing its consent to any Transfer or relieving Lessee of any legal, financial or other obligation under the Lease, regardless of Lessor's acceptance or refusal to accept such proposed transfer of Lease.

9.3 Deemed Transfers. For the purposes of this Lease, a Transfer shall be deemed to include the following: (i) if Lessee is a corporation, partnership, limited liability company or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; or (ii) the sale of FIFTY PERCENT (50%) or more in value of the assets of Lessee. For purposes of this Lease, "**control**" shall mean possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of a majority of the voting securities of the entity. For clarity, a change in control of The Boyer Company, L.C., shall not be a Transfer.

9.4 Subletting.

9.4.1 Lessee may sublease all or portions of the Premises if the following conditions are met:

(a) Rent for subleased premises shall not be less than fair market value as reasonably determined by Lessee unless otherwise approved in writing by Lessor.

(b) The sublease(s) and sublessee(s) shall at all times be subject to the terms and conditions of this Lease.

(c) The permitted and prohibited uses of the Premises under any sublease shall not violate Permitted Uses under this Lease. Sublessees shall agree in the sublease not to engage in any prohibited use.

(d) The term of any sublease shall not extend beyond the stated expiration of this Lease.

(e) Except for the payment of a security deposit or amounts related to the construction of any tenant improvements, the sublessee under such sublease shall not pay rent more than ONE (1) month in advance of its due date under the sublease.

9.4.2 Upon request from Lessee, Lessor shall enter into a Non-Disturbance and Attornment Agreement (in form and substance reasonably acceptable to Lessor, Lessee, sublessee and any applicable Leasehold Mortgagee) so long as (i) the conditions of SECTION 9.4.1 have been met; and (ii) the sublessee is not then in default beyond an applicable notice and cure period under the sublease and there is no existing Event of Default under this Lease, and (iii) either, (x) Lessor has approved or is deemed to have approved the sublease, or (y) the sublease is on a form previously approved by Lessor. All reasonable legal fees incurred by Lessor in connection with any reasonably necessary legal counsel review and approval of a Non-Disturbance and Attornment Agreement shall be reimbursed in advance by Lessee.

9.4.3 Upon receipt of a sublease from Lessor and a request for a Non-Disturbance and Attornment Agreement with respect to such sublease, Lessor shall have ten (10) business days to either approve or disapprove the same. Lessor agrees that its approval of any sublease shall not be unreasonably withheld, conditioned or delayed. If Lessor disapproves, Lessor shall provide Lessee with a reasonably detailed explanation for Lessor's disapproval and suggestions for revisions that would reasonably satisfy Lessor's disapproval. If Lessor fails to respond within such ten (10)-business-day period the sublease shall be deemed to have been approved by Lessor. If Lessor disapproves a request for approval, then Lessee may resubmit a revised sublease for approval in accordance with this Section 9.4.3. This cycle will repeat itself until Lessor either approves the sublease or is deemed to have approved the same.

9.4.4 Lessee shall submit a copy of each fully executed sublease to Lessor within Five (5) business days after request.

10. IDENTIFICATION SIGNS.

Lessee may install or permit to be installed on the Premises any sign(s) that conforms to any signage rules, codes and/or regulations of any governmental authority applicable to the Premises.

11. DEFAULT; TERMINATION BY LESSOR.

11.1 Events of Default. Each of the following shall constitute a material default of this Lease by Lessee (an "**Event of Default**"):

11.1.1 Failure to pay any installment of Base Rent or other amount due from Lessee hereunder, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 A breach of any covenant or failure to perform any of its other obligations under this Lease or failure to perform any of its obligations as a "Lessee" under the Declaration (as defined in Section 43 below), as such obligations relate to the Premises, provided that Lessee does not

cure such breach or failure within THIRTY (30) calendar days after delivery by Lessor of a written notice of such default; and further provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is commenced within such thirty (30) day period and thereafter diligently pursues such cure to completion.

11.1.3 The filing of any mechanic's, materialmen's or other lien or any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within NINETY (90) calendar days of receipt of actual notice thereof by Lessee.

11.1.4 Failure to pay its Common Expense Share of any Common Expenses in accordance with the Declaration as provided in Section 43 below, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor to Lessee of a written notice of such failure.

11.2 Lessor's Remedies. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, but subject to the provisions of Sections 9.4.2 and 22, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Base Rent, re-entry for condition broken, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

11.3 No Implied Termination. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and shall save Lessor harmless from all losses, costs or damages occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 Lessor's Current Damages. Upon the occurrence and during the continuance of an Event of Default, Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the reasonable costs and expenses incurred in respect of such repairs, redecorating, refurbishments and improvements shall be paid by Lessee to Lessor within TEN (10) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the amount of the Base Rent and all other payments which would be payable under this Lease by Lessee for the remainder of the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's reasonable expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs, redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence ("**Deficiency**"), in monthly installments on the days on which the Base Rent would have been payable under this Lease as if this Lease were still in effect.

11.5 Lessor's Final Damages. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover (without duplication) from Lessee, and Lessee shall pay to Lessor, promptly on demand, as Lessor's final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount of SIX PERCENT (6%) per annum) of (i) the aggregate of the Base Rent and all other amounts to be paid by Lessee hereunder for the unexpired portion of the Term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of Rent and any losses that could have been reasonably avoided, plus (b) reasonable repossession costs, reasonable Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), reasonable attorneys' fees, reasonable legal expenses, and all other damages incurred by Lessor as a result of such Event of Default.

11.6 No Waiver by Lessor. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 Content of Default Notice. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it states in bold letters within the Subject Line (i.e., the Re line): "**Notice of Default**" and is otherwise reasonably calculated to put Lessee on inquiry as to the nature and extent of such default and is made in accordance with SECTION 19 herein.

11.8 Limitation on Exercise of Termination Remedy by Lessor. Notwithstanding anything to the contrary in SECTION 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay Base Rent or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Other remedies that are available to Lessor include self-help and recovery of damages, and nothing in this SECTION 11 shall limit the exercise of any such other remedy.

11.9 Subordination of Lessor's Lien. Lessor hereby agrees from time to time to subordinate to one or more Leasehold Mortgagees all statutory or common law landlord's lien rights with respect to property or assets of Lessee located on the Premises, including, without limitation, Lessor's rights under Arizona Revised Statutes Sections 33-361 and 362 and other similar laws. Upon written request from Lessee, Lessor agrees to promptly execute and deliver such commercially reasonable landlord subordination agreement and access agreement that any Leasehold Mortgagee may request of Lessor. Lessee shall reimburse Lessor for reasonable third-party costs, including reasonable attorneys' fees, incurred by Lessor in connection with the review and negotiation of any such agreement within THIRTY (30) days after receipt of an invoice from Lessor.

12. INTENTIONALLY DELETED.

13. INDEMNIFICATION.

13.1 Lessee's Indemnity. To the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this Section 13.1) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term; (ii) any grossly negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to

collectively as "Lessee" for purposes of this Section 13.1) on the Premises or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor; and/or (iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors or agents.

13.2 Lessor's Indemnity. To the fullest extent permitted by law, Lessor hereby agrees to defend, indemnify and hold harmless Lessee and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessee" for purposes of this Section 13.2) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term caused by Lessor or its agents, employees, contractors or subcontractors; (ii) any grossly negligent act or omission or intentional misconduct by Lessor or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessor" for purposes of this Section 13.2) on the Premises, and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessee, or (iii) the failure of Lessor to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessee or its employees, contractors or agents.

14. ENVIRONMENTAL PROTECTION.

14.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this SECTION 14.1 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 *Environmental Laws*. The term "**Environmental Laws**" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 USC Section 9601 et seq.; the *Solid Waste Disposal Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; A.R.S. Title 49; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient (including indoor and outdoor) air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

14.1.2 *Hazardous Material*. The term "**Hazardous Material**" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Laws, per- and polyfluoroalkyl substances, and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils). For purposes of this definition, per- and polyfluoroalkyl substances shall include aqueous film-forming foams.

14.2 Environmental Compliance.

14.2.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting Lessee's activities

on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.2.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation of any Environmental Laws. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Laws.

14.3 Indemnification.

14.3.1 To the fullest extent permitted by law, Lessee shall indemnify, defend (with counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment, the presence of Hazardous Material or violation of any Environmental Laws or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this SECTION 14.3 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity. This SECTION 14.3 explicitly excludes Lessee's duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent contamination that is known to Lessee is exacerbated by Lessee or unknown contamination is exacerbated by Lessee's gross negligence.

14.3.2 To the fullest extent permitted by applicable law, Lessor shall indemnify, defend (with counsel reasonably acceptable to Lessee), protect and hold harmless Lessee and its employees and agents for, from and against any and all Environmental Damages which are incurred or assessed as a result of any of Lessor's activities or operations on the Premises. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessor's obligations and liabilities under this Section 14.3 shall survive the termination of this Lease. The indemnification of Lessee by Lessor as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessee reserves the right to seek injunctive relief as may be permitted under law and equity. This Section 14.3 explicitly excludes Lessor's duty, liability or indemnity to Lessee for any claims or Environmental Damages of any kind whatsoever arising from or

in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is caused by or exacerbated by Lessor or unknown contamination is caused by or exacerbated by Lessor's negligence.

14.4 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Laws, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this SECTION 14.4, Lessor is not responsible for directing or managing any remediation action. The term "**Release**" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping.

14.5 Governmental Submittals. Lessee shall, at Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws in connection with Lessee's activities or operations on the Premises. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any Release of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.6 Information Sharing.

14.6.1 Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a violation of Environmental Laws, and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Premises, to the extent that such investigations or claims are related to Lessee's activities thereon.

14.7 Sublease. Lessee shall insert provisions substantially identical, or more favorable to Lessor and Lessee (as sublessor or sublandlord under the sublease) to the provisions of this SECTION 14 in any sublease agreement or contract by which it grants a right or privilege to any person, firm, corporation or other entity under this Lease.

14.8 Actions of Lessee and Lessor. The activities or actions of Lessee under this SECTION 14 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors and successors. The activities or actions of Lessor under this SECTION 14 shall include the activities or actions of Lessor's officers, directors, employees, agents, contractors and successors.

14.9 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without

limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.10 Reserved.

14.11 Protective Devices and Plans. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.12 Right to Enter Premises. In addition to the rights afforded to Lessor in SECTION 18, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency ("**EPA**"), ADEQ, Lessor, and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or permitted under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any such entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.13 U.S. Air Force Use and Remedial Action.

14.13.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this SECTION 14.13, "**defense**" or "**environmental response, remediation, or cleanup**" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release.

14.13.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment

with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Lessor or Lessee is a potentially responsible party with respect to any portion of the Premises or the Airport.

14.14 Cleanup Requirements.

14.14.1 Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have no claim against Lessor or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above-described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by governmental authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.14.2 Lessor agrees that Lessee assumes no liability to Lessor should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessor's use of the Premises. Lessor shall have no claim against Lessee or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise.

14.15 Reserved.

14.16 Wells. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor.

14.17 Surface Disturbances. After construction of Lessee's Improvements on the Premises as provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface other than what is usual and customary for the anticipated uses without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned or delayed.

14.18 Later Discovered Hazmat. If any Hazardous Material is newly discovered on a portion of the Premises after the Effective Date that:

(a) (i) were not placed on or introduced to the Premises by Lessee, and (ii) were present on the Premises prior to the Effective Date (collectively, "**Later-Discovered, Pre-Existing Hazmat**"); and

(b) such Later-Discovered, Pre-Existing Hazmat will cause Unavoidable Delay in the construction of Improvements;

then Lessee shall immediately notify Lessor and cease development activity in the impacted area of the Premises, and Lessee shall either

(1) conduct such investigations and remedial actions as necessary under applicable Environmental Laws and continue development activity as the remedial process allows (and reserve any rights it may have to seek whatever compensation it is entitled to recover), if Lessor does not agree, within SEVEN (7) business days of receiving notice contemplated under this Section, to promptly investigate and remediate the detected contamination in accordance with Environmental Laws, and on a schedule and in a manner that does not interfere with Lessee's development, use or construction plans, or

(2) obtain approval of any Leasehold Mortgagee, if any, and terminate this Lease upon written notice to Lessor.

15. PROTECTION OF WETLANDS.

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises. Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the United States Army Corps of Engineers and obtain a permit or waivers under Section 404 of the Clean Water Act (or if such regulatory authority has been delegated to ADEQ, shall obtain the equivalent permit or waivers from ADEQ). For purposes of this SECTION 15, the term, "**new construction**," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. INSURANCE.

16.1 Coverage Required. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

16.1.1 Builder's Risk insurance covering the insured's premises Improvements and all replacements and/or additions thereto for their full insurable value on a "replacement cost" basis, and requires an ISO Special Causes of Loss form or equivalent.

16.1.2 Comprehensive General Liability ($5,000,000.00 per occurrence) insurance covering third party bodily injury and property damage, including coverage for "premises/operations," "products and completed operations," "host liquor" and "blanket contractual liabilities."

16.1.3 Environmental Impairment Liability ($2,000,000.00 per occurrence) insurance covering third party bodily injury and property damage associated with hazardous material storage facilities, tanks, piping, ancillary equipment and containment structures, or structures that are used, controlled, constructed or maintained on the Airport, and including expenses for defense, release mitigation and off- and on-site remediation.

16.1.4 Property (full value of personal property + improvements) insurance covering all essential personal property (property essential to continued business operations) and all operator improvements made to buildings or facilities on the Airport, including all replacements and/or additions thereto, for their full insurable value (All Risks) on a replacement cost basis, and requires an ISO Special Causes of Loss form or equivalency.

16.1.5 Worker's Compensation insurance, as required by law, and Employer's Liability insurance in the amount of $1,000,000.00 covering work-related injuries to employees and others permitted to operate or otherwise conduct business on the Premises.

16.1.6 Commercial Automobile Liability ($1,000,000 per occurrence) insurance covering all owned, non-owned and hire vehicles operated on the Airport that are assigned to or used in the performance of commercial activities. If any hazardous materials are transported within Airport

boundaries in conjunction with the operator's business activities, an MSC-90 Endorsement is required. Coverage amounts generally apply to Basic Injury per Person, Basic Injury per Accident and Property Damage.

16.2 Form. Each insurance policy obtained pursuant to this SECTION, except for *Worker's Compensation* and *Employer's Liability* policies, shall: (i) name Lessor as a certificate holder and additional insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent or better replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

16.3 Certificates of Insurance. Lessee shall deliver a certificate of insurance for each policy required herein to Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the Term of this Lease.

16.4 Additional Insurance. At any time during the Term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this SECTION 16 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

16.5 Blanket Insurance. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

16.6 Insurance by Lessor. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this SECTION. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within TEN (10) business days after Lessor advises Lessee of the cost thereof.

17. SURRENDER OF POSSESSION.

17.1 Condition of Premises.

17.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear, casualty (subject to Lessee's obligations under Section 7.7) and condemnation (subject to Lessee's obligations under Section 7.8). All trade fixtures, equipment, and other personal property installed or placed by Lessee on the Premises which can be removed without affecting the structure of the Building shall remain the property of Lessee, and Lessee shall have the right at any time during the Term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall be deemed abandoned, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the reasonable cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

17.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required by Lessor, be permanently removed from the Premises by Lessee, at Lessee's expense, within FIVE (5) business days of Lease termination. Should Lessee fail to remove such trade fixtures, equipment or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

17.2 Holding Over. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Base Rent and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee.

18. INSPECTION BY LESSOR.

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, in which event Lessor may enter immediately and shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee or its sublessees on the Premises.

19. NOTICES.

19.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses or at such address as either Party may advise the other from time to time:

TO LESSOR:	Phoenix-Mesa Gateway Airport Authority Attn: Business Development Department 5835 South Sossaman Road Mesa, Arizona 85212
TO LESSEE:	Boyer Gateway East Mesa Building 1, L.C. Attn.: President 101 South 200 East, Suite 200 Salt Lake City, Utah 84111
With required copy to: (which shall not constitute notice)	Parr Brown Gee & Loveless Attn.: Lamont R. Richardson 101 South 200 East, Suite 700 Salt Lake City, Utah 84111

19.2 Any notice shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service.

20. SEVERABILITY.

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

21. APPROVALS, CONSENTS AND NOTICES.

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

22. LIENS AND MORTGAGES.

22.1 Fee Mortgagees. Lessor may mortgage its fee interest in the Premises; provided, however, that such fee mortgage (whether entered into prior and after the date of this Lease) is and shall in all respects subject and subordinate to the Lease, including, without limitation, rights and remedies of the Leasehold Mortgagee under the Leasehold Mortgage and under any consent of the Lessor to an assignment of this Lease. Any mortgagee under a fee mortgage shall, prior to execution and recordation of such fee mortgage if this Lease is in effect (or prior to the execution of this Lease if such fee mortgage is then in existence), acknowledge and recognize in a writing, in form and substance satisfactory to Lessee and its Leasehold Mortgagee (as defined hereinafter), that such fee mortgage is subject and subordinate to the terms of this Lease.

22.2 Mortgaging of the Leasehold.

22.2.1 Definitions. "**Leasehold Mortgage**" shall mean any loan financing obtained by Lessee, as evidenced by any mortgage, deed of trust, assignment of leases and rents, financing statement, or other instrument and secured by Lessee's interest in this Lease and the leasehold estate created hereby, including any extensions, modifications, amendments, replacements, supplements, renewals, refinancing, and consolidation thereof. "**Leasehold Mortgagee**" shall mean the holder of a Leasehold Mortgage.

22.2.2 Leasehold Mortgage. Notwithstanding anything in this Lease to the contrary, including, without limitation, the provisions of Section 9, Lessee, without Lessor's consent may mortgage, collaterally assign, pledge, grant a security interest in, or otherwise encumber Lessee's interest in this Lease and its leasehold interest (including any interest in the Improvements) under this Lease pursuant to one or more Leasehold Mortgages to secure indebtedness, including, without limitation, one or more loans to finance construction and/or acquisition of Improvements and other development on the Premises or the leasehold estate created by this Lease, and including refinancings thereof, provided that (a) such leasehold liens comply with this Section 22, and (b) no Leasehold Mortgage shall extend to or affect the fee, the reversionary fee interest or the estate of Lessor in the Premises. If, from time to time, Lessee or Lessee's permitted successors or assigns encumbers this Lease with a Leasehold Mortgage, and if the Leasehold Mortgagee delivers to Lessor: (i) an executed counterpart of such Leasehold Mortgage; (ii) any assignment thereof; (iii) written notice of the Leasehold Mortgagee's name and address; and (iv) the pertinent recording data for the Leasehold Mortgage, Lessor agrees that from and after the date of receipt by Lessor of such notice and for the duration of such Leasehold Mortgage, the provisions of this Section 22 shall apply.

22.3 Termination of Lease. There shall be no cancellation, amendment, supplement, surrender, or modification of this Lease by Lessor or Lessee without the prior written consent of Leasehold Mortgagee,

which may be withheld in the Leasehold Mortgagee's sole and absolute discretion. Notwithstanding the foregoing (but subject to Leasehold Mortgagee's rights set forth in this Section 22), nothing herein shall be deemed to prohibit Lessor from terminating this Lease in accordance with its terms.

22.4 Notices to Leasehold Mortgagees. Provided that each Leasehold Mortgagee has delivered a notice to Lessor of the existence of such Leasehold Mortgage and such Leasehold Mortgagee's notice address as provided in Section 22.2 hereof, if serving Lessee with any notice of default, Event of Default or termination, Lessor shall simultaneously send a copy of such notice to Leasehold Mortgagee. No notice of a default, Event of Default or termination shall be effective unless such notice is also delivered to each Leasehold Mortgagee. Any notice required to be given to Leasehold Mortgagee shall be given in the same manner as sent to Lessee, addressed to Leasehold Mortgagee at the address and to the attention of the person designated by such Leasehold Mortgagee under Section 22.2 hereof.

22.5 Curative Rights of Leasehold Mortgagees. Leasehold Mortgagee shall have the same rights as Lessee to cure such Event of Default plus an additional period of thirty (30) days to remedy or cause to be remedied any monetary Event of Default, and an addition ninety (90) days to cure any non-monetary Event of Default, in each case, of which it receives notice pursuant to Section 22.4, provided such Leasehold Mortgagee shall reimburse Lessor, at the time of so remedying the default, for all reasonable documented out of pocket costs and expenses of Lessor for maintaining, protecting, insuring, and operating the Premises during the additional thirty (30) or ninety (90) day period.

22.6 Limitation Upon Termination Rights of Lessor. If an Event of Default has occurred and has not been cured in accordance with the provisions of this Lease, notwithstanding the existence of such Event of Default, Lessor may not terminate this Lease so long as the Leasehold Mortgagee has commenced an Enforcement Action against Lessee within the cure periods provided to Leasehold Mortgagee pursuant to Section 22.7.1 below, and is diligently prosecuting such Enforcement Action to completion, and the Leasehold Mortgagee (a) has cured, or has caused to be cured, any then-existing monetary Event of Defaults and non-monetary Events of Default which Leasehold Mortgagee can cure without having obtained possession of the Property (with the exception of Lessee's non-monetary defaults of such a personal nature that they cannot be cured by Leasehold Mortgagee); and (b) pays the Rent and other charges due under this Lease during the continuance of such proceeding. If a Leasehold Mortgagee is required to obtain possession of the Premises before such Leasehold Mortgagee can cure a non-monetary default, the cure periods set forth above shall be tolled for such amount of time as is necessary for the Leasehold Mortgagee to obtain possession of the Premises. Upon the completion of such foreclosure action, all defaults which are not capable of being cured shall be deemed waived. In no event shall Leasehold Mortgagee have any obligation to cure any default of Lessee under this Lease unless and until Leasehold Mortgagee becomes the owner of said leasehold estate by foreclosure, sale in lieu of foreclosure, or otherwise.

22.7 Mortgagee Lease. Lessor agrees that if this Lease is terminated for any reason (other than as provided in accordance with Sections 7.7 (if Leasehold Mortgage has consented to such termination), 7.8 (if there is a Condemnation of the entire Premises or otherwise if Leasehold Mortgage has consented to such termination), and 14.18), or if the Lease is rejected in a bankruptcy proceeding, subject to the rights herein granted to Leasehold Mortgagee, Lessor will enter into a new lease (the "**Mortgagee Lease**") of the Premises with the Leasehold Mortgagee for the remainder of the Term effective as of the date of termination, at the same Base Rent and on the same terms, provisions, covenants, and agreements as contained in this Lease, provided;

22.7.1 Leasehold Mortgagee shall request Lessor execute such a Mortgagee Lease within ninety (90) days after the date of termination and shall, within THIRTY (30) days after its receipt from Lessor of a written statement of all Base Rent and other amounts then due to Lessor under this Lease, pay to Lessor all such amounts (with the exception of amounts due by reason of Lessee's indemnification obligations set forth in Section 14);

22.7.2 Leasehold Mortgagee shall pay to Lessor at the time of the execution and delivery of the Mortgagee Lease: (a) any sums due under this Lease but for the termination; and (b) all reasonable attorney's fees and expenses actually incurred by Lessor in connection with entering into such new Lease;

22.7.3 Leasehold Mortgagee shall cure all defaults of Lessee under the terms of this Lease (excluding Lessee's non-monetary defaults of such a personal nature that they cannot be cured by Leasehold Mortgagee, which defaults shall be deemed waived);

22.7.4 Leasehold Mortgagee, as replacement Lessee under the Mortgagee Lease, shall have the same right, title, and interest in and to the Premises and the right to use the Improvements thereon as Lessee had under this Lease.

22.8 Agreement Between Lessor and Leasehold Mortgagee. Lessor, upon request, shall execute, acknowledge, and deliver to Leasehold Mortgagee an agreement, by and among Lessor, Lessee, and Leasehold Mortgagee (provided the same has been previously executed by Lessee and Leasehold Mortgagee) agreeing to all of the provisions of this Section 22, in form and substance reasonably satisfactory to Leasehold Mortgagee and Lessor.

22.9 Limitation on Liability of Leasehold Mortgagee. Notwithstanding any other provision of this Lease, Lessor agrees that Leasehold Mortgagee shall in no manner or respect whatsoever be liable or responsible for any of Lessee's obligations or covenants under this Lease (nor shall any rights of such Leasehold Mortgagee be contingent on the satisfaction of such obligations or covenants), unless and until Leasehold Mortgagee becomes the owner of said leasehold estate by foreclosure, sale in lieu of foreclosure, or otherwise, in which event such Leasehold Mortgagee shall be liable for such obligations and covenants only while it remains the owner of said leasehold estate.

22.10 No Merger. So long as any Leasehold Mortgage remains outstanding, the fee title and the leasehold estate created by this Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in either the Lessor or the Lessee or a third party, by purchase or otherwise.

22.11 Foreclosure by Leasehold Mortgagee. In no event shall Lessor's consent be required, for any transfer or assignment of this Lease to Leasehold Mortgagee, any purchaser at a foreclosure sale or any other third party as a result of a foreclosure, trustee's sale or delivery of a deed in lieu of foreclosure (an "**Enforcement Action**"). In the event of any transfer of assignment of this Lease as a result of the foreclosure action, Lessor shall recognize such Leasehold Mortgagee, any purchaser at a foreclosure sale or any other third party who has succeeded to Lessee's interest under this Lease as a result of an Enforcement Action as "Lessee" for all purposes under this Lease. Promptly following an Enforcement Action, the then Lessee shall provide Lessor with such Lessee's notice address and shall make the Security Deposit to the extent required by Section 5.1 of this Lease.

22.12 Conflicts. In the event of a conflict between the provisions of this Section 22 and the provisions of the Lease, this Section 22 shall control.

23. GOVERNING LAW; ATTORNEY'S FEES.

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

24. COMPLIANCE WITH LAWS, RULES AND REGULATIONS.

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act*), or the operation, management, maintenance, or administration of the Premises, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall be responsible for controlling and preventing disruptive pedestrian and vehicle traffic associated with its activities on the Premises. Lessee also shall display to Lessor any permits, licenses, or other evidence of compliance with laws upon request.

25. CORPORATE AUTHORIZATION.

In executing this Agreement, Lessee represents and warrants to Lessor that if Lessee is a corporation, Lessee has obtained and been granted the full right, power and authority to enter into this Lease. In executing this Agreement, Lessor represents and warrants to Lessee that Lessor has obtained and been granted the full right, power and authority to enter into this Lease.

26. UTILITY LINES AND SERVICE CHARGES.

26.1.1 Connections and Services. Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested in advance to do so by Lessee, Lessor will grant reasonable rights-of-way on or across the Airport to suppliers of public utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to designate the lands along which such rights-of-way shall be granted so as to cause the least inconvenience in the operation of the Airport and other Airport tenants.

26.1.2 Payment. Lessee shall pay for all utilities, including trash collection, used in its operations at the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

26.1.3 Continued Use and Repair. Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises and the right to repair the same when necessary in Lessor's reasonable discretion, including but not limited to, any utility easements on the Premises. Lessor agrees to coordinate any entry onto the Premises with Lessee and shall conduct such repairs in such a manner and at such times as to not unreasonably interfere with Lessee's activities or the activities of Lessee's employees, agents, contractors, subtenants or invitees (collectively, "**Lessee's Occupants**") thereon.

27. RESERVATIONS TO LESSOR.

The Premises are accepted "as is, where is" by Lessee, subject to the Permitted Exceptions. Lessor reserves the right to grant reasonable easements, rights-of-way, and permits, over, on, or across any portions of the Premises for commercially reasonable purposes; provided, that Lessor and the grantee, as applicable, shall not exercise such rights so as to unreasonably interfere with or disrupt Lessee's or and Lessee's Occupant's activities on the Premises, including the development of the Premises, to be determined in the reasonable judgment of Lessor and Lessee, and all such interference shall be minimized. The location of any such easements, rights-of-way and/or permits shall be subject to Lessee's prior written consent which shall not be unreasonably withheld, conditioned or delayed. Lessor shall provide Lessee reasonable notice of any plan to

undertake the activities contemplated under this Section and shall coordinate with Lessee regarding the execution of such plans to minimize any interference with Lessee's or any Lessee's Occupant's activities on the Premises. All work shall be in compliance with all applicable laws, including Environmental Laws, and the surface of the Premises shall be restored to its original condition, including any necessary remediation in accordance with Environmental Laws of any contamination associated with any Hazardous Material disturbed during any construction, at no cost to Lessee, upon the completion of any construction. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions obligating such parties to, at a minimum, the same conditions applicable to Lessor under this Section 27, including but not limited to that the surface of the Premises and any Improvements shall be promptly restored to their original condition, at no cost to Lessee, promptly upon the completion of any construction.

28. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS.

28.1 Lessee agrees that in the event Lessee's improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, *Nondiscrimination in Federally Assisted Programs of the Department of Transportation,* as it may be amended.

28.2 Lessee agrees that: (a) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, creed, disability, age, sex or national origin in the use of the Premises; (b) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; and (c) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, as it may be amended.

28.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age or handicap, be excluded from participating in any activity.

28.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom; provided that the foregoing does not give Lessor the right to develop new landing areas on the Premises.

28.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

28.6 This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation or maintenance of the Airport.

28.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

28.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

28.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

28.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

28.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning 49 U.S.C. §§ 40103(e) and 47107(a)(4).

28.12 This Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

29. TITLE VI.

29.1 Lessee agrees to comply with pertinent statues, Executive Orders and such rules as are promulgated or identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee understands and acknowledges that the FAA requires inclusion of and adherence to the terms and conditions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) ("**Title VI**") in all airport/aviation lease agreements where Lessor receives federal funding, including the Lease in this instance.

29.2 During the Term, Lessee, for itself, its assignees, and successors in interest agrees as follows:

29.2.1 Compliance with Regulations. Lessee will comply with the Title VI List of Pertinent Non-Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

29.2.2 Non-discrimination. Lessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

29.2.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each

potential subcontractor or supplier will be notified by Lessee of Lessee's obligations under this Lease and the Non-discrimination Acts And Authorities on the grounds of race, color, or national origin.

29.2.4 Information and Reports. Lessee will provide all information and reports required by the acts, the regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to Lessor or the FAA as appropriate and will set forth what efforts it has made to obtain the information.

29.2.5 Sanctions for Noncompliance. In the event of Lessee's noncompliance with the Nondiscrimination provisions of this Lease, Lessor will impose such default remedies as it or the FAA may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Lessee under the Lease until Lessee complies; and/or

(b) cancelling, terminating, or suspending the Lease, in whole or in part, in accordance with, but subject to, Sections 11 and 22.

29.2.6 Incorporation of Provisions. Lessee will include the provisions Subsections 29.2.1 through 29.2.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the acts, the regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as Lessor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

29.3 The Lessee for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (a) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (b) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) that Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Non-Discrimination Acts and Authorities.

29.4 During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following (which Lessor is required to disclose and include in such Lease and other agreements, pursuant to FAA regulation):

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 Stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

(42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The FAA's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087) (2005); and

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et *seq.*).

29.5 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

30. FEDERAL FAIR LABOR STANDARDS ACT

This Lease incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. Lessee has full responsibility to monitor compliance to the referenced statue or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

31. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This Lease incorporates by reference the provisions of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

32. INCORPORATION OF QUITCLAIM DEED

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government dated April 14, 1998 and recorded in the official records of Maricopa County, Arizona on April 30, 1998 as Entry No. 98-0354787 (the "**Deed**"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

32.1 That this Lease is subject to all terms and conditions of the Deed; and

32.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

33. REQUIRED PROVISIONS OF QUITCLAIM DEED.

33.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

33.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

33.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

33.2 If the Premises are within any of the archaeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

33.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

34. INTENTIONALLY DELETED.

35. DEFAULT BY LESSOR.

In the event of any alleged breach by Lessor of its covenants or obligations contained in this Lease, Lessee shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Lease; provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Base Rent, or any other payments to be made by Lessee hereunder except as expressly permitted in Sections 7.7, 7.8, and 14.18 of this Lease.

36. BROKERS.

Lessor and Lessee each represents and warrants to the other Party that it has not had any dealings with any real estate brokers, finders or agents in connection with this Lease. Lessor and Lessee each agrees to indemnify, defend (with counsel selected by the other) and hold the other Party and other Party's nominees, successors and assigns harmless from any and all claims, costs, commissions, fees or damages arising from a breach of such Party's representation and warranty in this Section.

37. SALE BY LESSOR.

Lessee agrees to look solely to Lessor's interest in the Premises and any insurance proceeds, including rents, profits, proceeds and awards for the recovery of any judgment against Lessor, it being agreed that neither Lessor nor the holders of the equity interests of Lessor, nor the members, partners, officers, directors or shareholders of Lessor shall be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

38. ESTOPPEL CERTIFICATE.

Each of Lessor and Lessee shall, without charge, at any time and from time to time hereafter, within ten (10) business days after written request from the other Party to do so, certify, by written instrument duly executed and acknowledged by such Party and certified to the other Party and to any prospective lender or purchaser/assignee: (i) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (ii) as to the existence of any default hereunder to the best of such Party's knowledge; (iii) as to the date on which Lessee was obligated to commence paying any charges hereunder and the expiration date of the Term; (iv) as to whether this Lessee has assigned or transferred its interests or any portion thereof in this Lease; and (v) as to any other matters relating to this Lease and the Premises as may be reasonably requested. The requesting Party and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

39. UNAVOIDABLE DELAY.

In the event either Party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Lease to be performed by such Party ("**Required Act**"), and such delay or hindrance is due to Unavoidable Delay (as defined below), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of Unavoidable Delay. For purposes of this Lease, "**Unavoidable Delay**" shall mean, with respect to either Party, an unavoidable delay in the performance by such Party of any non-monetary conditions or obligations under this Lease due including but not limited to: (a) construction delay to the extent caused by the other Party, (b) legal proceeding brought by a non-Party with respect to the Improvements or any provision or requirement of this Lease which by its nature prohibits the Improvements from being commenced, continued and/or completed, (c) a Party not receiving a governmental permit, license, entitlement approval or inspection in time to meet a contractual time period imposed hereunder provided that Party, in good faith, was diligent in the application or request for and prosecution of the process to obtain that permit, license, approval or inspection, (d) flood, (e) epidemic, (f) quarantine restriction, (g) unusually severe weather not reasonably anticipated, (h) strike, (i) walkout, (j) lock-out, (k) war, (l) national emergency, (m) fire, (n) act of God, (o) act of terrorism, (p) natural disaster, (q) explosion, (r) default by the other Party hereunder in the performance of its obligations hereunder, (s) delay caused by the discovery, presences or actions necessary to investigate or remediate Hazardous Material under SECTION 14 (but excluding Hazardous Material attributable to the Party claiming Unavoidable Delay), or (t) unavailability or shortage of materials or labor that could not be reasonably anticipated, or (u) other causes beyond such Party's control; provided that no Unavoidable Delay shall exist unless the Party claiming such Unavoidable Delay shall give written notice to the other Party of the occurrence of the Unavoidable Delay not later than FORTY-FIVE (45) days after the commencement of such Unavoidable Delay.

40. ADDITIONAL PAYMENTS.

40.1 Within forty-five (45) days of the end of each calendar quarter occurring during the Term, Lessee shall pay Lessor an amount equal to ten percent (10%) of Operating Cash Flow (defined below) received by Lessee from the Premises. Operating Cash Flow shall be determined on a cash basis in accordance with accounting standards currently used by The Boyer Company, L.C. and applied on a consistent basis. Because the use of cash basis accounting may cause distortions, certain adjustments may be made including but not limited to the following: (x) Lessee may establish and increase such reserves as it reasonably deems to be required for the proper management, maintenance and operation of the Premises, and (y) Lessee shall make such adjustments as may be reasonably required fairly to present Operating Cash Flow including, but not limited to, matching rents and expenditures and amortizing capital or extraordinary expenditures over more than one year. To the extent reimbursed by a sublessee, the cost of refurbishing or replacing tenant improvements and performing similar work after initial construction of the building shall be treated as an Expenditure in the year(s) in which the sublessee reimburses Lessee for such tenant improvements. If no such itemized reimbursement is made by a sublessee or to the extent the reimbursement is less than the cost incurred, the net cost of refurbishing or replacing tenant improvements and performing similar work shall be treated as an Expenditure by amortizing the cost thereof on a straight-line method over the term of the sublease. For purposes of this Article 40, (i) "**Operating Cash Flow**" means all Rent less all Expenditures; (ii) "**Rent**" means all base annual rents, percentage rents and other rents, revenues and charges actually received by Lessee from sublessees of the Premises, but excluding receipts from loans (including member loans and Refinancing Proceeds (defined below)), Sales Proceeds (defined below), contributions to capital, insurance proceeds, recoveries in connection with eminent domain proceedings or recoveries in connection with other actions (but including as part of Rent recoveries of any unpaid Rent); and (iii) "**Expenditures**" means all costs, expenses and fees incurred by Lessee in connection with the construction, ownership, financing, improvement, operation, leasing, management, maintenance and repair of the Premises and/or horizontal improvements for the Property (which cost, expenses and fees shall be reasonably allocated to the Premises by Lessee (as so allocated, the "**Applicable Horizontal Expenditures**")) or required by any Leasehold Mortgage including, without limitation, a management fee of 4% of all Rents, income taxes and repayment of advances made by the owners of Lessee or another lender to pay Expenditures in prior periods and all payments of debt service, preferred returns and

equity contributions or repayments of member loans made to Lessee. Any payment or demand for return of an overpayment made to Lessor pursuant to this Section 40.1. shall be accompanied by a written statement setting forth in reasonable detail the manner in which Operating Cash Flow was calculated. Each such statement shall be conclusive and binding upon Lessor unless within one (1) year after receipt of such statement Lessor notifies Lessee in writing that Lessor disputes the correctness of such statement, specifying the particular respects in which the statement is claimed to be incorrect. Lessee shall grant to Lessor and to attorneys or independent certified public accountants retained by Lessor, but not on a contingency basis, at Lessor's sole cost and expense, access to Lessee's books and records upon reasonable notice during normal business hours for the purpose of verifying the amounts calculated and paid pursuant to this Section 40.1, and whether such payments were reasonable and proper. If, after audit, the Operating Cash Flow in question is determined to have been understated, Lessee shall pay any deficiency to Lessor, and, if the Operating Cash Flow in question is determined to have been overstated, Lessor shall pay any overpayment to Lessee. To assure that Lessor receives the appropriate payment of Operating Cash Flow as set forth in this Section, Lessee shall not distribute any Operating Cash Flow unless and until the Lessor receives payment in an amount proportional to the amount of any Operating Cash Flow received by Lessee, provided, the foregoing shall not prevent Lessee or its affiliates from making payments of any Expenditures.

40.2 In addition, upon a refinance of the initial construction loan or a sale of the leasehold interest in the Premises, Lessee shall pay to Lessor an amount equal to ten percent (10%) of the Refinancing Proceeds (defined below) or Sales Proceeds (defined below), as applicable. For purposes hereof, (i) "**Refinancing Proceeds**" means the actual amount of cash proceeds derived from the refinancing of a construction mortgage with respect to the Premises, less the following to the extent paid or reimbursed from such cash proceeds (A) the cost and expense of the refinancing including, without limitation, commissions and attorneys' fees and costs; (B) all principal, interest, preferred returns or other payments to lenders on the mortgage or other indebtedness of Lessee related to the Premises including, without limitation, loans or advances made by affiliates of Lessee, including member loans to Lessee, (C) all other Expenditures made from such cash proceeds; (D) the cost of any improvements to the Premises and the Applicable Horizontal Expenditures; and (E) such deposits to cash reserves as Lessee determines are required to pay anticipated Expenditures or liabilities and otherwise satisfy obligations related to the Premises or any mortgage including, without limitation, contingent liabilities; and (ii) "**Sale Proceeds**" means the actual amount of cash proceeds derived from the sale or other disposition of all or any part of the leasehold interest in the Premises, less the following to the extent paid or reimbursed from such cash proceeds: (A) the cost and expense incurred in connection with the sale or other disposition of the leasehold interest in the Premises, including, without limitation, commissions and attorneys' fees and costs; (B) all principal, interest, preferred interests or other payments to lenders on indebtedness related to the Premises including, without limitation, loans or advances made by affiliates of Lessee, including member loans to Lessee; (C) all other Expenditures made from such cash proceeds; (D) the cost of any improvements to the Premises and the Applicable Horizontal Expenditures; and (E) such deposits to cash reserves as Lessee determines are required to pay anticipated Expenditures or liabilities and otherwise satisfy obligations related to the Premises or any mortgage including, without limitation, contingent liabilities. To assure that Lessor receives the appropriate payment of Refinancing Proceeds and Sales Proceeds as set forth in this Section, Lessee shall not distribute any Refinancing Proceeds or Sales Proceeds unless and until the Lessor receives payment in an amount proportional to the amount of any Refinancing Proceeds or Sales Proceeds received by Lessee, provided, the foregoing shall not prevent Lessee or its affiliates from making payments of any Expenditures.

40.3 The obligations under this Section 40 are personal to the Lessee named herein (or any affiliate to which Lessee transfers this Lease). Without limiting the generality of the foregoing, upon the sale of the leasehold interest in the Premises at or above fair market value as reasonably determined by Lessee to a party that is not an affiliate of Lessee and the payment by Lessee to Lessor of ten percent (10%) of the Sales Proceeds, or the sale at or a foreclosure or delivery of a deed in lieu of foreclosure or other Enforcement Action, the provisions of Sections 40.1 and 40.2 automatically shall terminate and be of no further force and effect.

41. MISCELLANEOUS.

41.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

41.2 No Waiver. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

41.3 Non-Waiver of Rights. No waiver or default by Lessor of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Lessee, and Lessor shall not be restricted from later enforcing any of the terms and conditions of this Lease.

41.4 Amendment. This Lease contains all agreements of the Parties as of the date hereof with respect to any matter mentioned herein. No prior agreement, correspondence, or understanding pertaining to any such matter shall be effective to interpret or modify the terms hereof. Oral commitments or promises are not enforceable and shall not be binding or made part of this Lease. Any revisions or modifications to this Lease must be in writing and mutually accepted by persons with full and complete authority to bind the Party.

41.5 Litigation Expenses. In the event of litigation between Lessor and Lessee in connection with this Lease, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

41.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

41.7 Entire Agreement. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

41.8 Memorandum of Lease. Upon request of a Party, the Parties will execute a memorandum of lease in the form attached hereto as **EXHIBIT E**, and the requesting Party may record the memorandum against the Premises in the Official Records of Maricopa County, Arizona.

41.9 Quiet Enjoyment. So long as this Lease is in full force and effect and Lessee performs all of Lessee's obligations hereunder, Lessee shall peacefully and quietly have, hold and enjoy the Premises for the Term without interference from Lessor, or anyone claiming by, through or under Lessor, subject to all of the provisions of this Lease,

42. INCORPORATION OF RECITALS.

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

43. DECLARATION.

43.1 Subordination. The Premises shall be subject and subordinate to that certain Declaration of Covenants, Conditions and Restrictions and Easements for Gateway East in the form attached hereto as **EXHIBIT G**, to be recorded in the Official Records of Maricopa County, Arizona ("**Declaration**"). Lessee

hereby agrees to fulfill and comply with its duties and obligations as a "Lessee" under the Declaration with respect to the Premises.

43.2 Assessments and other Obligations. Lessee shall pay its "Common Expense Share" of "Common Expenses" as defined in and set forth in the Declaration. Such payment obligation shall constitute "additional rent" under this Lease. Lessee shall fulfil any other obligations it may have as a "Lessee" in accordance with the Declaration with respect to the Premises.

IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

EXECUTED to be effective on the date specified above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By:_____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

ACKNOWLEDGED before me this ___ day of _____, 2023, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

LESSEE:

BOYER GATEWAY EAST MESA BUILDING 1, L.C., a Utah limited liability company, by its Manager

By: The Boyer Company, L.C., a Utah limited liability company

By:_____
_____, Manager

STATE OF UTAH)
) ss.
County of SALT LAKE)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ___ day of _____, 2023, by _____, in his capacity as a manager of The Boyer Company, L.C., a Utah limited liability company, Manager of Boyer Gateway East Mesa Building 1, L.C., a Utah limited liability company, for and on behalf of said entity.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF THE PREMISES

A PARCEL OF LAND SITUATED IN A PART OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 28, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 28, BEARS SOUTH 01 DEGREES 06 MINUTES 31 SECONDS EAST, A DISTANCE OF 2628.85 FEET;

THENCE NORTH 89 DEGREES 35 MINUTES 36 SECONDS WEST, A DISTANCE OF 297.00 FEET TO THE START OF A CURVE;

THENCE UPON AND WITH SAID CURVE, HAVING A RADIUS OF 2000.00 FEET, THROUGH A CENTRAL ANGLE OF 16 DEGREES 23 MINUTES 33 SECONDS, A LENGTH OF 572.20 FEET, TO A POINT ON A NON-TANGENT CURVE, WITH A RADIAL BEARING OF SOUTH 73 DEGREES 59 MINUTES 44 SECONDS WEST;

THENCE UPON AND WITH SAID CURVE, HAVING A RADIUS OF 800.00 FEET, THROUGH A CENTRAL ANGLE OF 14 DEGREES 25 MINUTES 30 SECONDS, A LENGTH OF 201.41 FEET,

THENCE SOUTH 01 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 286.76 FEET,

THENCE SOUTH 88 DEGREES, 25 MINUTES 14 SECONDS WEST, A DISTANCE OF 52.00 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 46 DEGREES 20 MINUTES 49 SECONDS EAST, A DISTANCE OF 21.30 FEET,

THENCE SOUTH 01 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 1395.53 FEET,

THENCE SOUTH 88 DEGREES 25 MINUTES 14 SECONDS WEST, A DISTANCE OF 523.00 FEET,

THENCE NORTH 01 DEGREES 34 MINUTES 39 SECONDS WEST, A DISTANCE OF 1414.78 FEET,

THENCE NORTH 88 DEGREES 53 MINUTES 08 SECONDS EAST, A DISTANCE OF 507.97 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 738,670 SQUARE FEET OR 16.958 ACRES OF LAND, MORE OR LESS.

Registered Land Surveyor
CERTIFICATE NO.
47537
JASON P.
GRAHAM
Date Signed 09/08/23
Arizona U.S.A.

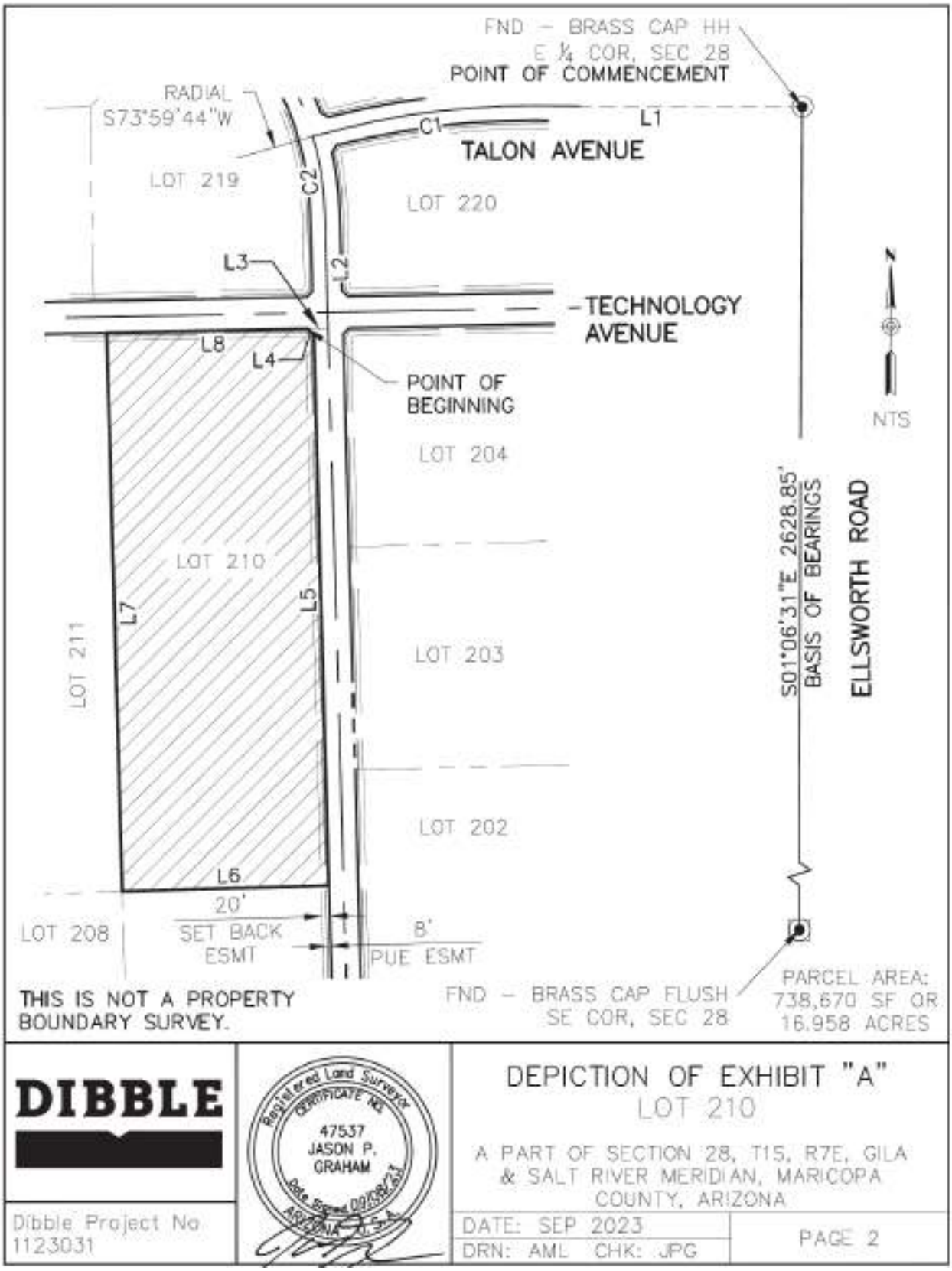

FND – BRASS CAP HH
E ¼ COR, SEC 28
POINT OF COMMENCEMENT
RADIAL
S73°59'44"W
C1
L1
TALON AVENUE
LOT 219
C2
LOT 220
L3
L2
TECHNOLOGY AVENUE
L8
L4
POINT OF BEGINNING
NTS
LOT 204
S01°06'31"E 2628.85'
BASIS OF BEARINGS
ELLSWORTH ROAD
LOT 210
L7
L5
LOT 211
LOT 203
LOT 202
L6
20'
SET BACK ESMT
8'
PUE ESMT
LOT 208
THIS IS NOT A PROPERTY BOUNDARY SURVEY.
FND – BRASS CAP FLUSH
SE COR, SEC 28
PARCEL AREA:
738,670 SF OR
16.958 ACRES
DIBBLE
Registered Land Surveyor
CERTIFICATE NO.
47537
JASON P.
GRAHAM
Date Signed 09/08/23
ARIZONA U.S.A.
DEPICTION OF EXHIBIT "A"
LOT 210
A PART OF SECTION 28, T1S, R7E, GILA
& SALT RIVER MERIDIAN, MARICOPA
COUNTY, ARIZONA
Dibble Project No
1123031
DATE: SEP 2023
DRN: AML CHK: JPG
PAGE 2

EXHIBIT B

AIRPORT RATES & CHARGES SCHEDULE

(*Link*)

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rates_charges.pdf

AIRPORT FEES, SERVICES AND RENTAL RATES SCHEDULE

(*Link*)

https://www.gatewayairport.com/documents/documentlibrary/execdirsect/executive_approved_airport_fees_services_rental_rates.pdf

EXHIBIT C

PERMITTED EXCEPTIONS

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the year 2023.

2. Reservations contained in the Patent:

   From: The United States of America
   Recording Date: October 13, 1914
   Recording No: Book 110 of Deeds, page 400

3. Water rights, claims or title to water, whether or not disclosed by the public records.

4. Matters contained in that certain document:

   Entitled: County Roads
   Recording Date: July 22, 1916
   Recording No: Book 1 of Road Maps, page 49
   Street/Road: Ellsworth Road (covers more)
   Affects: East line (covers more)

5. Matters contained in that certain document:

   Entitled: Map Showing Abstract of All Roads
   Recording Date: July 30, 1921
   Recording No: Book 2 of Road Maps, page 13, 14 and 15
   Street/Road: Ellsworth Road (covers more)
   Affects: East line (covers more)

6. Intentionally Omitted.

7. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

   Purpose: flood control
   Recording Date: December 28, 1961
   Recording No: Docket 3973, page 463

8. Matters contained in that certain document:

   Entitled: Road Declaration (Road File No. 1693)
   Recording Date: April 16, 1965
   Recording No: Docket 5513, page 48

9. Matters contained in that certain document:

   Entitled: Designated County Road A Plat
   Recording Date: April 28, 1965
   Recording No: Book 15 of Road Maps, page 100

10. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

    Purpose: roadway

Recording Date: December 4, 1968
Recording No: Docket 7376, page 829

11. Matters contained in that certain document:

    Entitled: Record of Survey
    Recording No.: Book 403 of Maps, page 46
    Recording No.: Book 409 of Maps, page 13
    Recording No.: Book 514 of Maps, page 11

12. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document:

    Recording No: 98-0354787
    Re-recording No: 98-0364178

13. Matters contained in that certain document:

    Entitled: Road Declared
    Recording Date: March 23, 1999
    Recording No: 99-0271300

14. Matters contained in that certain document:

    Entitled: Road Map
    Recording No: 99-0769974

15. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

    Purpose: overhead and underground power
    Recording Date: May 25, 1999
    Recording No: 99-0496395

16. Matters contained in that certain document:

    Entitled: Resolution for flood control
    Recording No: 99-0746645

17. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

    Purpose: overhead and underground power
    Recording Date: April 12, 2000
    Recording No: 2000-0276837

18. Matters contained in that certain document:

    Entitled: Electric Facilities Location Williams Gateway Airport
    Recording Date: October 13, 1999
    Recording No.: Book 514 of Maps, page 11

19. Matters contained in that certain document:

    Entitled: Notice Map of Williams Gateway Airport Traffic Pattern Airspace
    Recording Date: August 18, 2000
    Recording No: 2000-0633846

20. Matters contained in that certain document:

    Entitled: Avigation Notice
    Recording Date: April 27, 2017
    Recording No.: 20170301390

21. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

    Purpose: gas pipeline
    Recording Date: November 21, 2002
    Recording No: 20021234827

22. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

    Purpose: highway
    Recording Date: December 30, 2008
    Recording No: 20081094192

23. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

    Purpose: drainage and channelization
    Recording Date: December 30, 2008
    Recording No: 20081094767

24. Matters contained in that certain document:

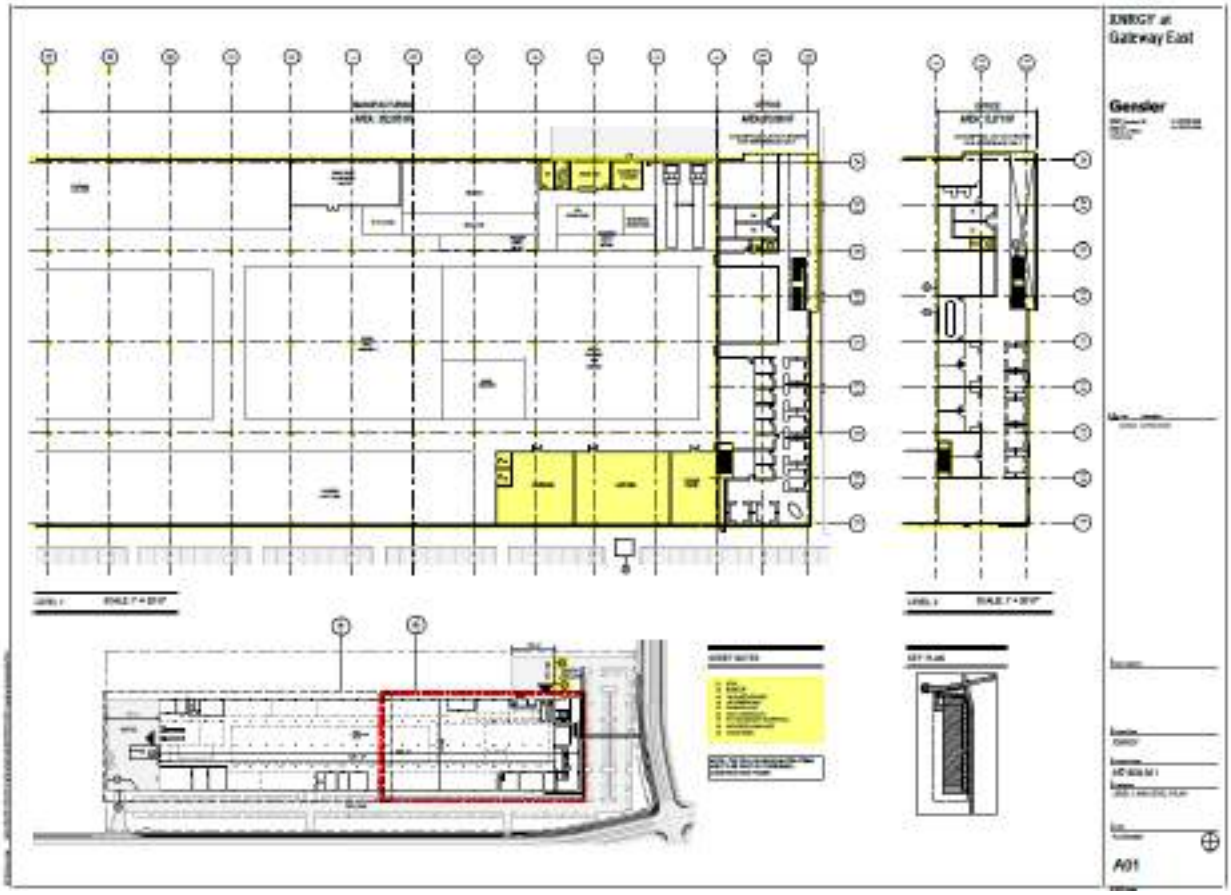
    Entitled: Intergovernmental Agreement Between City of Mesa and Phoenix-Mesa Gateway Airport Authority For the Northeast Area Development and Ground Transportation Plan
    Recording Date: February 24, 2010
    Recording No: 20100151252

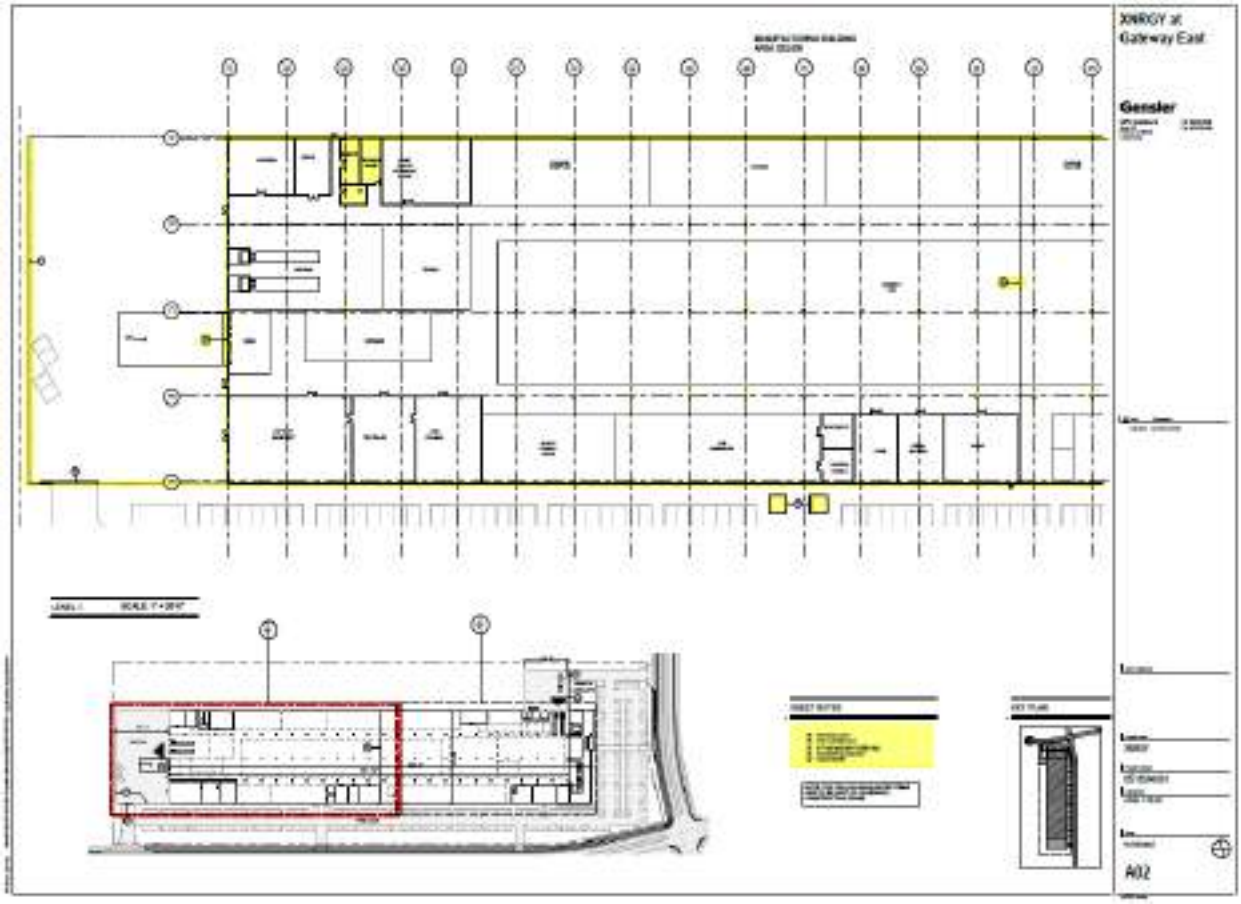
25. Matters which may be disclosed by an inspection and/or by a correct ALTA/NSPS Land Title Survey of said Land.

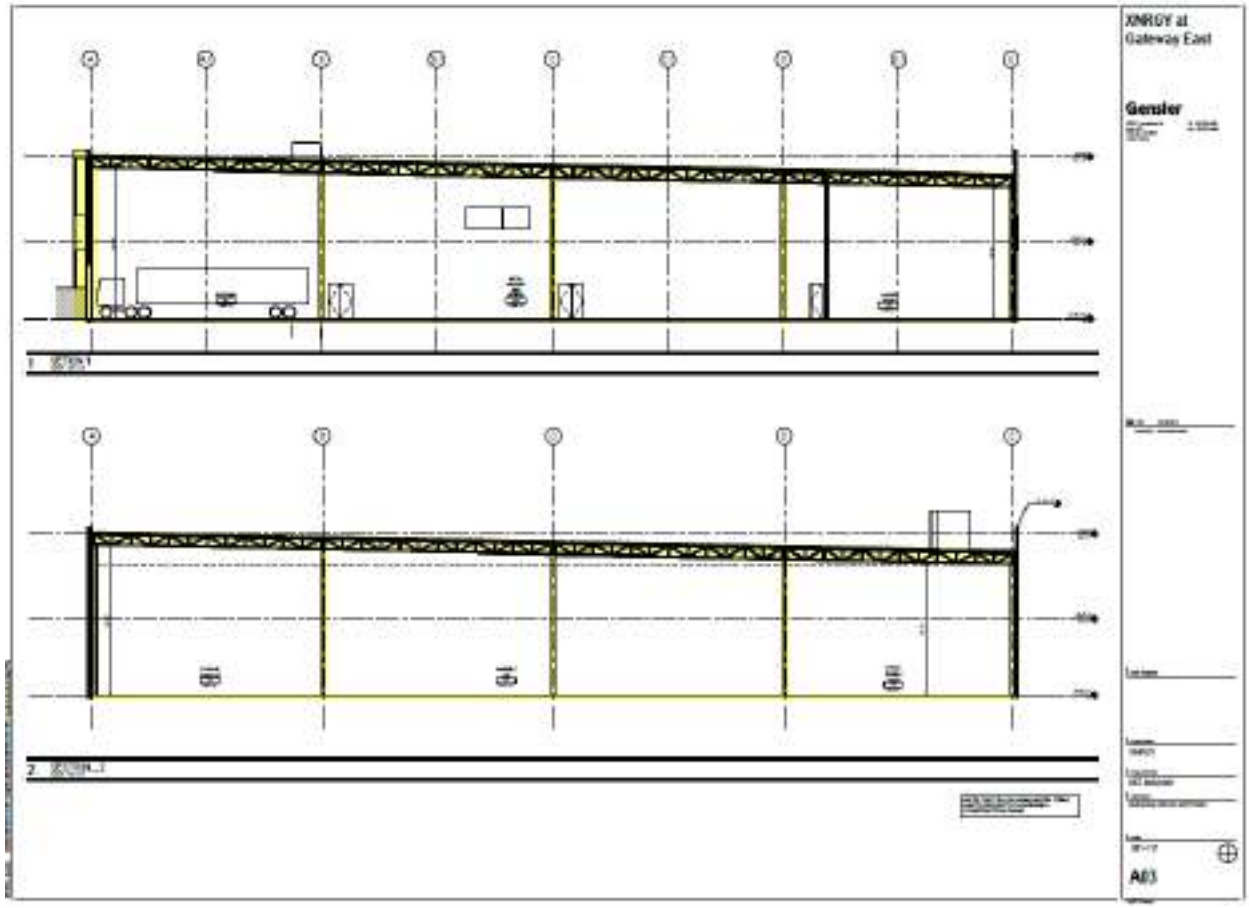
26. The Declaration (as defined in the Lease)

EXHIBIT D

DEPICTION OF PROPOSED IMPROVEMENTS




XNRGY at
Gateway East
Gensler
A02


XNRGY at
Gateway East
Gensler
A03

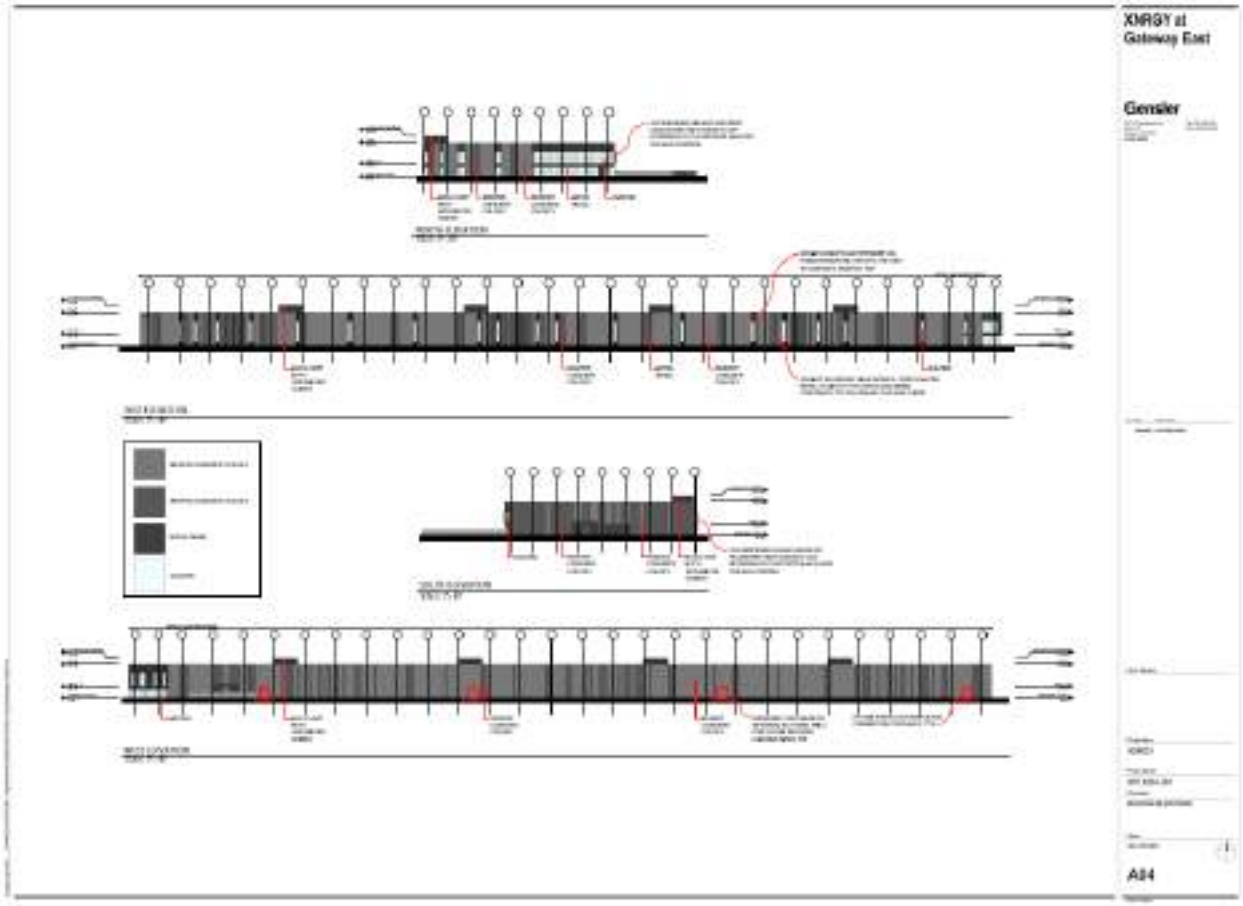

XNRGY at
Gateway East
Gensler
A84

EXHIBIT E

MEMORANDUM OF LEASE

WHEN RECORDED,
RETURN TO:

<Name>
<Company>
<Address>
<City>, <State> <Zip>

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE ("**Memorandum**"), is made and executed as of the ____ day of _____, 20_____ ("**Effective Date**"), by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), whose mailing address is Phoenix-Mesa Gateway Airport Authority, Attn: Business Development Department, 5835 South Sossaman Road, Mesa, Arizona 85212, and _____ ("**Lessee**"), whose mailing address is _____.

1. Lease and Premises. Lessor and Lessee entered into that certain Development Lease dated _____, 20_____ ("**Lease**"), covering that certain real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "**Premises**"). Subject to the covenants and conditions contained in the Lease, Lessor has leased to Lessee, and Lessee has leased from Lessor, the Premises.

2. Term. The term of the Lease commenced on _____, 20__, and expires on _____, unless earlier terminated pursuant to the terms of the Lease.

3. Use. Lessee may use and occupy the Premises for general office, light manufacturing, warehousing, and distribution uses.

4. No Modification. This Memorandum shall not, under any circumstances, be deemed to modify or change any provisions of the Lease, the provisions of which shall in all instances prevail.

5. Counterparts. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document, provided that all parties are furnished a copy thereof reflecting the signature of all parties.

(*Signatures appear on the following page.*)

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum as of the Effective Date set forth above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By:_____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

ACKNOWLEDGED before me this ___ day of _____, 20__, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
Notary Public

My Commission Expires:

_____

LESSEE:

_____

By:_____
<Signatory Name>, <Title>

STATE OF _____)
) ss.
County of _____)

ACKNOWLEDGED before me this ___ day of _____, 20__, by <Signatory Name>, in <his/her> capacity as <Title>, <Company Name>, a/an <State> <type of company>, for and on behalf of said <type of company>.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN A PART OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 28, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 28, BEARS SOUTH 01 DEGREES 06 MINUTES 31 SECONDS EAST, A DISTANCE OF 2628.85 FEET;

THENCE NORTH 89 DEGREES 35 MINUTES 36 SECONDS WEST, A DISTANCE OF 297.00 FEET TO THE START OF A CURVE;

THENCE UPON AND WITH SAID CURVE, HAVING A RADIUS OF 2000.00 FEET, THROUGH A CENTRAL ANGLE OF 16 DEGREES 23 MINUTES 33 SECONDS, A LENGTH OF 572.20 FEET, TO A POINT ON A NON-TANGENT CURVE, WITH A RADIAL BEARING OF SOUTH 73 DEGREES 59 MINUTES 44 SECONDS WEST;

THENCE UPON AND WITH SAID CURVE, HAVING A RADIUS OF 800.00 FEET, THROUGH A CENTRAL ANGLE OF 14 DEGREES 25 MINUTES 30 SECONDS, A LENGTH OF 201.41 FEET,

THENCE SOUTH 01 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 286.76 FEET,

THENCE SOUTH 88 DEGREES, 25 MINUTES 14 SECONDS WEST, A DISTANCE OF 52.00 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 46 DEGREES 20 MINUTES 49 SECONDS EAST, A DISTANCE OF 21.30 FEET,

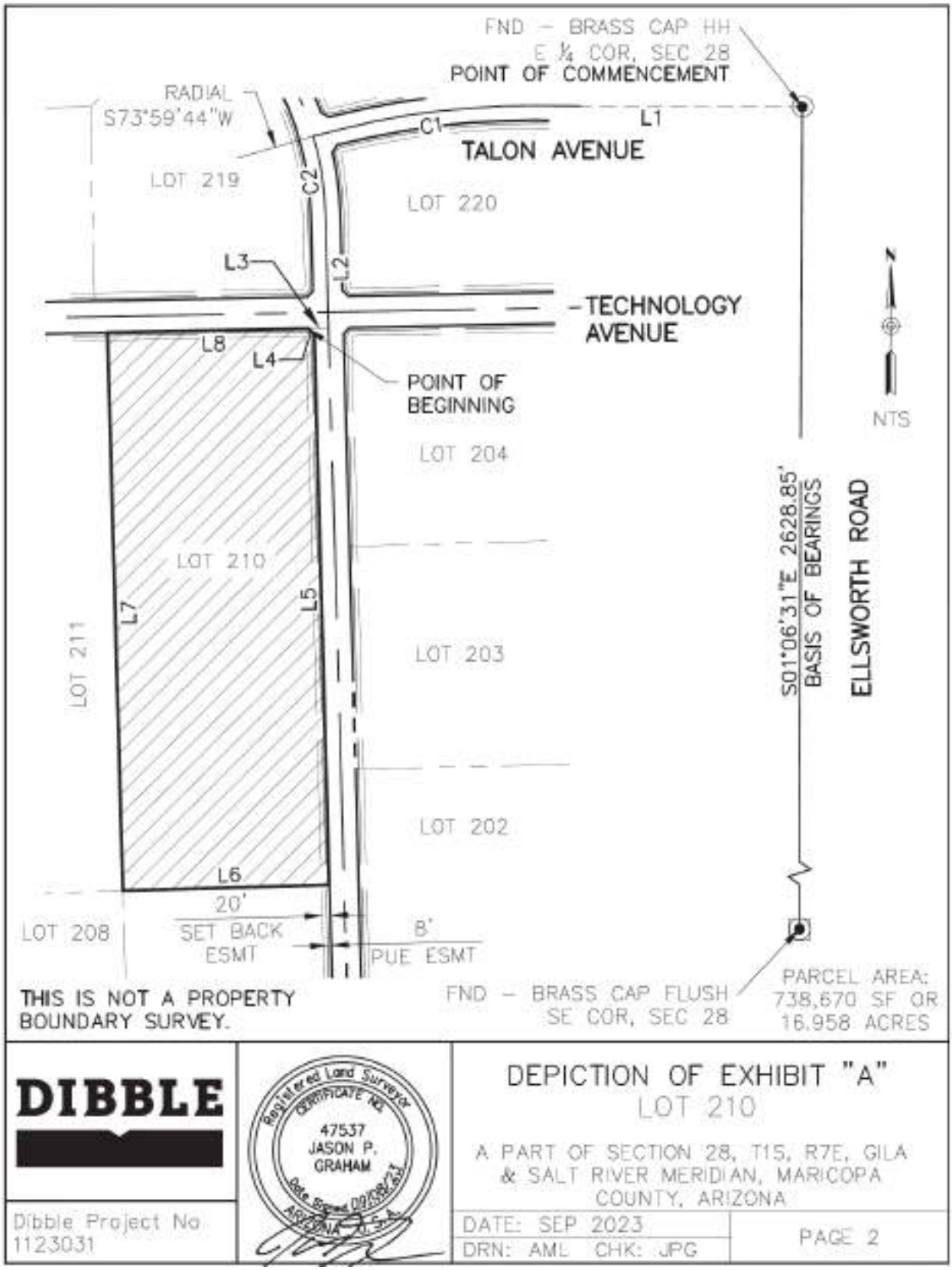
THENCE SOUTH 01 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 1395.53 FEET,

THENCE SOUTH 88 DEGREES 25 MINUTES 14 SECONDS WEST, A DISTANCE OF 523.00 FEET,

THENCE NORTH 01 DEGREES 34 MINUTES 39 SECONDS WEST, A DISTANCE OF 1414.78 FEET,

THENCE NORTH 88 DEGREES 53 MINUTES 08 SECONDS EAST, A DISTANCE OF 507.97 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 738,670 SQUARE FEET OR 16.958 ACRES OF LAND, MORE OR LESS.

Registered Land Surveyor
CERTIFICATE NO.
47537
JASON P.
GRAHAM
Date Signed 09/08/23
ARIZONA U.S.A.



DIBBLE

Dibble Project No
1123031

Registered Land Surveyor
CERTIFICATE NO.
47537
JASON P.
GRAHAM
Date Signed 09/08/23
ARIZONA U.S.A.

DEPICTION OF EXHIBIT "A"
LOT 210

A PART OF SECTION 28, T1S, R7E, GILA & SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DATE: SEP 2023
DRN: AML CHK: JPG

PAGE 2

EXHIBIT F

PROHIBITED USES

1. Outdoor activities or entertainment accessory to a wedding or reception center

2. Any residential development including but not limited to a dwelling unit in conjunction with a primary use intended for occupancy by the proprietor, caretaker or night-watchman of the primary use; a Multiple residence development including apartments, condominiums, and townhouses; and single-family residential development, mobile home parks, and recreational vehicle parks

3. Elementary and secondary schools

4. Crematories

5. Construction yards other than construction yards that are part of a building and screened from public view by walls or other structures

6. Wedding and reception centers

7. Fraternal organizations, service and social clubs, lodges, fraternities and sororities.

8. Nursing and convalescent homes, philanthropic and charitable institutions, residential and out- patient care and rehabilitation centers, hospices

9. Hospitals

10. Mortuaries

11. Self-Storage

12. Outdoor display areas for the sale and rental of items characteristically not enclosed in a building, limited to the following:

    a. Plant nurseries

    b. Building materials such as lumber and masonry supplies

13. Amusement enterprises, such as miniature golf courses, water slides, driving ranges. Batting cages, and similar outdoor uses, but indoor facilities for such uses shall be permitted

14. Commercial automobile, recreational vehicle, and similar vehicular parking and storage lots and garages, as a primary use

15. Plasma centers, charity dining services, homeless shelters, day labor hiring centers, substance abuse detoxification and treatment centers, rescue missions, and similar social service uses

16. Pawn shops and tattoo parlors

17. Assisted living facilities

18. Car washes in Development Phase I (as defined in the MDA)

19. Automobile service stations with or without accessory auto repair facilities in Development Phase I

20. Swap meets, farmer's markets, and similar outdoor sales operations

21. Auto towing and impound yards

22. Animal hospitals, clinics, and boarding kennels

23. Churches

24. Marijuana Dispensaries

25. Any sexually oriented business facility or a facility for the sale or display of pornographic or sexually explicit material, such as adult theaters or adult bookstores, as determined by community standards for the area in which the Property is located

EXHIBIT G

DECLARATION

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

for

GATEWAY EAST

Dated as of _____, 2023

4875-6717-6816
4876-8865-4972

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DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
[Gateway East]

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (this "Declaration") is made as of the ____ day of _____, 2023, by Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("Declarant"), whose address is 5835 S. Sossaman Road, Mesa, Arizona 85212.

RECITALS

A. Declarant is the fee simple owner of the Land (as defined below).

B. Declarant desires and intends that the Development (as defined below) be operated as a first-class business park supporting a mix of uses to be called Gateway East and to impose upon the Development and all Lots (as defined below) from time to time created within the Development, mutual and beneficial restrictions, covenants, agreements, easements, conditions and charges as hereinafter set forth, under a general plan for the benefit of all of the Development.

IN CONSIDERATION of the mutual benefits to be derived from this Declaration, the Parties agree as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the meaning indicated:

"Annexable Property" shall mean any real property adjacent to the Development not yet annexed or made a portion of the Development in accordance with the provisions hereof.

"Boyer" shall mean Boyer Gateway East, L.C., a Utah limited liability company.

"Buildings" means all buildings located in the Development at any time that are intended for permanent use or occupancy, including the area directly below such buildings, all projections and extensions of, and additions to, such buildings and all areas used exclusively by the Lessee or Occupants of such buildings, including, without limitation, drive-through areas, trash enclosures, playgrounds and platforms, ramps, docks and signage affixed to the outside of such buildings. "Building" means any of the Buildings.

"Common Area" means all property within the Development intended for the common use and enjoyment of all of the Lots, including, but not limited to, (a) the Common Landscape and Signage Areas, (b) the Common Vehicular and Pedestrian Areas, (c) the Common Utility Facilities and the Common Utility Easement Area, (d) any amenities which may now or hereafter be established by Declarant for the common use and enjoyment of all Lots, (e) all land or right-of-way easements within the Development which are dedicated to the public or to the City of Mesa, but which the City of Mesa or other governmental agency requires the Declarant to maintain; and (f) any other areas with respect to which the Declarant has assumed in writing administrative or maintenance responsibilities. Common Area shall not include public right of way (except to the extent covered by (e) or (f) above), or Lots.

"Common Expense Percentage" for any particular Lot is calculated as follows: (a) divide the total gross square footage of the Lot concerned by the total gross square footage of all Lots located in the Development; (b) multiply the resulting quotient by 100 and round to the third (3rd) decimal place; and (c) express the resulting product as a percentage. The Common Expense Percentages of the Lots shall be

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adjusted from time to time by written notice given by the Manager to each Lessee and Declarant as of the date on which one or more Lots are annexed to the Development.

"Common Expense Share" means the product obtained by multiplying the Common Expenses for the relevant period by the Common Expense Percentage for the Lot concerned.

"Common Expenses" means the following:

(a) reasonable costs, expenses, fees, charges and other amounts (including appropriate reasonable reserves) paid or incurred by the Manager in connection with the improvement (excluding the initial improvement and development), operation, management, maintenance, repair and replacement of the Common Area and the performance of the Manager's duties and rights under Paragraphs 6 or 7 or any other provision of this Declaration, including, without limitation, all reasonable costs, expenses, fees and other amounts (including, without limitation, those that are properly capitalized under generally accepted accounting principles) relating to utilities, cleaning, sweeping, rubbish removal, landscaping, resurfacing, re-striping, replacing damaged or worn-out Improvements (including lighting and signage) located on the Common Area, taxes imposed on the Common Area, insurance, signage, licenses and permits, supplies, traffic regulation and control, security services, personnel (other than managerial personnel) necessary to perform any of the foregoing and depreciation allowance on any machinery or equipment owned by the Manager and used exclusively in connection with such matters;

(b) managerial, clerical and overhead costs, expenses, fees and other amounts, all of which shall be deemed to be equal to fifteen percent (15%) of the total of all other Common Expenses; and

(c) Common Expenses due but not paid to the Manager, which are determined by the Manager not to be legally or practicably recoverable after the Manager has exercised its commercially reasonable efforts to collect the same from the Lessee and has determined that all reasonable remedies for collection have been exhausted, together with all interest on, and costs and attorneys' fees incurred in connection with, such unpaid Common Expenses; provided, however, that if such unpaid Common Expenses are later received by the Manager from or on behalf of the Lessee, any amounts previously paid by any other Lessees pursuant to the preceding portion of this sentence shall be refunded pro rata to such other Lessees.

"Common Landscape and Signage Areas" means any Landscaping installed by Declarant or Manager for the general benefit of the Development (and not for the benefit of just one Lot), and any monument or other signage advertising the entire Development (as distinguished from signage advertising particular Building(s) or its Occupant(s) in the Development). The Common Landscape and Signage Areas shall be used for the purposes set forth in Paragraph 5.3 and, subject to reimbursement in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate the Common Landscape and Signage Areas and/or additional or different Common Landscape and Signage Areas from time to time.

"Common Utility Easement Area" means the Common Vehicular and Pedestrian Areas together with all Improvements on such land, and any real property defined as an additional part of the Common Utility Easement Area from time to time. The Common Utility Easement Area shall be used for the purposes set forth in Paragraph 5.2 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate the Common Utility Easement Areas and/or additional or different Common Utility Easement Areas from time to time.

"Common Utility Facilities" means all pipes, lines, wires, conduits and related facilities and improvements for electricity, natural gas, other fuels or power sources, telephone, data, video, telecommunication and similar uses, sewer, storm drainage (including retention ponds) and all types of water that are intended, designed or used for the benefit of the Common Area or more than one Lot. The Common Utility Facilities shall be used for the purposes set forth in Paragraph 5.2 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6.

"Common Vehicular and Pedestrian Areas" means all Common Areas from time to time designed to be used for pedestrian or vehicular movement, including, without limitation, roads, driveways, walkways, sidewalks, trails and paths that are installed by or at the direction of Manager and serving more than one Lot. The Common Vehicular and Pedestrian Areas shall be used for the purposes set forth in Paragraph 5.1 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate Common Vehicular and Pedestrian Areas and/or additional or different Common Vehicular and Pedestrian Areas from time to time.

"Design Guidelines" means the standards, requirements and restrictions set forth in Design Guidelines and the Planned Area Development (PAD) for the Development, each approved by the Mesa City Council on June 19, 2023, as may be amended by Mesa City, Arizona from time to time to the extent approved by Declarant and the Manager.

"Development" means the Land, together with all Improvements located on such Land, and any portions of the Annexable Property annexed pursuant to this Declaration, together with all Improvements located on the Lot or Common Area or such additional real property.

"Improvements" means all Buildings, Common Utility Facilities, Landscaping, parking areas, roads, driveways, walkways, curbs, gutters, medians, flower boxes, sidewalks, trails, paths, exterior lighting (including, without limitation, lights for traffic control or pedestrian safety), fences, walls, signs, utility systems and facilities, trash enclosures, bike racks, and other improvements located on the realty concerned. "Improvement" means any of the Improvements.

"Land" means land located in the City of Mesa, County of Maricopa, Arizona and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference, and any real property defined as an additional part of the Land in any amendment to this Declaration executed and recorded pursuant to Paragraph 11.

"Landscaping" means all outdoor areas in the Development landscaped with lawn, flowers, ground cover, shrubbery, trees, storm water retention areas, ponds, fountains, gardens, berms or similar improvements.

"Lessee" means any person or entity (including, without limitation, Manager if applicable) having a leasehold interest in a Lot, excluding any Mortgagee unless and until such Mortgagee is in actual possession of any Lot by foreclosure or otherwise, and including any person or entity taking the leasehold interest from any such Mortgagee.

"Lots" means development lots within the Land and shown on that certain Master Plan for the Development approved by Declarant, the current version of which is located at _____ [***Website information to be added***] as such Master Plan may be amended from time to time, or as otherwise approved in writing by Declarant and, so long as the Manager is Boyer, the Manager. "Lot" means any of the Lots.

"Manager" means a manager designated by the Declarant in accordance with Paragraph 3. As of the Effective Date, the Manager is Boyer.

"Mortgage" means a mortgage or a deed of trust recorded in the Official Records.

"Mortgagee" means the mortgagee or beneficiary under a Mortgage.

"Occupant" shall mean anyone occupying or using a Lot under or through a Lessee, including, without limitation, any Lessee, licensee, subtenant, user or their employees, agents, contractors, licensees, customers, guests, or invitees.

"Official Records" means the official records of the Maricopa County, Arizona Recorder.

"Qualified Mortgagee" means a Mortgagee of which Manager and Declarant have been given written notice, including such Mortgagee's name and address.

2. Property Bound.

2.1 General Declaration. Declarant hereby declares that the Development is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration, as the same may be amended or modified from time to time. This Declaration shall run with the Development for all purposes and shall be binding upon and inure to the benefit of Declarant, and all Lessees, and their respective successors in interest and assigns. All of the covenants, conditions, and restrictions provided in this Declaration shall also be binding upon all Occupants of the Development, as well as their respective successors-in-interest and assigns.

2.2 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development the Development can or will be carried out, or that the Land is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Lessee entering into a lease in reliance on one or more of such restrictive covenants agrees that it will not challenge the validity or enforceability thereof; but such Lessee assumes all risks of the validity and enforceability thereof and by accepting a lease to a Lot agrees that Declarant shall have no liability with respect thereto.

3. Manager.

3.1 Appointment of Manager. Declarant shall appoint a Manager from time to time and shall have the right to revoke any designation and designate a different Manager at any time. Declarant may appoint itself as Manager. Declarant hereby designates Boyer Gateway East, L.C., a Utah limited liability company, as the initial Manager.

3.2 Professional Management Company. The Manager shall have the right, but not the obligation, to enter into a management agreement with a professional property management company to perform the functions of Manager. As used herein, "professional property management company" shall mean a person or entity (i) that is considered within the community to be primarily involved in the management of real property similar to the Development (ii) whose primary business consists of the

management of real property similar to the Development and (iii) that has had their primary source of income derived from the management of real property similar to the Development for not less than the three (3) years immediately preceding the execution of a property management agreement for the Development. All costs associated with the management agreement and property manager, including without limitation a commercially reasonably property management fee, shall be included in Common Expenses. Any professional property management company employed by the Manager shall be required to maintain with an insurer lawfully authorized to do business in the State of Arizona with a Best Rating of not less than A-VIII commercially reasonable insurance policies covering professional liability and general commercial liability.

4. Improvements.

4.1 Use. No part of the Development may be used or occupied for any use that violates any applicable law, ordinance, rule or regulation or that is inconsistent with this Declaration. Buildings shall be used only for commercial purposes, including, without limitation, retail, hospitality, manufacturing and office uses. All Buildings shall be:

(a) first-class buildings of the type and quality typically found in first-class, high-quality commercial developments;

(b) architecturally and aesthetically compatible with all other then-existing Buildings; and

(c) constructed in compliance with all applicable state, county and municipal subdivision, building, zoning, sign and other laws, ordinances, rules and regulations and the Design Guidelines.

4.2 Improvements. All Improvements in the Development shall be in compliance with the Design Guidelines.

5. Common Area Easements.

5.1 Access Easement. Each Lot shall have appurtenant thereto and be benefited by, and the Common Vehicular and Pedestrian Areas shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for vehicular and pedestrian ingress and egress (without charge) on, over and across those areas designed for such use.

5.2 Utility Easement. Each Lot shall have appurtenant thereto and be benefited by, and the Common Utility Easement Areas shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of underground utility pipes, lines, wires, conduits and related facilities (including, without limitation, any underground Common Utility Facilities and, whether or not the same are part of the Common Utility Facilities, underground pipes, lines, wires, conduits and related facilities for electricity, natural gas, other fuels or power sources, telephone, data, video, telecommunication and similar uses, sewer, storm drainage [including retention ponds] and all types of water) under, through and across the Common Utility Easement Area. Prior to installation, the location of such pipes, lines, wires, conduits and related facilities must be approved by the Manager and Declarant, such approval not to be unreasonably withheld. If the rights provided for in this Paragraph 5.2 are exercised, the Lessee intended to be served by the easement concerned shall pay the cost involved with such exercise and, at such Lessee's sole cost, restore to their previous condition any

Improvements that may be damaged as a result of such exercise. Each utility pipe, line, wire, conduit and related facility located in the Development shall be located underground to the extent reasonably possible.

5.3 Common Areas. The Common Areas shall be subject to and be burdened by a perpetual, nonexclusive easement for maintenance and repair by the Manager pursuant to Paragraph 6.

5.4 No Obstruction. No Lessee or Occupant shall permit to be constructed or placed on any portion of the Common Area any fence, wall, barricade or other obstruction, whether temporary or permanent in nature, which materially limits or impairs vehicular and pedestrian traffic over any part of the Development, or shall otherwise obstruct or interfere with the free flow of such traffic, except as may be reasonably necessary or appropriate during periods that construction activities are ongoing or to the extent that the Manager reasonably deems it necessary to do so temporarily to prevent a public dedication of, or the accrual of any rights of the public in, the Common Area. Any obstruction or interference permitted under this Paragraph 5.4 shall be done in a manner reasonably calculated to minimize its impact on businesses in the Development.

6. Manager's Duties Regarding Common Area.

6.1 Generally. The Manager shall timely perform or cause to be performed (for example, through subcontractors, including affiliates of the Manager) the duties set forth in this Paragraph 6.

6.2 Maintenance of Common Area. After the Common Area is initially improved and developed, the Manager shall keep the Common Area in a clean condition and in good order, condition and repair consistent with a Class A business park in the Phoenix-Metropolitan area (except that as regards the Common Utility Facilities, the Manager shall be obligated to accomplish the foregoing only to the extent that such matters are not the responsibility of or accomplished by the respective utility companies involved). The foregoing shall include, without limitation, inspection, servicing, maintenance, repair and replacement, as necessary and appropriate, of all Landscaping and other Improvements located on the Common Area, including, without limitation, maintaining, repairing and replacing asphalt, and keeping the Common Vehicular and Pedestrian Areas free of snow, ice and rubbish.

6.3 Insurance on Common Area. The Manager may maintain commercial general liability insurance and/or property insurance insuring Manager and any employees or agents of Manager as Manager may designate against all claims for bodily injury, death or property damage occurring on the Common Area, and such other insurance on the Common Areas as reasonably determined by Manager. Declarant shall be named as an additional insured to any liability insurance policy and as an additional loss payee (to the extent of its interest therein) on any property insurance acquired in accordance with this Paragraph 6.3.

6.4 Damage of Common Area. If all or any part of the Common Area is damaged or destroyed through casualty, the Manager shall, as soon as reasonably possible, rebuild and restore the same to substantially the same condition as existed prior to the damage or destruction concerned. Prior to such rebuilding and restoration, each Lessee shall, within thirty (30) days after notice of the amount due, contribute an amount equal to the product obtained by multiplying the Common Expense Percentage of such Lessee by the projected cost of such rebuilding and restoration (net of any insurance proceeds or recoveries from persons or entities causing such damage actually received by the Manager). Appropriate additional payments by, or refunds to, each Lessee shall be made on completion of such rebuilding or restoration. Alternatively, the Manager may collect the actual or projected cost of such rebuilding or restoration following commencement or completion of such rebuilding or restoration.

7. Common Expenses.

7.1 Obligation to Pay Common Expense Share. Each Lessee, by entering into a lease for any Lot, whether or not it shall be so expressed in such lease, agrees and is deemed to covenant and agree to pay to the Manager its Common Expense Share duly imposed pursuant to this Declaration, such Common Expense Share to be established and collected as provided herein.

7.2 Collection. The Manager is expressly authorized to incur all costs, expenses, fees and other amounts included within the definition of "Common Expenses" set forth in Paragraph 1, and each Lessee shall contribute such Lessee's Common Expense Share in the manner described in this Paragraph 7. The Manager shall make reasonable, good faith efforts to collect from each Lessee such Lessee's Common Expense Share and may, at its option, do either of the following: (a) invoice each Lessee for such Lessee's Common Expense Share on a monthly, quarterly or other periodic basis as the actual amount of the Common Expense Share becomes known (in which event the Common Expense Share shall be due and payable within thirty (30) days after the delivery of such invoice); or (b) invoice each Lessee in advance based on the Manager's reasonable estimate of the Common Expense Share for the period concerned, which estimate shall be provided to each Lessee at least annually. If the Manager adopts the second alternative, each Lessee shall pay such Lessee's Common Expense Share in equal installments on the first day of each month, and within ninety (90) days after the end of each calendar year, the Manager shall furnish each Lessee with a reasonably detailed final statement of the actual amount of such Lessee's Common Expense Share for such calendar year. If such final statement reveals that the monthly installments made by a Lessee aggregate less than such Lessee's Common Expense Share for such calendar year, such Lessee shall pay the amount owing to the Manager within thirty (30) days after such final statement is furnished. If such final statement reveals that a Lessee's payments aggregate more than such Lessee's Common Expense Share for such calendar year, the excess amount shall, at the option of the Manager, either be returned to such Lessee or be applied by the Manager to amounts next due from such Lessee under this Paragraph 7. Any amount required to be paid under this Paragraph 7 that is not timely paid shall accrue interest on and after the date due until paid in full, before and after judgment, at the rate of eighteen percent (18%) per annum. In addition, a late charge of five percent (5%) of such payment may be charged by the Manager for any payment not made on the date when due. Such late charge is payable not as a penalty, but in order to compensate the Manager for the additional expense involved in handling the delinquent payment. The acceptance by the Manager of any payment that is less than the entire amount then due shall be on account only and shall not constitute a waiver of the obligation to pay such entire amount. All records and accounts maintained by the Manager that relate to the Common Expenses shall be open to examination and audit by any Lessee on at least ten (10) days' prior written notice to the Manager.

7.3 Default. If any Lessee fails to perform any obligation under this Declaration (other than the payment of money) and such failure continues for a period of thirty (30) days after written notice of such failure is given to such Lessee by the Manager, or if the performance of such obligation would reasonably require more than thirty (30) days, if such Lessee fails to commence such performance within such thirty (30) day period or thereafter diligently prosecute such performance to completion, the Manager may, on written notice to such Lessee, perform such obligation in the stead of such Lessee, or exercise any other right or remedy existing at law or in equity. The Manager shall be reimbursed by such Lessee on demand for all costs and expenses (including attorneys' fees) incurred in connection with such performance, with interest on such costs and expenses, both before and after judgment, at the rate of eighteen percent (18%) per annum. The Manager shall send to Declarant a duplicate copy of any notice given under this Paragraph 7.3.

7.4 Certain Obligations and Rights. The obligations of each Lessee under Paragraph 7.1 and all other provisions of this Declaration are the personal obligations of such Lessee and may be enforced by the Manager or Declarant. No Lessee may avoid or diminish the personal nature of such

obligations by waiver of the use and enjoyment of the Common Area, by abandonment of such Lessee's interest in its Lot or any Improvements on such Lot or by waiver of any of the services or amenities provided for in this Declaration. All remedies set forth in this Paragraph 7 are cumulative and are in addition to any remedies otherwise available at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation of this Declaration and to compel by decree specific performance, it being agreed that the remedy at law for any breach may be inadequate.

8. Mortgagee Protection.

8.1 Obligations of Mortgagee. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting any part of the Development shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, this Declaration.

8.2 Notices; Right to Cure. Manager, on delivering to any Lessee any notice, demand or other communication pursuant to the provisions of this Declaration, shall at the same time deliver by certified mail, return receipt requested, copies of such notice to each Qualified Mortgagee of such Lessee at the latest address provided to the notifying Manager by such Lessee or such Qualified Mortgagee. Although otherwise effective with respect to the Lessee receiving such notice, no notice delivered to any Lessee shall affect any rights or remedies of any Qualified Mortgagee unless a copy of such notice has been delivered to such Qualified Mortgagee in accordance with the immediately preceding sentence. Each Qualified Mortgagee shall have the right to remedy a default, or cause the same to be remedied within the time allowed to the defaulting Lessee plus, in the case of monetary defaults, an additional fifteen (15) days and, in the case of non-monetary defaults, an additional thirty (30) days; provided, however, that if a non-monetary default reasonably requires more than thirty (30) days to cure, each Qualified Mortgagee shall have the right to remedy such default if such Qualified Mortgagee commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion. Notwithstanding the foregoing, in no event shall the time period for a Qualified Mortgagee to remedy a default exceed ninety (90) days from the commencement of the time period during which such Qualified Mortgagee may cure or remedy a default in accordance with this Paragraph 8.2.

8.3 Performance. Each Qualified Mortgagee shall have the right to act for and in the place of the Lessee of the Lot covered by its Mortgage, to the extent permitted by the applicable Mortgage or otherwise agreed to by such Lessee in writing. Manager shall accept performance by or on behalf of any Qualified Mortgagee as if the same had been performed by the other Lessee. Each Qualified Mortgagee shall have the right, to the extent the Lessee of the Lot covered by the Mortgage concerned agrees in writing, to appear in a legal action or proceeding on behalf of such Lessee in connection with such Lot and the obligation under this Declaration.

8.4 Recognition. On request, the Manager agrees to execute, acknowledge and deliver to any Qualified Mortgagee an instrument prepared by the Qualified Mortgagee concerned, acknowledging that such Qualified Mortgagee is a "Qualified Mortgagee" entitled to the benefits of this Paragraph 8.

9. Annexation and De-Annexation.

9.1 Annexation of Annexable Property. Declarant may at any time and from time to time, annex to the Development any Annexable Property (or the applicable portion or portions thereof). To effect such annexation, a Declaration of Annexation covering the Annexable Property (or the applicable portion or portions thereof) to be annexed shall be executed and recorded by Declarant, which instrument may contain additional covenants, conditions, restrictions, or other terms. A Declaration of Annexation may contain such complementary additions to and modifications of this Declaration as may be necessary

to reflect the different character, if any, of the Annexable Property (or the applicable portion or portions thereof) or other property to be annexed. In no event, however, shall any such Declaration of Annexation revoke or conflict with this Declaration except to the extent specifically permitted hereby. Upon annexation, all of the provisions of this Declaration shall apply to or encumber such Annexable Property (or the applicable portion or portions thereof). So long as Manager is Boyer, the annexation of any Annexable Property shall also require the written consent of Manager.

9.2 De-Annexation of Covered Property. Declarant may at any time and from time to time up to the date which is 30 years after the date this Declaration is recorded, de-annex or withdraw from the Development any portion or portions thereof (subject to the written consent of any Lessee of the portion or portions to be de-annexed or withdrawn). So long as the Manager is Boyer, any de-annexation or withdrawal shall also require the written consent of Manager. To effect such de-annexation or withdrawal, Declarant shall execute and record a Declaration of De-Annexation setting forth the legal description of the portion or portions of the Development to be de-annexed or withdrawn, and such Declaration of De-Annexation shall be executed by (a) Declarant, (b) the Lessee, if any, of the land to be withdrawn, and (c) so long as the Manager is Boyer, the Manager. The land to be withdrawn may include any portion of the Development, including Lots and Common Area. Recording such Declaration of De-Annexation shall constitute and effectuate the de-annexation and withdrawal of the applicable portion or portions of the Development described therein, and such property and the Lessees and Occupants thereof shall no longer be subject to, or benefitted by, this Declaration.

10. Covenants to Run with Land. Each provision of this Declaration shall constitute a covenant running with the land. This Declaration shall be binding on each part of the Development, and all interests in any part of the Development shall be subject to this Declaration. The interests in and rights concerning any portion of the Lots held by or vested in Declarant or any other person or entity on or after the date of this Declaration shall be subject to this Declaration.

11. Amendment. This Declaration may be modified only by the recordation, in the Official Records, of an agreement or document of modification executed by Declarant; provided, however so long as Boyer is Manager, any amendment shall require the written consent of Boyer.

12. Attorneys' Fees. If any action is brought because of a default under or to enforce or interpret this Declaration, in addition to the relief to which such party is entitled, the party prevailing in such action shall be entitled to recover from the unsuccessful party reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

13. Release on Transfer. On and after the date a Lessee transfers (other than merely for purposes of security) or is otherwise divested of such Lessee's interest in any Lot, such Lessee shall be relieved of all liabilities and obligations under this Declaration related to such Lot, except for such liabilities or obligations as may have accrued as of the date of such transfer or divestiture.

14. No Merger. The easements, covenants, restrictions and other provisions contained in this Declaration shall remain in full force and effect despite the fact that all or a part of the Development may be owned by the same person or entity from time to time, it being the intention of Declarant to create a common scheme for the development and operation of the Development that will not be terminated by the doctrine of merger or otherwise, unless this Declaration is terminated in accordance with Paragraph 16.

15. Force Majeure. The Manager and any Lessee or other person or entity obligated under this Declaration shall be excused from performing any obligation set forth in this Declaration, except the payment of money, for so long as (but only for so long as) the performance of such obligation is prevented

or delayed by an act of God, weather, avalanche, fire, earthquake, flood, explosion, act of the elements, war, terrorism, invasion, insurrection, riot, malicious mischief, vandalism, larceny, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, order of government or civil defense authorities or any other cause reasonably beyond the control of the Manager, the Lessee or other person or entity prevented or delayed.

16. Effective Dates and Duration. This Declaration and any amendment to this Declaration shall take effect as of the date on which they are recorded in the Official Records. This Declaration shall remain effective until terminated and extinguished by an instrument recorded in the Official Records and executed by Declarant. So long as the Manager is Boyer, any termination shall also require the written consent of Manager.

17. Notices. Any notice or demand required or appropriate hereunder shall be given in writing by personal service, fax (provided that a hard copy of any such notice has been dispatched by one of the other means for giving notice within twenty-four (24) hours after faxing), express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested. All notices sent by mail as aforesaid shall be addressed as follows:

If to Declarant:	Phoenix-Mesa Gateway Airport Authority Attn: Business Development Department 5835 South Sossaman Road Mesa, Arizona 85212
If to any other Lessee or Occupant:	To such address as such Lessee or Occupant shall designate in writing to Declarant and Manager, or to the Lessee's or Occupant's address in the Development, if no other address is designated.
If to Manager (if Boyer is the Manager):	Boyer Gateway East, L.C. c/o The Boyer Company, L.C. 101 South 200 East, Suite 200 Salt Lake City, Utah 84111 Attention: Jake Boyer
If to the Manager (if Boyer is not the Manager):	To the address of the current principal office of the Manager.

Any party may change the address at which it desires to receive notice by written notice of such change to the Manager and Declarant. Any notice or demand given under this Declaration shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change that was not properly communicated shall not defeat or delay the giving of a notice.

18. General Provisions. Titles and headings of Paragraphs of this Declaration are for convenience of reference only and shall not affect the construction of any provision of this Declaration. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the state of Arizona. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of

this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration. Except as otherwise provided in this Declaration, no remedy provided in this Declaration shall be exclusive of any other remedy at law or in equity (whether existing on or created after the date of this Declaration), and all remedies under this Declaration may be exercised concurrently, independently or successively from time to time. The failure on the part of any person or entity to promptly enforce any right under this Declaration shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

[*Signature Page Follows*]

DECLARANT:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
Notary Public

My Commission Expires:

_____

S-1

4876-9865-3973

EXHIBIT A

to

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

LEGAL DESCRIPTION OF THE LAND WITHIN DEVELOPMENT

4876-6865-4973

FIRST ADJUSTMENT AMENDMENT TO MASTER LEASE AGREEMENT

THIS FIRST ADJUSTMENT AMENDMENT TO MASTER LEASE AGREEMENT ("**Amendment**") is made as of the 1st day of October, 2023, by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **BOYER GATEWAY EAST, L.C.**, a Utah limited liability company ("**Lessee**"). Lessor and Lessee may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

RECITALS

A. Lessor and Lessee are parties to that certain Master Lease Agreement dated June 21, 2022 ("**Lease**") covering certain property commonly known as Gateway East at the Phoenix-Mesa Gateway Airport, which property is more particularly described in the Lease, and referred to in the Lease and in this Amendment as "**Property**."

B. Lessor will be the "**Declarant**" under that certain Declaration of Covenants, Conditions, Restrictions and Easements for Gateway East, in the form attached hereto as Exhibit F, to be recorded in the Official Records of Maricopa County, Arizona ("**Declaration**").

C. The Property is subject to the Declaration.

D. The Parties desire to: (i) subordinate and subject the Lease to the Declaration; (ii) modify the Lease to reference certain Lessee obligations under the Declaration, (iii) modify the Lease to remove a Development Lot from the Property in accordance with Section 2.1 of the Lease, and (iv) to further amend the Lease as hereinafter set forth.

NOW, THEREFORE, in exchange for the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. Recitals. The above recitals are hereby confirmed as true and correct and are reaffirmed herein.

2. Declaration. The Lease is amended by inserting the following new Section 42.

42. DECLARATION.

42.1 Subordination. The Property shall be subject to and subordinate to that certain Declaration of Covenants, Conditions, Restrictions and Easements for Gateway East in the form attached hereto as Exhibit F to be recorded in the Official Records of Maricopa County, Arizona ("**Declaration**"). Lessee hereby agrees to fulfill and comply with its duties and obligations as a "Lessee" as defined under the Declaration.

42.2 Assessments and other Obligations. Lessee shall pay its "Common Expense Share" of "Common Expenses" in accordance with the Declaration. Such payment obligation shall constitute "rent" under the Lease. Lessee shall fulfill any other obligations it may have as a "Lessee" in accordance with the Declaration.

42.3 Manager. Lessor agrees to exercise its right, as Declarant under the Declaration to designate Lessee as the "Manager" pursuant to Section 3.1 of the Declaration during the Term of the Lease, provided, however, Lessor shall have the right to revoke Lessee's designation as Manager and to appoint another party as Manager (in Declarant's sole discretion), upon the occurrence of any one or more of the following: (i) expiration or earlier termination of the Lease; (ii) in the event more

than twenty-five percent (25%) of the Development Lots identified in the Master Plan are no longer subject to the Lease and/or Development Leases with Lessee or an Affiliate of Lessee; and (iii) the failure of Lessee to perform its duties and obligations as Manager under the Declaration and to fail to cure such failure within THIRTY (30) calendar days after delivery by Lessor to Lessee of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued. In no event does this Section 42.3 limit or otherwise affect Lessee's obligations under the Lease or Manager's obligations under the Declaration, nor does it limit or affect Lessor's right to cure or remedy any unsafe condition on or related to the Common Area in the case of emergency which necessitates timely remediation.

42.4 Enforcement of Development Leases by Lessor. Lessor shall enforce the terms of a Development Lease relating to the timely payment of the "Common Expense Share" of "Common Expenses" as defined in and set forth in the Declaration in a commercially reasonable manner.

42.5 Common Area Expenses. Notwithstanding anything to the contrary in this Agreement, (a) the obligations of Lessee to maintain or repair the Property under the terms of this Lease shall not affect the obligation of a "Lessee" under the Declaration to pay its "Common Expense Share" of "Common Expenses" as defined in and set forth in the Declaration, and (b) while Lessee is the "Manager" under the Declaration, Lessee shall have the right to assess each "Lessee" under the Declaration its "Common Expense Share" of "Common Expenses" as defined in and set forth in the Declaration.

3. Event of Default.

(a) Section 10 of the Lease is hereby amended by deleting Section 10.1.2 in its entirety and inserting the following in its place:

10.1.2 Failure to perform any of its other obligations under this Lease or failure to perform any of its obligations as a "Lessee" under the Declaration (as defined in Section 42.1 below), provided that Lessee does not cure such failure within THIRTY (30) calendar days after delivery by Lessor to Lessee of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

(b) Section 10 of the Lease is hereby amended by inserting the following new subsection 10.1.7:

10.1.7 Failure to pay its Common Expense Share of any Common Expenses in accordance with the Declaration in accordance with Section 42 below, provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor to Lessee of a written notice of such failure.

4. Termination of Lease upon Lease of Final Development Lot. The Lease is amended by inserting the following new Section 2.4.

2.4 Termination of Lease upon Lease of Final Development Lot. Notwithstanding anything to the contrary in this Lease, this Lease shall terminate

on the date that is one hundred twenty (120) days following the date that an Adjustment Amendment is executed for the final Development Lot within the Property, unless the Development Lease for such Development Lot is terminated in accordance with Section 2.2 above.

5. Property Adjustment. The legal description of the Property set forth in Exhibit B to the Lease is amended by removing therefrom that certain property described on Exhibit B attached hereto.

6. Exhibit F. Exhibit F attached hereto is hereby attached to the Lease as Exhibit F to the Lease.

7. Miscellaneous.

(c) Capitalized Terms/Definitions. Each capitalized term used in this Amendment and not defined herein shall be deemed to have the same meaning ascribed to it in the Lease.

(d) Continuing Effect. Except as specifically provided in this Amendment, the provisions of the Lease shall remain unchanged and in full force and effect. In the event of a conflict between the Lease and this Amendment, this Amendment shall control.

(e) Authority. Each person executing this Amendment on behalf of a Party represents and warrants that it has the full power, authority, and legal right to execute and deliver this Amendment on behalf of such Party and that this Amendment constitutes the legal, valid and binding obligations of such Party, its heirs, representatives, successors and assigns, enforceable against such Party or Parties in accordance with its terms.

(f) Counterparts. To facilitate execution of this Amendment, this Amendment may be executed in one or more counterparts as may be convenient or required, and an executed copy of this Amendment delivered electronically by e-mail shall have the effect of an original, executed instrument. All counterparts of this Amendment shall collectively constitute a single instrument; but, in making proof of this Amendment it shall not be necessary to produce or account for more than one such counterpart executed by each Party hereto. It shall not be necessary for the signature of, or on behalf of, each Party hereto, or that the signature of all persons required to bind any such Party appear on each counterpart of this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By: _____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

LESSEE:

BOYER GATEWAY EAST, L.C., a Utah limited liability company

By: The Boyer Company, L.C., a Utah limited liability company, its Manager

By: _____
Brian Gochnour, Manager

EXHIBIT B

Legal Description of Removed Property

A PARCEL OF LAND SITUATED IN A PART OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 28, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 28, BEARS SOUTH 01 DEGREES 06 MINUTES 31 SECONDS EAST, A DISTANCE OF 2628.85 FEET;

THENCE NORTH 89 DEGREES 35 MINUTES 36 SECONDS WEST, A DISTANCE OF 297.00 FEET TO THE START OF A CURVE;

THENCE UPON AND WITH SAID CURVE, HAVING A RADIUS OF 2000.00 FEET, THROUGH A CENTRAL ANGLE OF 16 DEGREES 23 MINUTES 33 SECONDS, A LENGTH OF 572.20 FEET, TO A POINT ON A NON-TANGENT CURVE, WITH A RADIAL BEARING OF SOUTH 73 DEGREES 59 MINUTES 44 SECONDS WEST;

THENCE UPON AND WITH SAID CURVE, HAVING A RADIUS OF 800.00 FEET, THROUGH A CENTRAL ANGLE OF 14 DEGREES 25 MINUTES 30 SECONDS, A LENGTH OF 201.41 FEET,

THENCE SOUTH 01 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 286.76 FEET,

THENCE SOUTH 88 DEGREES, 25 MINUTES 14 SECONDS WEST, A DISTANCE OF 52.00 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 46 DEGREES 20 MINUTES 49 SECONDS EAST, A DISTANCE OF 21.30 FEET,

THENCE SOUTH 01 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 1395.53 FEET,

THENCE SOUTH 88 DEGREES 25 MINUTES 14 SECONDS WEST, A DISTANCE OF 523.00 FEET,

THENCE NORTH 01 DEGREES 34 MINUTES 39 SECONDS WEST, A DISTANCE OF 1414.78 FEET,

THENCE NORTH 88 DEGREES 53 MINUTES 08 SECONDS EAST, A DISTANCE OF 507.97 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 738,670 SQUARE FEET OR 16.958 ACRES OF LAND, MORE OR LESS.

Registered Land Surveyor
CERTIFICATE NO.
47537
JASON P.
GRAHAM
Date Signed 09/08/23
ARIZONA U.S.A.

EXHIBIT F

Declaration

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

for

GATEWAY EAST

Dated as of _____, 2023

4875-6717-6816
4876-8865-4975

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DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
[Gateway East]

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (this "Declaration") is made as of the ____ day of _____, 2023, by Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("Declarant"), whose address is 5835 S. Sossaman Road, Mesa, Arizona 85212.

RECITALS

A. Declarant is the fee simple owner of the Land (as defined below).

B. Declarant desires and intends that the Development (as defined below) be operated as a first-class business park supporting a mix of uses to be called Gateway East and to impose upon the Development and all Lots (as defined below) from time to time created within the Development, mutual and beneficial restrictions, covenants, agreements, easements, conditions and charges as hereinafter set forth, under a general plan for the benefit of all of the Development.

IN CONSIDERATION of the mutual benefits to be derived from this Declaration, the Parties agree as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the meaning indicated:

"Annexable Property" shall mean any real property adjacent to the Development not yet annexed or made a portion of the Development in accordance with the provisions hereof.

"Boyer" shall mean Boyer Gateway East, L.C., a Utah limited liability company.

"Buildings" means all buildings located in the Development at any time that are intended for permanent use or occupancy, including the area directly below such buildings, all projections and extensions of, and additions to, such buildings and all areas used exclusively by the Lessee or Occupants of such buildings, including, without limitation, drive-through areas, trash enclosures, playgrounds and platforms, ramps, docks and signage affixed to the outside of such buildings. "Building" means any of the Buildings.

"Common Area" means all property within the Development intended for the common use and enjoyment of all of the Lots, including, but not limited to, (a) the Common Landscape and Signage Areas, (b) the Common Vehicular and Pedestrian Areas, (c) the Common Utility Facilities and the Common Utility Easement Area, (d) any amenities which may now or hereafter be established by Declarant for the common use and enjoyment of all Lots, (e) all land or right-of-way easements within the Development which are dedicated to the public or to the City of Mesa, but which the City of Mesa or other governmental agency requires the Declarant to maintain; and (f) any other areas with respect to which the Declarant has assumed in writing administrative or maintenance responsibilities. Common Area shall not include public right of way (except to the extent covered by (e) or (f) above), or Lots.

"Common Expense Percentage" for any particular Lot is calculated as follows: (a) divide the total gross square footage of the Lot concerned by the total gross square footage of all Lots located in the Development; (b) multiply the resulting quotient by 100 and round to the third (3rd) decimal place; and (c) express the resulting product as a percentage. The Common Expense Percentages of the Lots shall be

adjusted from time to time by written notice given by the Manager to each Lessee and Declarant as of the date on which one or more Lots are annexed to the Development.

"Common Expense Share" means the product obtained by multiplying the Common Expenses for the relevant period by the Common Expense Percentage for the Lot concerned.

"Common Expenses" means the following:

(a) reasonable costs, expenses, fees, charges and other amounts (including appropriate reasonable reserves) paid or incurred by the Manager in connection with the improvement (excluding the initial improvement and development), operation, management, maintenance, repair and replacement of the Common Area and the performance of the Manager's duties and rights under Paragraphs 6 or 7 or any other provision of this Declaration, including, without limitation, all reasonable costs, expenses, fees and other amounts (including, without limitation, those that are properly capitalized under generally accepted accounting principles) relating to utilities, cleaning, sweeping, rubbish removal, landscaping, resurfacing, re-striping, replacing damaged or worn-out Improvements (including lighting and signage) located on the Common Area, taxes imposed on the Common Area, insurance, signage, licenses and permits, supplies, traffic regulation and control, security services, personnel (other than managerial personnel) necessary to perform any of the foregoing and depreciation allowance on any machinery or equipment owned by the Manager and used exclusively in connection with such matters;

(b) managerial, clerical and overhead costs, expenses, fees and other amounts, all of which shall be deemed to be equal to fifteen percent (15%) of the total of all other Common Expenses; and

(c) Common Expenses due but not paid to the Manager, which are determined by the Manager not to be legally or practicably recoverable after the Manager has exercised its commercially reasonable efforts to collect the same from the Lessee and has determined that all reasonable remedies for collection have been exhausted, together with all interest on, and costs and attorneys' fees incurred in connection with, such unpaid Common Expenses; provided, however, that if such unpaid Common Expenses are later received by the Manager from or on behalf of the Lessee, any amounts previously paid by any other Lessees pursuant to the preceding portion of this sentence shall be refunded pro rata to such other Lessees.

"Common Landscape and Signage Areas" means any Landscaping installed by Declarant or Manager for the general benefit of the Development (and not for the benefit of just one Lot), and any monument or other signage advertising the entire Development (as distinguished from signage advertising particular Building(s) or its Occupant(s) in the Development). The Common Landscape and Signage Areas shall be used for the purposes set forth in Paragraph 5.3 and, subject to reimbursement in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate the Common Landscape and Signage Areas and/or additional or different Common Landscape and Signage Areas from time to time.

"Common Utility Easement Area" means the Common Vehicular and Pedestrian Areas together with all Improvements on such land, and any real property defined as an additional part of the Common Utility Easement Area from time to time. The Common Utility Easement Area shall be used for the purposes set forth in Paragraph 5.2 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate the Common Utility Easement Areas and/or additional or different Common Utility Easement Areas from time to time.

"Common Utility Facilities" means all pipes, lines, wires, conduits and related facilities and improvements for electricity, natural gas, other fuels or power sources, telephone, data, video, telecommunication and similar uses, sewer, storm drainage (including retention ponds) and all types of water that are intended, designed or used for the benefit of the Common Area or more than one Lot. The Common Utility Facilities shall be used for the purposes set forth in Paragraph 5.2 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6.

"Common Vehicular and Pedestrian Areas" means all Common Areas from time to time designed to be used for pedestrian or vehicular movement, including, without limitation, roads, driveways, walkways, sidewalks, trails and paths that are installed by or at the direction of Manager and serving more than one Lot. The Common Vehicular and Pedestrian Areas shall be used for the purposes set forth in Paragraph 5.1 and, subject to reimbursement by the Lessees in accordance with Paragraph 7, shall be maintained by the Manager pursuant to Paragraph 6. Declarant and Manager may, but are not obligated to, designate Common Vehicular and Pedestrian Areas and/or additional or different Common Vehicular and Pedestrian Areas from time to time.

"Design Guidelines" means the standards, requirements and restrictions set forth in Design Guidelines and the Planned Area Development (PAD) for the Development, each approved by the Mesa City Council on June 19, 2023, as may be amended by Mesa City, Arizona from time to time to the extent approved by Declarant and the Manager.

"Development" means the Land, together with all Improvements located on such Land, and any portions of the Annexable Property annexed pursuant to this Declaration, together with all Improvements located on the Lot or Common Area or such additional real property.

"Improvements" means all Buildings, Common Utility Facilities, Landscaping, parking areas, roads, driveways, walkways, curbs, gutters, medians, flower boxes, sidewalks, trails, paths, exterior lighting (including, without limitation, lights for traffic control or pedestrian safety), fences, walls, signs, utility systems and facilities, trash enclosures, bike racks, and other improvements located on the realty concerned. "Improvement" means any of the Improvements.

"Land" means land located in the City of Mesa, County of Maricopa, Arizona and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference, and any real property defined as an additional part of the Land in any amendment to this Declaration executed and recorded pursuant to Paragraph 11.

"Landscaping" means all outdoor areas in the Development landscaped with lawn, flowers, ground cover, shrubbery, trees, storm water retention areas, ponds, fountains, gardens, berms or similar improvements.

"Lessee" means any person or entity (including, without limitation, Manager if applicable) having a leasehold interest in a Lot, excluding any Mortgagee unless and until such Mortgagee is in actual possession of any Lot by foreclosure or otherwise, and including any person or entity taking the leasehold interest from any such Mortgagee.

"Lots" means development lots within the Land and shown on that certain Master Plan for the Development approved by Declarant, the current version of which is located at _____ [***Website information to be added***] as such Master Plan may be amended from time to time, or as otherwise approved in writing by Declarant and, so long as the Manager is Boyer, the Manager. "Lot" means any of the Lots.

"Manager" means a manager designated by the Declarant in accordance with Paragraph 3. As of the Effective Date, the Manager is Boyer.

"Mortgage" means a mortgage or a deed of trust recorded in the Official Records.

"Mortgagee" means the mortgagee or beneficiary under a Mortgage.

"Occupant" shall mean anyone occupying or using a Lot under or through a Lessee, including, without limitation, any Lessee, licensee, subtenant, user or their employees, agents, contractors, licensees, customers, guests, or invitees.

"Official Records" means the official records of the Maricopa County, Arizona Recorder.

"Qualified Mortgagee" means a Mortgagee of which Manager and Declarant have been given written notice, including such Mortgagee's name and address.

2. Property Bound.

2.1 General Declaration. Declarant hereby declares that the Development is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration, as the same may be amended or modified from time to time. This Declaration shall run with the Development for all purposes and shall be binding upon and inure to the benefit of Declarant, and all Lessees, and their respective successors in interest and assigns. All of the covenants, conditions, and restrictions provided in this Declaration shall also be binding upon all Occupants of the Development, as well as their respective successors-in-interest and assigns.

2.2 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development the Development can or will be carried out, or that the Land is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Lessee entering into a lease in reliance on one or more of such restrictive covenants agrees that it will not challenge the validity or enforceability thereof; but such Lessee assumes all risks of the validity and enforceability thereof and by accepting a lease to a Lot agrees that Declarant shall have no liability with respect thereto.

3. Manager.

3.1 Appointment of Manager. Declarant shall appoint a Manager from time to time and shall have the right to revoke any designation and designate a different Manager at any time. Declarant may appoint itself as Manager. Declarant hereby designates Boyer Gateway East, L.C., a Utah limited liability company, as the initial Manager.

3.2 Professional Management Company. The Manager shall have the right, but not the obligation, to enter into a management agreement with a professional property management company to perform the functions of Manager. As used herein, "professional property management company" shall mean a person or entity (i) that is considered within the community to be primarily involved in the management of real property similar to the Development (ii) whose primary business consists of the

management of real property similar to the Development and (iii) that has had their primary source of income derived from the management of real property similar to the Development for not less than the three (3) years immediately preceding the execution of a property management agreement for the Development. All costs associated with the management agreement and property manager, including without limitation a commercially reasonably property management fee, shall be included in Common Expenses. Any professional property management company employed by the Manager shall be required to maintain with an insurer lawfully authorized to do business in the State of Arizona with a Best Rating of not less than A-VIII commercially reasonable insurance policies covering professional liability and general commercial liability.

4. Improvements.

4.1 Use. No part of the Development may be used or occupied for any use that violates any applicable law, ordinance, rule or regulation or that is inconsistent with this Declaration. Buildings shall be used only for commercial purposes, including, without limitation, retail, hospitality, manufacturing and office uses. All Buildings shall be:

(a) first-class buildings of the type and quality typically found in first-class, high-quality commercial developments;

(b) architecturally and aesthetically compatible with all other then-existing Buildings; and

(c) constructed in compliance with all applicable state, county and municipal subdivision, building, zoning, sign and other laws, ordinances, rules and regulations and the Design Guidelines.

4.2 Improvements. All Improvements in the Development shall be in compliance with the Design Guidelines.

5. Common Area Easements.

5.1 Access Easement. Each Lot shall have appurtenant thereto and be benefited by, and the Common Vehicular and Pedestrian Areas shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for vehicular and pedestrian ingress and egress (without charge) on, over and across those areas designed for such use.

5.2 Utility Easement. Each Lot shall have appurtenant thereto and be benefited by, and the Common Utility Easement Areas shall be subject to and be burdened by, a perpetual, nonexclusive right-of-way and easement for the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, enlargement, relocation and replacement of underground utility pipes, lines, wires, conduits and related facilities (including, without limitation, any underground Common Utility Facilities and, whether or not the same are part of the Common Utility Facilities, underground pipes, lines, wires, conduits and related facilities for electricity, natural gas, other fuels or power sources, telephone, data, video, telecommunication and similar uses, sewer, storm drainage [including retention ponds] and all types of water) under, through and across the Common Utility Easement Area. Prior to installation, the location of such pipes, lines, wires, conduits and related facilities must be approved by the Manager and Declarant, such approval not to be unreasonably withheld. If the rights provided for in this Paragraph 5.2 are exercised, the Lessee intended to be served by the easement concerned shall pay the cost involved with such exercise and, at such Lessee's sole cost, restore to their previous condition any

Improvements that may be damaged as a result of such exercise. Each utility pipe, line, wire, conduit and related facility located in the Development shall be located underground to the extent reasonably possible.

5.3 Common Areas. The Common Areas shall be subject to and be burdened by a perpetual, nonexclusive easement for maintenance and repair by the Manager pursuant to Paragraph 6.

5.4 No Obstruction. No Lessee or Occupant shall permit to be constructed or placed on any portion of the Common Area any fence, wall, barricade or other obstruction, whether temporary or permanent in nature, which materially limits or impairs vehicular and pedestrian traffic over any part of the Development, or shall otherwise obstruct or interfere with the free flow of such traffic, except as may be reasonably necessary or appropriate during periods that construction activities are ongoing or to the extent that the Manager reasonably deems it necessary to do so temporarily to prevent a public dedication of, or the accrual of any rights of the public in, the Common Area. Any obstruction or interference permitted under this Paragraph 5.4 shall be done in a manner reasonably calculated to minimize its impact on businesses in the Development.

6. Manager's Duties Regarding Common Area.

6.1 Generally. The Manager shall timely perform or cause to be performed (for example, through subcontractors, including affiliates of the Manager) the duties set forth in this Paragraph 6.

6.2 Maintenance of Common Area. After the Common Area is initially improved and developed, the Manager shall keep the Common Area in a clean condition and in good order, condition and repair consistent with a Class A business park in the Phoenix-Metropolitan area (except that as regards the Common Utility Facilities, the Manager shall be obligated to accomplish the foregoing only to the extent that such matters are not the responsibility of or accomplished by the respective utility companies involved). The foregoing shall include, without limitation, inspection, servicing, maintenance, repair and replacement, as necessary and appropriate, of all Landscaping and other Improvements located on the Common Area, including, without limitation, maintaining, repairing and replacing asphalt, and keeping the Common Vehicular and Pedestrian Areas free of snow, ice and rubbish.

6.3 Insurance on Common Area. The Manager may maintain commercial general liability insurance and/or property insurance insuring Manager and any employees or agents of Manager as Manager may designate against all claims for bodily injury, death or property damage occurring on the Common Area, and such other insurance on the Common Areas as reasonably determined by Manager. Declarant shall be named as an additional insured to any liability insurance policy and as an additional loss payee (to the extent of its interest therein) on any property insurance acquired in accordance with this Paragraph 6.3.

6.4 Damage of Common Area. If all or any part of the Common Area is damaged or destroyed through casualty, the Manager shall, as soon as reasonably possible, rebuild and restore the same to substantially the same condition as existed prior to the damage or destruction concerned. Prior to such rebuilding and restoration, each Lessee shall, within thirty (30) days after notice of the amount due, contribute an amount equal to the product obtained by multiplying the Common Expense Percentage of such Lessee by the projected cost of such rebuilding and restoration (net of any insurance proceeds or recoveries from persons or entities causing such damage actually received by the Manager). Appropriate additional payments by, or refunds to, each Lessee shall be made on completion of such rebuilding or restoration. Alternatively, the Manager may collect the actual or projected cost of such rebuilding or restoration following commencement or completion of such rebuilding or restoration.

7. Common Expenses.

7.1 Obligation to Pay Common Expense Share. Each Lessee, by entering into a lease for any Lot, whether or not it shall be so expressed in such lease, agrees and is deemed to covenant and agree to pay to the Manager its Common Expense Share duly imposed pursuant to this Declaration, such Common Expense Share to be established and collected as provided herein.

7.2 Collection. The Manager is expressly authorized to incur all costs, expenses, fees and other amounts included within the definition of "Common Expenses" set forth in Paragraph 1, and each Lessee shall contribute such Lessee's Common Expense Share in the manner described in this Paragraph 7. The Manager shall make reasonable, good faith efforts to collect from each Lessee such Lessee's Common Expense Share and may, at its option, do either of the following: (a) invoice each Lessee for such Lessee's Common Expense Share on a monthly, quarterly or other periodic basis as the actual amount of the Common Expense Share becomes known (in which event the Common Expense Share shall be due and payable within thirty (30) days after the delivery of such invoice); or (b) invoice each Lessee in advance based on the Manager's reasonable estimate of the Common Expense Share for the period concerned, which estimate shall be provided to each Lessee at least annually. If the Manager adopts the second alternative, each Lessee shall pay such Lessee's Common Expense Share in equal installments on the first day of each month, and within ninety (90) days after the end of each calendar year, the Manager shall furnish each Lessee with a reasonably detailed final statement of the actual amount of such Lessee's Common Expense Share for such calendar year. If such final statement reveals that the monthly installments made by a Lessee aggregate less than such Lessee's Common Expense Share for such calendar year, such Lessee shall pay the amount owing to the Manager within thirty (30) days after such final statement is furnished. If such final statement reveals that a Lessee's payments aggregate more than such Lessee's Common Expense Share for such calendar year, the excess amount shall, at the option of the Manager, either be returned to such Lessee or be applied by the Manager to amounts next due from such Lessee under this Paragraph 7. Any amount required to be paid under this Paragraph 7 that is not timely paid shall accrue interest on and after the date due until paid in full, before and after judgment, at the rate of eighteen percent (18%) per annum. In addition, a late charge of five percent (5%) of such payment may be charged by the Manager for any payment not made on the date when due. Such late charge is payable not as a penalty, but in order to compensate the Manager for the additional expense involved in handling the delinquent payment. The acceptance by the Manager of any payment that is less than the entire amount then due shall be on account only and shall not constitute a waiver of the obligation to pay such entire amount. All records and accounts maintained by the Manager that relate to the Common Expenses shall be open to examination and audit by any Lessee on at least ten (10) days' prior written notice to the Manager.

7.3 Default. If any Lessee fails to perform any obligation under this Declaration (other than the payment of money) and such failure continues for a period of thirty (30) days after written notice of such failure is given to such Lessee by the Manager, or if the performance of such obligation would reasonably require more than thirty (30) days, if such Lessee fails to commence such performance within such thirty (30) day period or thereafter diligently prosecute such performance to completion, the Manager may, on written notice to such Lessee, perform such obligation in the stead of such Lessee, or exercise any other right or remedy existing at law or in equity. The Manager shall be reimbursed by such Lessee on demand for all costs and expenses (including attorneys' fees) incurred in connection with such performance, with interest on such costs and expenses, both before and after judgment, at the rate of eighteen percent (18%) per annum. The Manager shall send to Declarant a duplicate copy of any notice given under this Paragraph 7.3.

7.4 Certain Obligations and Rights. The obligations of each Lessee under Paragraph 7.1 and all other provisions of this Declaration are the personal obligations of such Lessee and may be enforced by the Manager or Declarant. No Lessee may avoid or diminish the personal nature of such

obligations by waiver of the use and enjoyment of the Common Area, by abandonment of such Lessee's interest in its Lot or any Improvements on such Lot or by waiver of any of the services or amenities provided for in this Declaration. All remedies set forth in this Paragraph 7 are cumulative and are in addition to any remedies otherwise available at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation of this Declaration and to compel by decree specific performance, it being agreed that the remedy at law for any breach may be inadequate.

8. Mortgagee Protection.

8.1 Obligations of Mortgagee. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting any part of the Development shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, this Declaration.

8.2 Notices; Right to Cure. Manager, on delivering to any Lessee any notice, demand or other communication pursuant to the provisions of this Declaration, shall at the same time deliver by certified mail, return receipt requested, copies of such notice to each Qualified Mortgagee of such Lessee at the latest address provided to the notifying Manager by such Lessee or such Qualified Mortgagee. Although otherwise effective with respect to the Lessee receiving such notice, no notice delivered to any Lessee shall affect any rights or remedies of any Qualified Mortgagee unless a copy of such notice has been delivered to such Qualified Mortgagee in accordance with the immediately preceding sentence. Each Qualified Mortgagee shall have the right to remedy a default, or cause the same to be remedied within the time allowed to the defaulting Lessee plus, in the case of monetary defaults, an additional fifteen (15) days and, in the case of non-monetary defaults, an additional thirty (30) days; provided, however, that if a non-monetary default reasonably requires more than thirty (30) days to cure, each Qualified Mortgagee shall have the right to remedy such default if such Qualified Mortgagee commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion. Notwithstanding the foregoing, in no event shall the time period for a Qualified Mortgagee to remedy a default exceed ninety (90) days from the commencement of the time period during which such Qualified Mortgagee may cure or remedy a default in accordance with this Paragraph 8.2.

8.3 Performance. Each Qualified Mortgagee shall have the right to act for and in the place of the Lessee of the Lot covered by its Mortgage, to the extent permitted by the applicable Mortgage or otherwise agreed to by such Lessee in writing. Manager shall accept performance by or on behalf of any Qualified Mortgagee as if the same had been performed by the other Lessee. Each Qualified Mortgagee shall have the right, to the extent the Lessee of the Lot covered by the Mortgage concerned agrees in writing, to appear in a legal action or proceeding on behalf of such Lessee in connection with such Lot and the obligation under this Declaration.

8.4 Recognition. On request, the Manager agrees to execute, acknowledge and deliver to any Qualified Mortgagee an instrument prepared by the Qualified Mortgagee concerned, acknowledging that such Qualified Mortgagee is a "Qualified Mortgagee" entitled to the benefits of this Paragraph 8.

9. Annexation and De-Annexation.

9.1 Annexation of Annexable Property. Declarant may at any time and from time to time, annex to the Development any Annexable Property (or the applicable portion or portions thereof). To effect such annexation, a Declaration of Annexation covering the Annexable Property (or the applicable portion or portions thereof) to be annexed shall be executed and recorded by Declarant, which instrument may contain additional covenants, conditions, restrictions, or other terms. A Declaration of Annexation may contain such complementary additions to and modifications of this Declaration as may be necessary

to reflect the different character, if any, of the Annexable Property (or the applicable portion or portions thereof) or other property to be annexed. In no event, however, shall any such Declaration of Annexation revoke or conflict with this Declaration except to the extent specifically permitted hereby. Upon annexation, all of the provisions of this Declaration shall apply to or encumber such Annexable Property (or the applicable portion or portions thereof). So long as Manager is Boyer, the annexation of any Annexable Property shall also require the written consent of Manager.

9.2 De-Annexation of Covered Property. Declarant may at any time and from time to time up to the date which is 30 years after the date this Declaration is recorded, de-annex or withdraw from the Development any portion or portions thereof (subject to the written consent of any Lessee of the portion or portions to be de-annexed or withdrawn). So long as the Manager is Boyer, any de-annexation or withdrawal shall also require the written consent of Manager. To effect such de-annexation or withdrawal, Declarant shall execute and record a Declaration of De-Annexation setting forth the legal description of the portion or portions of the Development to be de-annexed or withdrawn, and such Declaration of De-Annexation shall be executed by (a) Declarant, (b) the Lessee, if any, of the land to be withdrawn, and (c) so long as the Manager is Boyer, the Manager. The land to be withdrawn may include any portion of the Development, including Lots and Common Area. Recording such Declaration of De-Annexation shall constitute and effectuate the de-annexation and withdrawal of the applicable portion or portions of the Development described therein, and such property and the Lessees and Occupants thereof shall no longer be subject to, or benefitted by, this Declaration.

10. Covenants to Run with Land. Each provision of this Declaration shall constitute a covenant running with the land. This Declaration shall be binding on each part of the Development, and all interests in any part of the Development shall be subject to this Declaration. The interests in and rights concerning any portion of the Lots held by or vested in Declarant or any other person or entity on or after the date of this Declaration shall be subject to this Declaration.

11. Amendment. This Declaration may be modified only by the recordation, in the Official Records, of an agreement or document of modification executed by Declarant; provided, however so long as Boyer is Manager, any amendment shall require the written consent of Boyer.

12. Attorneys' Fees. If any action is brought because of a default under or to enforce or interpret this Declaration, in addition to the relief to which such party is entitled, the party prevailing in such action shall be entitled to recover from the unsuccessful party reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

13. Release on Transfer. On and after the date a Lessee transfers (other than merely for purposes of security) or is otherwise divested of such Lessee's interest in any Lot, such Lessee shall be relieved of all liabilities and obligations under this Declaration related to such Lot, except for such liabilities or obligations as may have accrued as of the date of such transfer or divestiture.

14. No Merger. The easements, covenants, restrictions and other provisions contained in this Declaration shall remain in full force and effect despite the fact that all or a part of the Development may be owned by the same person or entity from time to time, it being the intention of Declarant to create a common scheme for the development and operation of the Development that will not be terminated by the doctrine of merger or otherwise, unless this Declaration is terminated in accordance with Paragraph 16.

15. Force Majeure. The Manager and any Lessee or other person or entity obligated under this Declaration shall be excused from performing any obligation set forth in this Declaration, except the payment of money, for so long as (but only for so long as) the performance of such obligation is prevented

or delayed by an act of God, weather, avalanche, fire, earthquake, flood, explosion, act of the elements, war, terrorism, invasion, insurrection, riot, malicious mischief, vandalism, larceny, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, order of government or civil defense authorities or any other cause reasonably beyond the control of the Manager, the Lessee or other person or entity prevented or delayed.

16. Effective Dates and Duration. This Declaration and any amendment to this Declaration shall take effect as of the date on which they are recorded in the Official Records. This Declaration shall remain effective until terminated and extinguished by an instrument recorded in the Official Records and executed by Declarant. So long as the Manager is Boyer, any termination shall also require the written consent of Manager.

17. Notices. Any notice or demand required or appropriate hereunder shall be given in writing by personal service, fax (provided that a hard copy of any such notice has been dispatched by one of the other means for giving notice within twenty-four (24) hours after faxing), express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested. All notices sent by mail as aforesaid shall be addressed as follows:

If to Declarant:	Phoenix-Mesa Gateway Airport Authority Attn: Business Development Department 5835 South Sossaman Road Mesa, Arizona 85212
If to any other Lessee or Occupant:	To such address as such Lessee or Occupant shall designate in writing to Declarant and Manager, or to the Lessee's or Occupant's address in the Development, if no other address is designated.
If to Manager (if Boyer is the Manager):	Boyer Gateway East, L.C. c/o The Boyer Company, L.C. 101 South 200 East, Suite 200 Salt Lake City, Utah 84111 Attention: Jake Boyer
If to the Manager (if Boyer is not the Manager):	To the address of the current principal office of the Manager.

Any party may change the address at which it desires to receive notice by written notice of such change to the Manager and Declarant. Any notice or demand given under this Declaration shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change that was not properly communicated shall not defeat or delay the giving of a notice.

18. General Provisions. Titles and headings of Paragraphs of this Declaration are for convenience of reference only and shall not affect the construction of any provision of this Declaration. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the state of Arizona. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of

this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration. Except as otherwise provided in this Declaration, no remedy provided in this Declaration shall be exclusive of any other remedy at law or in equity (whether existing on or created after the date of this Declaration), and all remedies under this Declaration may be exercised concurrently, independently or successively from time to time. The failure on the part of any person or entity to promptly enforce any right under this Declaration shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

[*Signature Page Follows*]

DECLARANT:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A

to

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

LEGAL DESCRIPTION OF THE LAND WITHIN DEVELOPMENT

4876-6865-4973

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: July 2023 Financials
Date: September 19, 2023

Attached is the monthly Financials Report for July 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
July, 2023

	Month of July 2023				Y-T-D as of July 2023			
	July FY23 Actual	July FY24 Actual	YOY Variance	B/(W)	YTD FY23 Actual	YTD FY24 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	26,882	25,105	(1,777)	-7%	26,882	25,105	(1,777)	-7%
Fuel Flowage Fees	45,169	66,480	21,311	47%	45,169	66,480	21,311	47%
Landing Fees	98,614	101,266	2,652	3%	98,614	101,266	2,652	3%
Lease Income Aero	403,936	436,395	32,459	8%	403,936	436,395	32,459	8%
Fuel Sales	522,843	460,112	(62,731)	-12%	522,843	460,112	(62,731)	-12%
Services Sold - Aero	369,188	661,472	292,284	79%	369,188	661,472	292,284	79%
Sub-total Aero Operating Revenues	1,466,632	1,750,830	284,198	19%	1,466,632	1,750,830	284,198	19%
Non-Aeronautical Operating Revenues								
Concessions	88,008	107,059	19,051	22%	88,008	107,059	19,051	22%
Lease Income Non-Aero	113,221	123,845	10,624	9%	113,221	123,845	10,624	9%
Parking	493,635	596,137	102,502	21%	493,635	596,137	102,502	21%
Rental Car Fees	128,936	126,005	(2,931)	-2%	128,936	126,005	(2,931)	-2%
Svcs Sold - Non Aero	2,048	1,745	(303)	-15%	2,048	1,745	(303)	-15%
Sub-total Non-Aero Operating Revenues	825,848	954,791	128,943	16%	825,848	954,791	128,943	16%
Total Operating Revenues	**2,292,480**	**2,705,621**	**413,141**	**18%**	**2,292,480**	**2,705,621**	**413,141**	**18%**
Operating Expenses								
Cost of Goods Sold	396,747	293,261	103,486	26%	396,747	293,261	103,486	26%
Personnel	712,973	789,705	(76,732)	-11%	712,973	789,705	(76,732)	-11%
Comm & Utilities	101,712	96,979	4,733	5%	101,712	96,979	4,733	5%
Contractual Services	445,584	531,275	(85,691)	-19%	445,584	531,275	(85,691)	-19%
Insurance	50,951	62,962	(12,011)	-24%	50,951	62,962	(12,011)	-24%
Other	25,715	33,168	(7,453)	-29%	25,715	33,168	(7,453)	-29%
Repair & Maintenance	52,171	51,415	756	1%	52,171	51,415	756	1%
Supplies & Materials	78,116	66,495	11,621	15%	78,116	66,495	11,621	15%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,812,142]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**1,863,969**	**1,925,260**	**(61,291)**	-3%	**1,863,969**	**1,925,260**	**(61,289)**	-3%
Operating Income (Loss) Before Depreciation	**428,511**	**780,361**	**351,850**	82.1%	**428,511**	**780,361**	**351,850**	82%
	18.7%	28.8%			18.7%	28.8%		
Depreciation		1,170,902				1,170,902		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **September 19, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Invitation for Bid	2023-022-IFB	RW 12R-30L Reconstruction & TW 'H' Demolition & TW 'B2' Construction	September 2023
Request for Proposals	2023-020-RFP	ATM Services	September 2023
Request for Proposals	2023-021-RFP	Airport Vending Concessions	September 2023
Invitation for Bid	2024-004-IFB	Passenger Boarding Ramps	September 2023
Request for Qualifications	2024-002-RFQ	Car Rental Concessions	November 2023
Request for Qualifications	2024-007-RFQ	Airport Entry Monument Design Services	November 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	September 2023	December 2023
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	September 2023	December 2023
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Buildings	October 2023	January 2024
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage Improvements	October 2023	February 2024

Equipment Disposals
Fiscal year totals from sales of decommissioned / nonworking equipment total $5,850.00

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a meeting open to the public on **Tuesday, October 17, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Chip Wilson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Chip Wilson, Chair)

3. **Pledge of Allegiance**

4. **Motion to convene into Executive Session**
   a) Pursuant to A.R.S. § 38-431-03 (A)(1), the Board of Directors may convene into executive session for the purpose of discussion and consideration regarding the Executive Director/CEO's annual review.

5. **Motion to Reconvene into Regular Session**

6. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

7. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

8. **Presentation: Audited Financials** – Sandra Cronstrom, Principal CliftonLarsonAllen, LLP

9. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **September 19, 2023**.

   b) **Resolution No. 23-52 –** Approving a ninth amendment to the **Exeutive Director's** employment agreement effective October 1, 2023.

   c) **Resolution No. 23-53 –** Approving an Authorization of Services with **Dibble Engineering (Dibble)** for Safety Management System (SMS) Planning Services for the Phoenix-Mesa Gateway Airport Authority in an amount not to exceed $323,668 under CIP 975.

   d) **Resolution No. 23-54 –** Authorizing a purchase with **CDW Government, Inc. (CDW-G**) for annual Microsoft licensing renewals, in an amount not to exceed $56,638.04.

e) **Resolution No. 23-55 –** Authorizing the procurement of network equipment from **Hye Tech Network and Security Solutions, LLC (Hye Tech**) in an amount not to exceed $292,195.

f) **Resolution No. 23-56 –** Authorizing an Amendment of the FY24 Capital Budget to provide an additional $367,387.50 under Contract Modification #1, to the initial $438,891 in funding for the **Transportaion Security Administration** In-Line Checked Baggage System Design under CIP 1265. The new design contract total will be $806,278.50.

g) **Resolution No. 23-57 –** Authorizing Phoenix-Mesa Gateway Airport Authority's insurance broker, **USI Insurance Services LLC**, to purchase benefit plans (medical, dental, vision, basic life/accidental death & dismemberment, and short-term disability) from various carriers. This consists of a 12-month renewal January 1, 2024 through December 31, 2024 with an estimated plan cost of $1,127,684 for the calendar year.

Consideration and Possible Approval of:

10. Board Member Comments/Announcements

11. Next Meeting: Tuesday, October 17, 2023 at 9:00 a.m.

12. Adjournment

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- Summary of Fiscal Year (FY23) PMGAA Organizational Achievements
- Gateway East Welcomes First Tenant – XNRGY Climate Systems
- Storage Tanks for 150,000 Gallon Fuel Farm Expansion Arrive in October
- New Rental Car Care Center Buildings Progressing
- Allegiant Air's Nonstop Service to Portland, OR Begins on November 17th

Executive Director's Report

October 2023

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) is fortunate to have a team of highly motivated and experienced subject-matter experts who are responsible for the safe, secure, customer-focused, efficient, environmentally aware, and financially sustainable operation of Phoenix-Mesa Gateway Airport's (Airport, Gateway Airport).

In FY23, PMGAA achieved strong financial performance and record-setting passenger activity. The Authority also had more than one-million square feet of private development under construction during the twelve-month reporting period.

PMGAA staff continues to be guided by seven organizational goals identified by the PMGAA Board of Directors - **Increase Air Service; Maintain a High Level of Community Support; Strengthen Financial Sustainability; Invest in People and Operational Assets; Attract Commercial Development; Plan, Build, and Maintain Infrastructure; and Promote Regional Tourism**.

The information that follows is intended to highlight many of PMGAA's accomplishments during FY23 and their connection to PMGAA's established organizational goals.

Summary of Fiscal Year 2023 (FY23) PMGAA Organizational Achievements

- Commercial Passenger and Air Cargo Activity
    - Achieved record-setting passenger activity – 1.92MM total passengers
    - Continued airline recruitment efforts, meeting with six prospective domestic & international airlines
    - DSV began scheduled weekly international air cargo service from Europe using B-747 aircraft
- Achieved strong FY23 financial performance - $3.9MM in net operating revenue
- Successfully completed FY23 FAA Part 139 Certification Inspection with no findings
- Successfully completed annual TSA Security Inspection with no findings
- Received clean FY23 Independent Financial Audit
- Implemented FY23 PMGAA Classification and Compensation Study
- Expanded A.V.I.A.T.O.R. Terminal Volunteer Program
- Began Gateway Tomorrow East Side Terminal Planning Study
- Successfully serviced 125 executive jets during Super Bowl LVII
- Welcomed more than 500 area 5th grade students for Aviation Career Education (ACE) Day
- Vehicle parking operation enhancements
    - Improved real-time parking availability information on PMGAA website
    - Upgraded parking revenue and access control systems in all Airport parking lots
    - Provided new, larger parking lot shuttle busses
- PMGAA Construction Projects:
    - Completed Runway 12C-30C reconstruction and Runway 12R-30L design
    - Added 1,300 new parking spaces to the Ray Road Economy Parking Lot
    - Constructed 250,000 sq. ft. Alpha Apron Phase IV aircraft parking area
    - Began construction on 5-gate, 30,000 sq. ft. commercial passenger terminal addition
    - Began construction on enclosed pedestrian walkway
    - Commissioned new $30MM Air Traffic Control Tower
    - City of Mesa began construction of east side infrastructure
    - Constructed Taxiway Charlie connectors to Gulfstream West Coast Service Center

- Designed 150,000-gallon Fuel Farm expansion
- Transportation Security Administration designed new in-line checked baggage system
- Completed construction of Rental Car Return Lot improvements
- Began construction of Rental Car Care Facility improvements

- Private Development Projects:
  - SkyBridge Arizona Master Development (Mesa SkyBridge, LLC)
    - Began site preparation for 129-room dual-brand hotel
    - Began construction on two 250,000 sq. ft. industrial buildings
    - Approved sublease for NAU School of Hotel and Restaurant Management Program and associated Kind Hospitality training restaurant
    - Began construction of interior roadways and utilities
    - Approved sublease for cross flow testing facility
  - Gateway East Master Development (The Boyer Company, LC)
    - Finalized Master Development Agreement, Master Lease, and Initial Master Plan
    - Mesa City Council approved Development Agreement (DA) with PMGAA
  - Gateway Executive Airpark
    - The Boeing Company leased half of Hangar A
    - Virgin Galactic began construction on Hangar B for their "mothership" and Hangar C for a spaceship manufacturing facility
  - Gulfstream Aerospace Corp.
    - Leased 50,000 sq. ft. hangar and three bays of SkyBridge Arizona's hangar
    - Hired approximately 100 local employees
    - Began construction on 225,000 sq. ft. West Coast Service Center
  - Terminal concessions - Opened Macayo's Mexican Food and Infusion Coffee and Tea Crafters
  - Allegiant Air leased an additional 63,000 sq. ft. maintenance hangar

Financial Snapshot

OPERATING INCOME	August		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY23	FY24	
Revenues	$2,161,753	$2,384,970	**$223,217**	$4,454,235	$5,090,592	**$636,357**
Less Expenses	$2,074,978	$2,049,575	**($25,403)**	$3,917,848	$3,975,245	**$57,397**
Operating Income *(Before Depreciation)*	**$86,775**	**$335,395**	**$248,620**	**$536,387**	**$1,115,347**	**$578,960**

Investment Fund Balances: As of August, the Local Governmental Investment Pool (LGIP) 700 = $6,197,732; Wells Fargo; Collateralized Money Market = $5,062,659 and Brokered CD's = $53,698,560; Total $64,958,951. PMGAA invests in fixed rate instruments.

Finance and Accounting

PMGAA reported a net operating income of $335,395 for August 2023, exceeding August 2022 results by $248,620. August aeronautical revenues increased by 16% on a year-over-year monthly comparison. The increase was related to an increase in U.S. Forest Service activity. August 2023 non-aeronautical revenues were equal to the previous August and up 8% for fiscal-year-to-date 2024 (FYTD24).

Operating expenditures for August 2024 increased by 1% for a monthly total of $2,049,575. The additional operating expenses are attributable to increases in personnel costs and contractual services. Total operating expenditures are 9% under FY24 budget.

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Request for Qualifications	2024-002-RFQ	Car Rental Concessions	November 2023
Request for Qualifications	2024-007-RFQ	Airport Entry Monument Design Services	November 2023
Request for Proposals	2024-010-RFP	Fire Pumps & Installation Services	November 2023
Request for Proposals	2024-008-RFP	Access Control & Alarm Monitoring System Services	December 2023
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	December 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Buildings	October 2023
Invitation for Bid	2024-011-IFB	Defuel/Refuel Cart	November 2023
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	November 2023
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage System Improvements	January 2024

Airport Operations

Allegiant Air's Nonstop Service to Portland, OR Begins on November 17th

Great News! Allegiant Air, Gateway Airport's largest airline is adding twice weekly nonstop service to Portland, Oregon beginning this November. Portland is an extremely popular two-way destination for Phoenix. In the winter, Oregonians flock south for some much-needed sunshine, and in the summer, Valley residents head north away from the heat. For more information visit www.allegiantair.com.

Sun Country Airlines' Nonstop Service to Minneapolis Returns in October

Welcome back Sun Country! The popular Midwest-based low-cost airline is returning to Gateway Airport in October for a third season of high-quality, low-fare nonstop service to its hub in Minneapolis. There's a lot of connectivity between greater Phoenix and the Midwest section of the country. Many Valley residents are transplants from Minnesota, Wisconsin, Michigan, and Illinois. Friends and family back home are frequent visitors to Arizona during the long winter months. For more information about Sun Country's Gateway Airport schedule, please visit www.suncountry.com.

PASSENGER COUNTS		August		% Change	FYTD		% Change
		2022	2023		FY23	FY24	
Passengers	TOTAL	119,403	117,609	-2%	270,061	266,014	-1%
	Deplaned	60,287	58,880	-2%	136,461	133,700	-2%
	Enplaned	59,116	58,729	-1%	133,600	132,314	-1%
Allegiant	Scheduled	119,071	117,489	-1%	269,729	265,894	-1%
Swoop	Scheduled	0	0	0%	0	0	0%
Sun Country	Scheduled	0	120	100%	0	120	100%
WestJet	Scheduled	0	0	0%	0	0	0%
Flair	Scheduled	0	0	0%	0	0	0%
Swift	Charter	332	0	-100%	332	0	-100%

OPERATIONS	August		% Change	FYTD		% Change
	2022	2023		FY23	FY24	
Air Carrier	839	829	-1%	1,840	1,680	-9%
Military	476	163	-66%	694	349	-50%
General Aviation	17,987	19,925	11%	37,726	35,706	-5%
TOTAL	**19,302**	**20,917**	**8%**	**40,260**	**37,735**	**-6%**

Engineering and Planning

New Rental Car Care Center Buildings Progressing

Overall Site Plan for New Rental Car Care Facility

Rental Car Care Facility Buildings Taking Shape

Rental car companies operating at Gateway Airport are getting new wash bays, new vacuum bays, and new facilities for mechanics to service rental vehicles as part of a major $10MM redevelopment project being funded by Customer Facility Charges (CFCs), a $3.50/day fee charged to each rental car user and placed in a dedicated account used specifically for improving rental car facilities and infrastructure. The project also includes expanded vehicle queuing, storage areas, operations offices, and space for fueling stations.

Rental cars are an important and necessary part of Gateway Airport's growing commercial operation. Enterprise, Alamo/National, and Hertz are currently operating out of former military base facilities that are inefficient, substandard, and don't meet their changing needs. Thankfully, each company has been actively involved in laying out and equipping the new rental car care center.

Storage Tanks for 150,000 Gallon Fuel Farm Expansion Arrive in October

Three 50,000 Gallon Tanks to Bolster On-Airport Fuel Storage

Fuel Farm Expansion Site Preparation

An airport without Jet-A aviation fuel is like a steak house without A-1 steak sauce! Gateway Airport currently has 250,000 gallons of on-Airport fuel storage, which represents a 4 – 5-day supply. Pipeline disruptions, facility closures, and trucking delays can negatively impact an airport's ability to provide fuel for tenants and transient customers. PMGAA is in the process of constructing an additional 150,000 gallons of fuel storage capacity for Gateway Airport. This project will increase on-Airport fuel storage to 400,000 gallons, a much healthier 7 – 8-day supply.

Community Noise Report

CALLERS	August		FYTD	
	2022	2023	FY23	FY24
Total	**13**	**7**	**23**	**17**

AIRCRAFT TYPE	August		FYTD	
	2022	2023	FY23	FY24
	Callers	Callers	Callers	Callers
Commercial	7	5	15	14
GA Total	1	2	2	3
Helicopter	0	0	0	0
Military	5	0	6	0
Total	**13**	**7**	**23**	**17**

LOCATION	August		FYTD	
	2022	2023	FY23	FY24
Mesa	8	4	13	6
Gilbert	4	3	8	6
Gold Canyon	0	0	0	0
Queen Creek	0	0	1	4
Queen Valley	1	0	1	1
Apache Junction	0	0	0	0
Fountain Hills	0	0	0	0
TOTAL	**13**	**7**	**23**	**17**

PMGAA received communications from seven individuals regarding aircraft noise issues during the month of August 2023, compared to 13 received last August. Summer is ending and windows are reopening, so the Airport anticipates the number of community noise calls to increase.

Gateway Aviation Services

PMGAA pumped more than 1.14MM gallons of aviation fuel during the month of August 2023, a 1% decrease compared to the 1.15MM gallons dispensed last August. Retail Jet A was down 21%, Contract Fuel up 17% and Commercial Fuel down 5% over last year.

FUEL (Gallons)	August			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	42,206	29,712	-30%	75,905	56,272	-26%
Retail Jet A	60,094	47,427	-21%	99,642	93,266	-6%
Contract	296,305	347,572	17%	599,119	828,781	38%
Commercial	756,632	719,779	-5%	1,701,373	1,675,376	-2%
TOTAL	**1,155,237**	**1,144,490**	**-1%**	**2,476,039**	**2,653,695**	**7%**

Business Development

Gateway East Welcomes First Tenant – XNRGY Climate Systems

PMGAA would like to officially welcome XNRGY Climate Systems to Gateway Airport!

The Boyer Company, master developer of Gateway East has announced that XNRGY Climate Systems (XNRGY), a leader in the design and manufacturing of advanced energy-efficient commercial climate control systems, will be the first tenant in Gateway East, a 273-acre airport business park located at Gateway Airport. The Airport selected Boyer as the master developer for Gateway East in 2022 to help market and develop a unique mix of nearly four million square feet of high-quality office, manufacturing, industrial, and commercial retail opportunities.

This will be the site of XNRGY's U.S. headquarters. Phase one of the project will include a 250,000 sq. ft research and production facility and 25,000 sq. ft. of office space on 17 acres. XNRGY also has options to build an additional 750,000 sq. ft of manufacturing space. XNRGY's investment in this site will create more than 1,200 employment opportunities and hundreds of millions of dollars in economic impact.

"Gateway East will be a first-class airport business park, creating thousands of jobs for Phoenix East Valley residents,' said PMGAA Board Chairman, Apache Junction Mayor Chip Wilson. "We are ecstatic that XNRGY will be the first of many high-quality employers making investments in this area."

Welcome to the Airport XNRGY!

PMGAA Exhibiting at 2023 NBAA-BACE in Las Vegas

Several PMGAA staff members and other regional Airport stakeholders are registered to exhibit at, and participate in, the 2023 National Business Aviation Association (NBAA) Business Aviation Convention and Exposition (BACE) in Las Vegas, NV on October 17th -19th. NBAA-BACE is the largest business aviation event in the world and a great place to network with thousands of aviation industry leaders, highlight the successes across the greater Phoenix region and the Airport, and educate them about the growing development opportunities now available at Gateway Airport.

Team members from both PMGAA's Gateway Aviation Services (GAS) Department and Business Development Department will have a booth set up in the Expo Hall and are scheduled to participate in a number of individual meetings and other networking opportunities during the Convention. Good luck PMGAA, way to represent!

PMGAA Team Member Spotlight

Employee Name: **Calvin Payne**
Employee Title: **Facilities Maintenance Tech/HVAC**
PMGAA Department: **Engineering and Facilities**
Years with PMGAA: **6+**

What are your job responsibilities for PMGAA? Maintain, service, replace and install HVAC/mechanical equipment that is a part of PMGAA facilities.

What is your most memorable Gateway Airport moment? Helped start a NASA T-38 that was piloted by an astronaut in training, who went on to graduate and become a NASA astronaut.

What is something people may not know about you? I played the saxophone in grade school and into high school.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

ANNUAL FINANCIAL REPORT

FISCAL YEAR ENDED JUNE 30, 2023

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
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INDEPENDENT AUDITORS' REPORT

Board of Directors
Phoenix-Mesa Gateway Airport Authority
Mesa, Arizona

Report on the Audit of the Financial Statements

Opinion

We have audited the accompanying financial statements of the business-type activities of Phoenix-Mesa Gateway Airport Authority (PMGAA), as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise PMGAA's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the business-type activities of PMGAA, as of June 30, 2023, and the changes in financial position, and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of PMGAA and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about PMGAA's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

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Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of PMGAA's internal control. Accordingly, no such opinion is expressed.

- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.

- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about PMGAA's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and the schedule of PMGAA's proportionate share of the net pension and OPEB liability and contributions be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Management is responsible for the other information included in the annual report. The other information comprises the statement of revenues and expenses (budget basis) but does not include the basic financial statements and our auditors' report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated September 13, 2023, on our consideration of PMGAA's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of PMGAA's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering PMGAA's internal control over financial reporting and compliance.

CliftonLarsonAllen LLP

CliftonLarsonAllen LLP

Phoenix, Arizona
September 13, 2023

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REQUIRED SUPPLEMENTARY INFORMATION

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2023

The management of Phoenix-Mesa Gateway Airport Authority (PMGAA) offers readers this overview and analysis of PMGAA's financial statements and activities for the fiscal year ended June 30, 2023.

FINANCIAL HIGHLIGHTS

- The assets and deferred outflows of resources of PMGAA exceeded the liabilities and deferred inflows of resources at the close of the most recent fiscal year by $365.8 million (net position). Total net position increased by $33.5 million during the fiscal year.
- PMGAA's operating revenues increased $1.9 million (6.5%) from the prior fiscal year.
- During the current year, member governments contributed $4.06 million to PMGAA. These contributions were utilized to fund capital projects at PMGAA.
- Intergovernmental Revenue decreased $10.3 million as PMGAA completed the drawdown of its remaining CRRSAA Act and ARPA Act funding in the prior fiscal year.
- PMGAA recognized $2.2 million in investment income for the fiscal year, a $2.8 million increase over the $0.6 million investment loss recognized in the previous fiscal year.
- PMGAA's operations resulted in a net operating loss of $11.9 million for the fiscal year. This loss is attributable to non-cash depreciation expense on assets. These assets were contributed by the federal government, acquired with the aid of grants, or constructed using contributions from PMGAA's member governments or PMGAA's own operating reserves.

OVERVIEW OF THE FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to PMGAA's basic financial statements. PMGAA's basic financial statements are divided into four sections:

1. Fund financial statements.
2. Notes to the basic financial statements.
3. Required supplementary information other than MD&A.
4. Other information.

As PMGAA presents only one fund type, separate government-wide financial statements have not been prepared.

Fund financial statements

A fund is a grouping of related accounts used to maintain control over resources that have been segregated for specific activities or objectives. Like other state and local governments, PMGAA uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. Unlike most other governments, which have multiple funds, all PMGAA's activities are business-type activities and are accounted for in a single proprietary fund.

Proprietary funds. PMGAA maintains its accounting records in a single enterprise fund. An enterprise fund is a type of proprietary fund used to report business-type activities.

The proprietary fund financial statements can be found on pages 11 - 14 of this report.

The *statement of net position* presents information on PMGAA's assets, deferred outflows of resources, liabilities, and deferred inflows of resources, with the difference being shown as net position.

The *statement of revenues, expenses and change in net position* presents information on how PMGAA's net position changed during the fiscal year.

All changes in net position are reported as soon as the underlying events giving rise to the changes occur, regardless of the timing of the related cash flows. Thus, revenues and expenses are reported in this statement for some items that will result in cash flows in future fiscal periods.

The *statement of cash flows* presents PMGAA's cash flow (sources and uses) related to operating activities, non-capital financing activities, capital financing activities, and investing activities during the year.

Notes to Basic Financial Statements

The notes to the basic financial statements provide additional information that is essential to a full understanding of the data provided in the fund financial statements. The notes to basic financial statements can be found on pages 15 - 40 of this report.

Required Supplementary Information other than MD&A

In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information related to PMGAA's pension plan as required by the GASB to supplement information found in the notes to the basic financial statements. These schedules are included at pages 41 - 44 of this report.

Other Information

PMGAA annually prepares a full capital and operating budget, which is submitted to the Board of Directors for approval during the spring of each year. Although the budget is not legally binding, it is an important management tool used throughout the fiscal year. During the fiscal year, actual activity is compared to the budget on a monthly basis to assess operating results.

Budget to actual results for the full year, presented on a budgetary basis, are included as other information on page 45 of this report.

FINANCIAL ANALYSIS

Net position represents the accrued results of a government's operations and, over time, increases or decreases in net position may serve as a useful indicator of whether PMGAA's financial position is improving or deteriorating. At the end of the fiscal year, PMGAA's assets and deferred outflows of resources exceeded liabilities and deferred inflows of resources by $365.8 million.

Airports are capital-intensive enterprises. 83.4% of PMGAA's net position is invested in capital assets (net of any outstanding debt used to acquire those assets).

PMGAA uses these assets to provide aviation access and services to the flying public and the surrounding community, consequently these assets are not available for future spending. Although PMGAA's investment in its capital assets is reported net of related debt, the resources needed to pay such debt must be provided from other sources, since the capital assets themselves cannot be used to liquidate these liabilities.

Certain of PMGAA's funding sources impose external restrictions upon the use of funds. In the event that PMGAA has unspent restricted resources, this balance is reported as restricted net position and is not available for use to meet ongoing obligations. PMGAA ended the current year with no unspent restricted resources, and therefore reports no restricted net position.

The remaining balance of unrestricted net position (16.6%) may be used to meet PMGAA's ongoing obligations.

The table below presents a summary of PMGAA's net position for the fiscal years ended June 30, 2023 and 2022 respectively.

	Business-Type Activities	
	2023	2022
ASSETS		
Current and Other Assets	$ 82,211,422	$ 86,416,041
Noncurrent Assets	332,126,185	295,215,863
Total Assets	414,337,607	381,631,904
DEFERRED OUTFLOWS OF RESOURCES	1,560,941	2,052,586
LIABILITIES		
Current and Other Liabilities	10,902,447	9,561,203
Long-Term Liabilities	24,955,164	23,605,748
Total Liabilities	35,857,611	33,166,951
DEFERRED INFLOWS OF RESOURCES	14,230,741	18,235,152
NET POSITION		
Net Investment in Captial Assets	305,159,251	266,644,552
Unrestricted	60,650,945	65,637,835
Total Net Position	$ 365,810,196	$ 332,282,387

Net position increased by $33.5 million (10.1%) from the previous fiscal year-end driven by increases in fueling operations and airport usage fees as aviation activity continued to recover above pre-pandemic levels.

Net investment in capital assets increased $38.5 million from the prior year as the acquisition of new assets exceeded depreciation in the current year and PMGAA continued to pay down debt.

The decrease in unrestricted net position ($5.0 million) reflects the increased costs of operating activity at airport.

The table below presents the significant elements of revenue and expenses for PMGAA comparatively for the current and prior fiscal year.

	Business-Type Activities	
	2023	2022
REVENUES		
Charges for Sales and Services	$ 24,565,407	$ 22,127,642
Lease Income	5,889,849	6,462,411
Capital Grants and Contributions	37,523,747	17,050,437
Other	8,602,992	16,164,032
Total Revenues	76,581,995	61,804,522
EXPENSES		
Cost of Sales	5,131,232	4,417,088
Other Operating Expenses	20,620,035	18,258,853
Depreciation	16,558,213	17,029,620
Non-Operating Expenses	744,706	741,605
Total Expenses	43,054,186	40,447,166
CHANGE IN NET POSITION	33,527,809	21,357,356
Net Position - Beginning of Year	332,282,387	310,925,031
NET POSITION - END OF YEAR	$ 365,810,196	$ 332,282,387

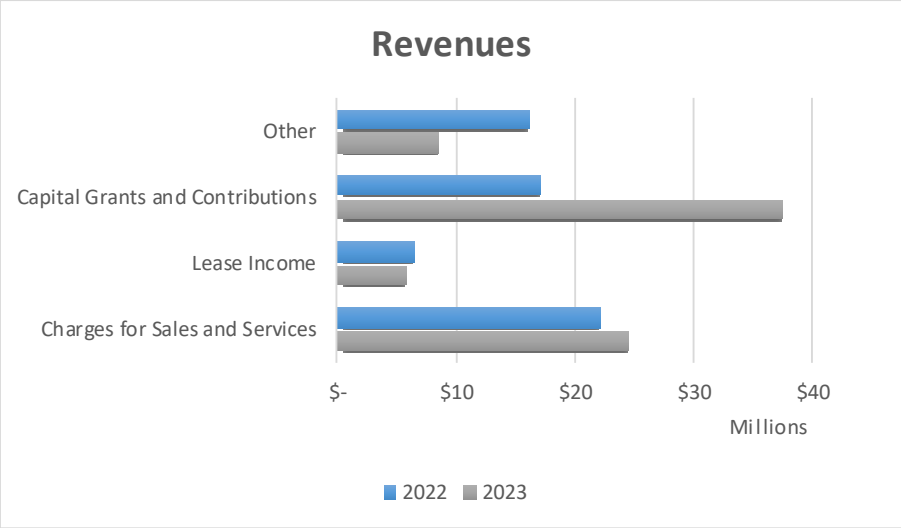
Revenues

Overall revenues increased $14.8 million from the previous fiscal year. While PMGAA saw a decline in intergovernmental revenues of $10.3 million with the end of the pandemic era programs, a $1.9 million increase in operating revenues in conjunction with a $20.4 million increase in capital grants and contributions—including $13.1 million in *Bipartisan Infrastructure Law (BIL)* funding—fully offset those declines. Increases in fueling operations ($1.2 million) and airport usage fees ($1.2 million) moderated declines in lease income ($0.6 million) which was driven primarily by reporting and recognition requirements for lease income under GASB Statement No. 87, *Leases*.

Customer Facility Charge (CFC) revenues increased $0.4 million from the previous year reflecting increased activity as well as an increase in the per day charge rate from $2.50 to $3.50 which occurred during the fiscal year. Passenger Facility Charge (PFC) moderated in the current year as airline pilot shortages reduced the number of available flights during the year in spite of robust demand for travel.

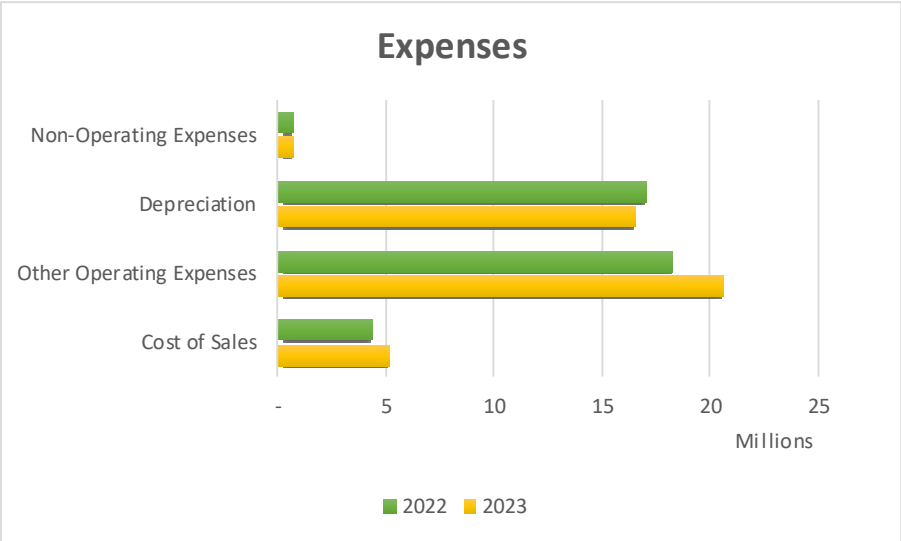
Lease interest income ($0.7 million) recognized by PMGAA in the current year represents imputed interest reported in accordance with GASB Statement No. 87 *Leases*.

Investment income recovered significantly from the prior year ($2.8 million) as interest rate increases created favorable market conditions for PMGAA to maximize return on its investments.



Expenses

PMGAA's expenses increased $2.6 million (6.4%) over the prior year, with significant increases in personnel costs, fuel costs, professional services and repair and maintenance. Costs for fueling operations increased $0.7 million or 17.2% over the previous year with continued supply constraints and international tensions continue to impact fuel commodity markets. Increases in professional services ($0.8 million), and repair and maintenance costs ($0.3 million) were driven by significantly higher costs for services and supplies due to increase inflation in the broader market and continued supply chain disruptions caused by the pandemic. Increases in personnel costs ($1.0 million) reflect market driven pay increases to remain competitive and retain talent.



CAPITAL ASSET AND DEBT ADMINISTRATION

Capital assets

At June 30, 2023, PMGAA's capital assets totaled $318.6 million (net of accumulated depreciation). Capital assets include land; runways, taxiways, and apron areas; buildings; improvements; machinery, vehicles, equipment, and software. A large majority of these assets were contributed to PMGAA directly or were purchased with the aid of federal and state grants.

The table below summarizes PMGAA's capital assets (net of accumulated depreciation) by major asset class as of June 30, 2023 and 2022, respectively:

	Business-Type Activities	
	2023	2022
Land	$ 91,188,500	$ 91,188,500
Construction in Progress	84,456,847	35,568,067
Buildings & Improvements	36,797,429	41,100,872
Infrastructure	98,521,826	104,010,144
Machinery & Equipment	7,599,257	8,781,023
	$ 318,563,859	$ 280,648,606

Major capital asset events during the current fiscal year included the following:

- Construction of Alpha Apron Phase IV ($8.5 million)
- Construction new Terminal Concourse ($11.9 million)
- Rehab/Construction of Center Runway ($15.8 million)
- Rental Car Care Facility Construction ($2.0 million)
- Construction of Taxiway Charlie Connectors ($7.4 million)
- Construction of Air Traffic Control Tower ($2.0 million)

Additional information on PMGAA's capital assets may be found in the notes to the basic financial statements in Note 3.A.4 and 3.B.

Long-term debt

At the end of the current fiscal year, PMGAA had total debt outstanding of $14.9 million. Payments on PMGAA's outstanding special facilities revenue bonds are funded through lease payments from the City of Mesa, Arizona, and secured via pledged excise tax revenue by the City of Mesa through its lease and financing agreement with PMGAA.

Overall, PMGAA's outstanding debt decreased $0.6 million from the prior fiscal year due to regularly scheduled principal payments.

The following schedule shows the outstanding debt of PMGAA as of June 30, 2023 and 2022.

Additional information on PMGAA's long-term debt may be found in the notes to the basic financial statements in Note 3.C.

	Business-Type Activities	
	2023	2022
Special Facility Revenue Bonds	$ 14,915,000	$ 15,465,000
Unamortized Premium on Bonds	392,177	418,322
	$ 15,307,177	$ 15,883,322

ECONOMIC FACTORS

PMGAA depends on annual contributions from its member governments to cover some of its capital costs. This makes PMGAA susceptible to downturns in the economy and other difficulties that could affect member governments' abilities to provide this annual funding. However, member government support of this kind has been consistent over the last several years.

With PMGAA's largest fueling customers being the government and commercial airlines, a significant portion of fueling revenue depends on continuation of military activity and commercial passenger operations.

PMGAA also depends on capital grants, mostly from the FAA and the Arizona Department of Transportation (ADOT), to continue its current level of capital improvement and renewal programs.

REQUESTS FOR INFORMATION

This financial report is designed to provide a general overview of PMGAA's finances for all those who are interested. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Chief Financial Officer, Phoenix-Mesa Gateway Airport Authority, 5835 S. Sossaman Road, Mesa, AZ 85212.

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BASIC FINANCIAL STATEMENTS

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
STATEMENT OF NET POSITION
PROPRIETARY FUND
JUNE 30, 2023

	Business-type Activities Proprietary Fund
ASSETS	
Current Assets:	
Cash and Investments	$ 66,133,101
Accounts Receivable, Net	1,788,732
Due from Other Governments	7,528,354
Lease Receivable	859,443
Prepaid Costs	1,149,450
Inventory	227,929
Restricted Assets:	
Cash with Fiscal Agent	947,937
Cash with Trustee	1,327,569
Customer Deposits	2,248,907
Total Current Assets	82,211,422
Noncurrent Assets:	
Lease Receivable	13,226,965
Net OPEB Asset	335,361
Capital Assets:	
Non-Depreciable	175,645,347
Depreciable, Net	142,918,512
Total Noncurrent Assets	332,126,185
Total Assets	414,337,607
DEFERRED OUTFLOWS OF RESOURCES	
Pension and OPEB	1,560,941
Total Deferred Outflow of Resources	1,560,941
LIABILITIES	
Current Liabilities:	
Accounts Payable	6,401,588
Accrued Liabilities	585,249
Unearned revenue	93,997
Current Liabilities Payable from Restricted Assets:	
Customer Deposits	2,248,907
Interest Payable	372,875
Current Portion of Long-Term Liabilities:	
Bonds and Loans Payable	575,000
Compensated Absences	624,831
Total Current Liabilities	10,902,447
Noncurrent liabilities:	
Bonds and Loans Payable	14,732,177
Compensated Absences	463,302
Net Pension and OPEB Liability	9,759,685
Total Noncurrent Liabilities	24,955,164
Total Liabilities	35,857,611
DEFERRED INFLOWS OF RESOURCES	
Pension and OPEB	620,531
Leases	13,610,210
Total Deferred Outflow of Resources	14,230,741
NET POSITION	
Net Investment in Capital Assets	305,159,251
Unrestricted	60,650,945
Total Net Position	$ 365,810,196

See accompanying Notes to Basic Financial Statements.

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
STATEMENT OF REVENUES, EXPENSES, AND CHANGE IN NET POSITION
PROPRIETARY FUND
YEAR ENDED JUNE 30, 2023

	Business-type Activities Proprietary Fund
OPERATING REVENUES	
Fueling Operations	$ 13,230,314
Lease Income	5,889,849
Maintenance Services	341,797
Airport Usage Fees	10,993,296
Total Operating Revenues	30,455,256
OPERATING EXPENSES	
Personnel Costs	10,200,555
Professional Services	6,229,748
Cost of Goods Sold - Fueling Operations	5,072,162
Cost of Goods Sold - Maintenance Services	59,070
Repair and Maintenance	1,052,285
Utilities	933,711
Insurance	658,116
Other Expense	1,545,620
Depreciation	16,558,213
Total Operating Expenses	42,309,480
Operating Loss	(11,854,224)
NONOPERATING REVENUE (EXPENSES)	
Investment Income	2,229,367
Lease Interest Income	657,101
PFC Income	4,239,286
CFC Income	1,326,786
Other Income	49,060
Loss from Disposition of Assets	(25,101)
Intergovernmental Revenue	101,392
Interest Expense	(719,605)
Total Nonoperating Revenues (Expenses)	7,858,286
Income Before Capital Grants and Contributions	(3,995,938)
Capital Grants and Contributions	37,523,747
Change in Net Position	33,527,809
Total Net Position - Beginning of Year	332,282,387
TOTAL NET POSITION - END OF YEAR	$ 365,810,196

See accompanying Notes to Basic Financial Statements.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
STATEMENT OF CASH FLOWS
PROPRIETARY FUND
YEAR ENDED JUNE 30, 2023

	Business-type Activities Proprietary Fund
CASH FLOWS FROM OPERATING ACTIVITIES	
Cash Received from Providing Services	$ 29,967,336
Payments to Employees	(10,517,019)
Payments to Suppliers	(14,300,187)
Customer Deposits and Prepayments	406,778
Net Cash Flows Provided by Operating Activities	5,556,908
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES	
Lease Interest Income	657,101
Operating Grants from Other Governments	101,392
Net Cash Flows Provided by Non-Capital Financing Activities	758,493
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES	
Construction and Acquisition of Capital Assets	(54,315,587)
Capital Contributions from Member Governments	4,060,000
Capital Grants from Other Governments	26,384,276
Passenger Facility Charges received	4,239,286
Customer Facility Charges received	1,310,663
Proceeds from Sale of Equipment	43,231
Principal Paid on Capital Debt	(550,000)
Interest Paid on Capital Debt	(756,750)
Net Cash Flows Used for Capital and Related Financing Activities	(19,584,881)
CASH FLOWS FROM INVESTING ACTIVITIES	
Investment Income	1,235,369
Gain (Loss) on Change in Fair Market Value	993,998
Other Income (Expense)	49,060
Net Cash Flows Provided by Investing Activities	2,278,427
NET CHANGE IN CASH AND CASH EQUIVALENTS	(10,991,053)
Cash and Cash Equivalents - Beginning of Year	81,648,567
CASH AND CASH EQUIVALENTS - END OF YEAR	$ 70,657,514
RECONCILIATION OF CASH AND CASH EQUIVALENTS TO THE STATEMENT OF NET POSITION	
Cash and cash equivalents	$ 66,133,101
Restricted cash	4,524,413
Total Cash and Cash Equivalents	$ 70,657,514

(Continued)

See accompanying Notes to Basic Financial Statements.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
STATEMENT OF CASH FLOWS (CONTINUED)
PROPRIETARY FUND
YEAR ENDED JUNE 30, 2023

	Business-type Activities Proprietary Fund
(Concluded)	
RECONCILIATION OF OPERATING LOSS TO NET CASH PROVIDED BY OPERATING ACTIVITIES	
Operating Loss	$ (11,854,224)
Adjustments to Reconcile Operating Loss to Net Cash Provided by Operating Activities:	
Depreciation	16,558,213
Change in Assets, Deferred Outflows, Liabilities and Deferred Inflows:	
Accounts Receivable	(350,753)
Lease Receivable	1,357,358
Prepaid Costs	338,314
Inventories	13,816
Net OPEB Asset	(44,644)
Accounts Payable and Accrued Liabilities	522,883
Unearned Revenue	93,997
Tenant Deposits	406,778
Deferred Outflows Related to Pension	491,645
Deferred Inflows Related to Pension	(2,415,889)
Deferred Inflows Related to Leases	(1,588,522)
Net Pension and OPEB Liability	1,951,710
Compensated Absences	76,226
Net Cash Provided by Operating Activities	$ 5,556,908
NON-CASH INVESTING, CAPITAL AND FINANCING ACTIVITIES	
Loss on Disposal of Capital Assets	$ (68,332)
Amortization of Bond Issue Premium	26,145
Net Non-Cash Investing, Capital, and Financing Activities	$ (42,187)

See accompanying Notes to Basic Financial Statements.

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NOTES TO BASIC FINANCIAL STATEMENTS

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accompanying financial statements of Phoenix-Mesa Gateway Airport Authority (PMGAA) have been prepared in conformity with accounting principles generally accepted in the United States of America applicable to governmental units adopted by the Governmental Accounting Standards Board (GASB). A summary of PMGAA's more significant accounting policies follows.

A. Reporting Entity

Phoenix-Mesa Gateway Airport Authority was established on May 19, 1994 as a joint powers' airport authority pursuant to Arizona Revised Statutes Title 28, Chapter 25, Article 8. Originally incorporated as Williams Gateway Airport Authority, PMGAA's name was officially changed to Phoenix-Mesa Gateway Airport Authority on July 1, 2007. PMGAA operates 3,042 acres as Phoenix-Mesa Gateway Airport.

PMGAA is overseen by a six-person board consisting of representatives from each of PMGAA's member governments. Membership in PMGAA is comprised of the Gila River Indian Community; Town of Gilbert, Arizona; City of Mesa, Arizona; City of Phoenix, Arizona; Town of Queen Creek, Arizona; and City of Apache Junction, Arizona.

PMGAA is further governed by a variety of federal, state, and local laws, agreements and regulations. The Federal Aviation Administration (FAA) has jurisdiction over airport operations, including aircraft, personnel, facilities, and many technical issues, including noise limits and reasonableness of fees. Under federal law and the FAA's regulations and grant agreements, PMGAA cannot legally transfer revenues to its member governments except in exchange for fair value received.

PMGAA is legally separate from other state and local governments. There are no component units combined with PMGAA for financial statement presentation purposes and PMGAA is not included in any other governmental reporting entity. Consequently, these financial statements present the financial position and activities of PMGAA, for which its governing board is financially accountable.

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

A. Reporting Entity (Continued)

PMGAA earns revenue from aeronautical and non-aeronautical activities. Fees received for use of the airport include, but are not limited to, landing fees, tie down fees, terminal usage fees, fuel flowage fees, parking fees, rental car fees, and concession fees. PMGAA also owns and operates a fixed base fueling operation, leases land and facilities to various tenants, and contracts with tenants and users of the facilities within the airport area to provide maintenance services. Major expenses include salaries and fringe benefits; professional services for fire, police protection, and parking services; legal and development consulting; maintenance, and utilities.

B. Basis of Presentation

PMGAA engages solely in business-type activities and presents only a single enterprise fund for external reporting purposes. Accordingly, PMGAA does not present government-wide financial statements, and the statements of net position, of revenues, expenses and changes in net position and the statement of cash flows report information for that single enterprise fund only.

C. Basis of Accounting

1. Measurement Focus, Basis Accounting, and Financial Statement Presentation

The statement of net position and statement of revenues, expenses and changes in net position are reported using the *economic resources measurement focus* and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met. Such revenue is subject to review by the funding agency, which may result in disallowance in subsequent periods.

Proprietary, or, enterprise funds distinguish *operating* revenues and expenses from *nonoperating* items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. Revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

C. Measurement Focus, Basis of Accounting, and Financial Statement Presentation (Continued)

2. Passenger Facility Charges

In 1990, Congress approved the Aviation Safety and Capacity Expansion Act (Act), which authorized domestic airports to impose a Passenger Facility Charge (PFC) on enplaning passengers. In May 1991, the Federal Aviation Administration issued the regulations for the use and reporting of PFCs. PFCs may be used for airport projects that meet at least one of the following criteria: (1) preserve or enhance safety, security, or capacity of the national transportation system; (2) reduce noise or mitigate noise impacts resulting from an airport; or (3) furnish opportunities for enhanced competition between or among carriers.

PMGAA was granted permission to begin collection of a $4.50 per passenger PFC beginning with PMGAA's first application effective November 1, 2008. This authority continues with each successive application approved by the FAA for PMGAA's collection of PFCs, the most recent of which, application 21-08-C-00-IWA, awarded on November 10, 2021, grants PMGAA permission to impose and collect PFCs through June 1, 2043.

The PFC, less an $0.11 per passenger administrative fee charged by the airlines for processing, is collected by the airlines and remitted on a monthly basis to PMGAA. PFCs are not a grant to PMGAA, but rather a fee earned by PMGAA for passenger use of the airport facilities and is considered revenue when collected and remitted. However, as the use of the PFCs is restricted to those specific purposes approved by the FAA as part of each application by PMGAA, the revenue from PFCs is reported as nonoperating revenue in PMGAA's statement of revenues, expenses, and changes in net position. Unspent PFCs are reported as restricted cash, and restricted net position, in PMGAA's financial statements.

3. Use of Restricted Resources

When an expenditure is incurred for purposes for which both restricted and unrestricted resources are available, it is PMGAA's policy to use restricted resources first before using unrestricted resources.

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

D. Assets, Deferred Outflows of Resources, Liabilities, Deferred Inflows of Resources, and Net Position or Equity

1. Cash and Investments

PMGAA's cash and cash equivalents are comprised of cash on hand, demand deposits, cash and investments held by the State Treasurer and highly liquid investments with maturities of three months or less from the date of acquisition. Cash and investments are pooled, except for funds required to be held by fiscal agents or restricted under provisions of bond indentures.

State Statutes and Authority policy authorize PMGAA to invest in obligations of U.S. Treasury and U.S. Agencies, certificates of deposit and repurchase agreements held in eligible depositories, obligations of the State of Arizona or any of its counties or incorporated cities, towns or duly organized school districts, improvement districts in this state, highly rated commercial paper, or the State Treasurer's Local Government Investment Pool. Investments are stated at fair value or amortized cost.

2. Receivables and Intergovernmental Receivables

All customer and non-governmental receivables are shown net of an allowance for uncollectible receivables. PMGAA annually reviews the balance in the reserve account to determine if, based on history, the allowance is adequate to cover current receivables, and adjusted accordingly. Receivables from other governments are assumed to be entirely collectible and are therefore not included in this analysis. Current and long-term lease receivables represent the present value of future minimum non-cancelable payments on lease agreements in which PMGAA is the lessor. These receivables are calculated and presented in accordance with GASB Statement No. 87.

3. Inventories and Prepaid Items

Supply inventories are valued at cost using the first-in/first-out (FIFO) method. The cost of inventory is reported as an expense at the time the individual items are consumed. Fuel inventories are valued at cost using the moving average method.

Certain payments to vendors reflect costs applicable to future accounting periods and accordingly are recorded as prepaid items in the proprietary fund financial statements. These items are expensed as consumed.

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

D. Assets, Deferred Outflows of Resources, Liabilities, Deferred Inflows of Resources, and Net Position or Equity (Continued)

4. Restricted Assets

As required by applicable law, regulation and agreement, certain resources are set aside for debt service requirements on bonds and loans. Additionally, unspent PFC funds and related receivables and customer deposits, upon which there are legal or external restrictions as to use, are set aside as restricted.

5. Capital Assets

Capital assets, which include property, plant, infrastructure, machinery and equipment, and vehicles, are defined by PMGAA as those assets with an initial, individual cost of more than $10,000 and an estimated useful life in excess of one year.

Capital assets purchased or acquired are carried at historical cost or estimated historical cost. Contributed assets are recorded at acquisition value as of the date received. Additions, improvements, and other capital outlays that significantly extend the useful life of an asset are capitalized. Costs incurred for repairs and maintenance are expensed as incurred.

Depreciation on all assets is provided on a straight-line basis over the following estimated useful lives:

Buildings and Improvements	5 – 30 years
Infrastructure	5 – 40 years
Machinery, Vehicles, and Equipment	3 – 10 years

When assets are retired or sold, the costs of those assets and the related accumulated depreciation are eliminated from the accounts, and any resulting gain or loss is charged to income or expense.

6. Deferred Outflows and Inflows of Resources

The statement of net position includes separate sections for deferred outflows of resources and deferred inflows of resources. Deferred outflows of resources represent a consumption of net position that applies to future periods that will be recognized as an expense in future periods. Deferred inflows of resources represent an acquisition of net position that applies to future periods and will be recognized as a revenue in future periods.

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

D. Assets, Deferred Outflows of Resources, Liabilities, Deferred Inflows of Resources, and Net Position or Equity (Continued)

7. Compensated Absences

The liability for compensated absences reported in the statement of net position consists of unpaid, accumulated leave balances. The liability has been calculated using the vesting method, in which leave amounts for both employees who are currently eligible to receive termination payments and other employees who are expected to become eligible in the future to receive such payments upon termination are included.

All employees (after a probationary period) are eligible for full payout of their vacation leave upon separation from service. Employees who retire in good standing from PMGAA are eligible for payment of 50% of their unused sick leave.

Further, PMGAA's employee vacation policy provides for granting vacation leave payouts to eligible employees annually who meet the criteria. Every year, employees are eligible for payout of their accrued vacation balances in excess of PMGAA's 240-hour limit, provided the employee has taken at least 80 hours of vacation during the previous fiscal year. The employee is compensated at their current rate of pay.

8. Long-Term Obligations

In the financial statements, long-term debt and other long-term obligations are reported as liabilities. Bond premiums and discounts are amortized over the life of the bonds. Bonds payable are reported net of the applicable bond premium or discount.

9. Pension Plan and Other Postemployment Benefits

For purposes of measuring the net pension and other postemployment benefits (OPEB) liabilities (assets), deferred outflows of resources and deferred inflows of resources related to pensions and OPEB, and pension and OPEB expense, information about the plans' fiduciary net position and additions to/deductions from the plans' fiduciary net position have been determined on the same basis as they are reported by the plans. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

D. Assets, Deferred Outflows of Resources, Liabilities, Deferred Inflows of Resources, and Net Position or Equity (Continued)

10. Net Position

In the statement of net position, net position is reported in three categories: net investment in capital assets, restricted net position, and unrestricted net position. Net investment in capital assets is reported separately because capital assets make up a significant portion of total net position. Restricted net position accounts for the portion of net position restricted by parties outside of PMGAA. Unrestricted net position is the remaining net position not included in the previous two categories.

NOTE 2 STEWARDSHIP, COMPLIANCE, AND ACCOUNTABILITY

A. Budgetary Information

PMGAA uses a budget process that culminates in the adoption of a formal annual budget by the board of directors. The budget is a planning and control device; it is not legally binding in the sense of appropriations commonly required in municipal governments. However, certain budget changes require board approval per certain PMGAA board policies and organizational policies and procedures.

NOTE 3 DETAILED NOTES

A. Assets

1. Deposits and Investments

Deposits and investments at June 30, 2023 consist of the following:

Cash on Hand	$	800
Deposits:		
Cash in Bank		639,446
Investments:		
Money Market		25,268,984
State Treasurer's Investment Pool		6,146,483
Commercial Paper		35,611,454
Brokered Certificates of Deposit		2,990,347
Total Deposits and Investments		70,657,514
Less Restricted Assets		(4,524,413)
Cash and Investments on Statement of Net Position	$	66,133,101

Investments and Fair Value Measurements – PMGAA uses fair value measurements to record value adjustments to certain assets and to determine fair value disclosures. PMGAA follows accounting principles generally accepted in the United States of America that define fair value, establish a framework for measuring fair value, establish a fair value hierarchy based on the quality of inputs used to measure fair value, and requires expanded disclosures about fair value measurements.

The fair value measurements framework utilizes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Fair value measurements define levels within the hierarchy based on the reliability of inputs.

NOTE 3 DETAILED NOTES (CONTINUED)

A. Assets (Continued)

1. Deposits and Investments (Continued)

Financial assets recorded on the statement of net position are categorized based on inputs to the measurement framework as follows:

Level 1 – Financial assets are valued using inputs that are unadjusted quoted prices in active markets accessible at the measurement date of identical financial assets. The inputs include those traded on an active exchange, such as the New York Stock Exchange, as well as U.S. Treasury and other U.S. government and agency mortgage-backed securities that are traded by dealers or brokers in an active over-the-counter-market.

Level 2 – Financial assets are valued based on quoted prices for similar assets, or inputs that are observable, either directly or indirectly for substantially the full term through corroboration with observable market data.

Level 3 – Financial assets are valued using pricing inputs which are unobservable for the asset, inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset.

PMGAA's investments at June 30, 2023, categorized within the fair value hierarchy detailed above, were as follows:

		Fair Value Measurements Using		
	June 30, 2023	(Level I)	(Level II)	(Level III)
Investments by Fair Value Level				
Commercial Paper	$ 35,611,454	$ -	$ 35,611,454	$ -
Brokered Certificates of Deposit	2,990,347	2,990,347	-	-
Total Investments by Fair Value Level	$ 38,601,801	$ 2,990,347	$ 35,611,454	$ -
External Investment Pools				
Measured at Fair Value				
State Treasurer's Investment Pool	$ 6,146,483			
Total Investments by Fair Value Level				
Investments by Amortized Costs				
Money Market	$ 25,268,984			
Total Investments	$ 70,017,268			

NOTE 3 DETAILED NOTES (CONTINUED)

A. Assets (Continued)

1. Deposits and Investments (Continued)

The State Board of Investment provides oversight for the State Treasurer's pools, and the Local Government Investment Pool Advisory Committee provides consultation and advice to the Treasurer. The value of investments in LGIP 700 has been adjusted to fair market value at June 30, 2023. LGIP shares are not identified with specific investments held for PMGAA in physical or book entry form. Investments in the State Treasurer's Local Government Investment Pools are not insured or collateralized.

Custodial Credit Risk – Custodial Credit risk is the risk that, in the event of the failure of the counterparty, the government will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. PMGAA is not subject to custodial credit risk since its investments are not identified with specific investments held by others for PMGAA in physical or book entry form. PMGAA does not have a formal policy regarding credit risk. However, collateralization is addressed in the investment policy.

As of June 30, 2023, all PMGAA's funds held on deposit were fully collateralized through collateral pledged by PMGAA's banking institution in PMGAA's name.

Concentration Risk – Concentration risk is the increased risk to the organization when a significant portion of its resources are invested with a single issuer. PMGAA does not have a formal policy for concentration of credit risk. However, diversification of portfolio assets is addressed in the investment policy. The LGIP portfolio is not directly rated but holds only assets rated AAA by Moody's. Concentration percentages are shown below.

As of June 30, 2023, PMGAA had the following investments:

Rating Agency Investment	Rating	Amount	Percent
Moody's Investor Service			
Commercial Paper	A-1/P-1 - A-2/P-2	$ 35,611,454	51%
Not Rated			
Money Market	N/A	25,268,984	36
Brokered Certificates of Deposit	N/A	2,990,347	4
State Treasurer's Investment Pool	N/A	6,146,483	9

NOTE 3 DETAILED NOTES (CONTINUED)

A. Assets (Continued)

1. Deposits and Investments (Continued)

Interest rate risk – Due to the short maturities of PMGAA's investments, the risk of losses due to market interest rate changes is minimal. PMGAA does not have a formal policy regarding interest rate risk. The following table shows the investment maturities by year and type of security:

	Maturity			
Investment Type	Less Than 1 Year	1-3 Years	More Than 3 Years	Total
State Treasurer's Investment Pool	$ -	$ 6,146,483	$ -	$ 6,146,483
Commercial Paper	35,611,454	-	-	35,611,454
Brokered Certificates of Deposit	2,990,347	-	-	2,990,347
Total	$ 38,601,801	$ 6,146,483	$ -	$ 44,748,284

2. Restricted cash

Certain assets of PMGAA are classified as restricted assets because their use is restricted by grant or contractual agreements. Restricted assets include the following:

Customer Deposits	$ 2,248,907
Current & Future Debt Service Reserves	2,275,506
Total Restricted Cash and Investments	$ 4,524,413

3. Receivables

At June 30, 2023, receivables were comprised of the following receivable balances, reduced as applicable by an allowance for uncollectible amounts:

	Receivables	Allowance	Net
Business-Type Activities:			
Accounts Receivable, Net	$ 1,898,696	$ (109,964)	$ 1,788,732
Due from Other Governments	7,528,354	-	7,528,354
Lease Receivables	14,086,408		14,086,408
Total Business-Type Activities	$ 23,513,458	$ (109,964)	$ 23,403,494

NOTE 3 DETAILED NOTES (CONTINUED)

A. Assets (Continued)

4. Capital assets

Capital asset activity for the year ended June 30, 2023 was as follows:

	Beginning Balance	Increases	Decreases	Ending Balance
Capital Assets Not Being Depreciated				
Land	$ 91,188,500	$ -	$ -	$ 91,188,500
Construction in Progress	35,568,067	54,457,788	(5,569,008)	84,456,847
Total Capital Assets Not Being Depreciated	126,756,567	54,457,788	(5,569,008)	175,645,347
Capital Assets Being Depreciated				
Buildings & Improvements	101,408,757	-	(3,000)	101,405,757
Infrastructure	265,974,727	4,826,063	-	270,800,790
Machinery, Vehicles, & Equipment	24,682,442	826,955	(1,088,847)	24,420,550
Total Capital Assets Being Depreciated	392,065,926	5,653,018	(1,091,847)	396,627,097
Less Accumulated Depreciation For:				
Buildings & Improvements	(60,307,885)	(4,303,393)	2,950	(64,608,328)
Infrastructure	(161,964,583)	(10,314,381)	-	(172,278,964)
Machinery, Vehicles, & Equipment	(15,901,419)	(1,940,439)	1,020,565	(16,821,293)
Total Accumulated Depreciation	(238,173,887)	(16,558,213)	1,023,515	(253,708,585)
Total Capital Assets Being Depreciated, Net	153,892,039	(10,905,195)	(68,332)	142,918,512
Business-type Activities Capital Assets, Net	$280,648,606	$ 43,552,593	$ (5,637,340)	$318,563,859

NOTE 3 DETAILED NOTES (CONTINUED)

B. Purchase Commitments

PMGAA had major contractual commitments related to various capital projects at June 30, 2023, for the construction or acquisition of various improvements. PMGAA's commitments remaining open with contractors relating to these projects were as follows:

Project	Spent-to-Date	Remaining Commitment
Design and Construction - New ATCT	$ 31,139,998	$ 268,669
Taxiway W Rehabilitation	56,343	743,657
Terminal Modernization	13,129,016	14,925,696
Alpha Apron Phase 4	8,842,242	835,010
Fuel Farm Expansion Construction	649,369	10,738,381
Design Fuel Farm Capacity	428,096	27,222
Design Road & Utility Extensions for Eastside	189,297	32,300
Design & Constr TWY C New Connectors & Partial Parallel Taxiways	7,623,083	809,588
Design & Construct Rwy 12C/30C	16,339,935	1,174,473
PARC System Replacement	921,940	203,309
Enclosed Pedestrian Walkway	388,901	4,156,575
WIFI Upgrade -Clearpass	58,251	18,500
Rental Car Care Facility Construct	2,049,441	7,385,575
Reconstruct Rwy 12R 30L & Twy H	1,078,646	23,469,381
Eastside Terminal Analysis	133,548	366,452
Replc 4 Fire Pumps	152,106	347,894
Relocation of RTR	2,038	1,397,962
TSA Bag Make-up Expansion	49,983	79,708
Add 4 GPU's & PCU's for Term Expansion	619,466	438,909
Design & Recon Twy H Btwn B & 12R	151,995	-
Eastside Development	220,486	-
Portable Airstart Unit	232,667	-
	$ 84,456,847	$ 67,419,261

NOTE 3 DETAILED NOTES (CONTINUED)

C. Long-Term Obligations

On February 29, 2012, PMGAA issued $19,220,000 in Special Facility Revenue Bonds (Mesa Project) Series 2012. Previous to the issuance, on March 21, 2011, PMGAA entered into a Memorandum of Understanding (MOU) with the City of Mesa (the City) for the development, construction and lease of an aircraft maintenance, repair, and overhaul facility at Phoenix-Mesa Gateway Airport. Under the terms of the MOU, PMGAA issued Special Facility Revenue Bonds which financed the construction of the facility, which was leased to the City through a property and special facility lease on February 1, 2012 (the Agreement). The facility is further subleased by the City under a separate agreement.

Under the terms of the agreement, the City will pay rent to PMGAA, comprised of base rent for the building and premises rent for the property. The City's base rent payments due under the terms of the Agreement will be in sums sufficient to pay, amongst other things, the principal of and interest on the Series 2012 Special Facility Revenue Bonds as they come due, as well as all charges and expenses of the Trustee.

Further, in connection with the issuance of the special facility revenue bonds, The City pledged a portion of its excise taxes, defined in the Series 2012 Special Facility Revenue Bond Official Statement, as security for payment of the base rent. The pledge of such excise taxes will be a junior lien, subordinate to certain outstanding senior obligations.

Annual principal and interest payments on the bonds are expected to require 100% of revenues pledged for base rent less all charges and expenses of the trustee. Interest is paid semi-annually based upon the principal amount of the bonds outstanding during such period. The bonds are payable from the future lease revenues from the City of Mesa through 2039. During that time frame total principal and interest to be paid on the bonds will be $35,216,300, with $21,697,750 remaining to be paid as of June 30, 2023. For the current fiscal year, $1,299,699 in base rent payments were utilized to repay $550,000 in principal and $745,750 in interest.

NOTE 3 DETAILED NOTES (CONTINUED)

C. Long-Term Obligations (Continued)

The maturity schedule for the PMGAA Series 2012 Special Facility Revenue Bonds is as follows:

Purpose	Interest Rates	Maturity Date	Original Amount	Outstanding Amount
Business-Type Activities:				
Special Facility Revenue Bonds:				
Series 2012	3.00-5.00%	07/01/23-38	$ 19,220,000	$ 14,915,000

Changes in long-term obligations for the year ended June 30, 2023 are as follows:

	Beginning Balance	Increases	Decreases	Ending Balance	Amounts Due Within One Year
Bonds and Loans Payable					
Special Facilitiy Revenue Bonds	$ 15,465,000	$ -	$ (550,000)	$ 14,915,000	$ 575,000
Unamortized Premium on Bonds	418,322	-	(26,145)	392,177	-
Total Bonds and Loans Payable	15,883,322	-	(576,145)	15,307,177	575,000
Other Liabilities					
Compensated Absences	1,011,907	825,132	(748,906)	1,088,133	624,831
Business-Type Long-Term Liabilities	$ 16,895,229	$ 825,132	$ (1,325,051)	$ 16,395,310	$ 1,199,831

Debt service requirements on long-term debt at June 30, 2023, including future interest based on current repayment schedules, are as follows:

Fiscal Year Ending June 30,	Special Facility Revenue Bonds	
	Principal	Interest
2024	$ 575,000	$ 717,000
2025	605,000	686,750
2026	635,000	655,000
2027	665,000	621,750
2028	700,000	586,750
2029-2033	4,055,000	2,345,000
2034-2038	5,165,000	1,170,500
2039	2,515,000	-
Total	$ 14,915,000	$ 6,782,750

NOTE 3 DETAILED NOTES (CONTINUED)

D. Leases

PMGAA, acting as lessor, leases land and facilities on the airport for office buildings, hangars, and ground leases for tenant development. A limited number of these agreements include up to two renewal terms ranging from one to ten years. These leases expire at various dates through 2081, inclusive of any options to renew expected to be exercised.

In accordance with GASB Statement No. 87 *Leases,* PMGAA recognizes a lease receivable and a deferred inflow of resources at the commencement of the lease term, with certain exceptions for leases subject to external regulation and for those leases that are short-term in nature. The lease receivable is measured at the present value of the lease payments expected to be received during the lease term.

With few exceptions, PMGAA's leases include escalation clauses, which will result in increases in future rents. The escalation clauses typically provide for annual rent increases of 5 percent or the change in the Consumer Price Index. To the extent that such increases are known or can be determined, they have been included in the measurement of the lease receivable.

Some leases require variable payments based on future performance of the lessee or usage of the underlying asset and are not included in the measurement of the lease receivable. Those variable payments are recognized as inflows of resources in the periods in which the payments are received. During the year ended June 30, 2023, PMGAA received variable payments as required by lease agreements totaling $3,772,420.

Total future minimum lease payments to be received under lease agreements are as follows:

	Principal	Interest	Total
Year Ending June 30,			
2024	$ 859,443	$ 654,952	$ 1,514,395
2025	908,261	612,827	1,521,088
2026	826,305	571,953	1,398,258
2027	681,859	536,311	1,218,170
2028	646,118	506,134	1,152,252
2029-2033	2,542,396	2,074,936	4,617,332
2034 and thereafter	7,622,026	8,413,725	16,035,751
Total minimum lease payments	$ 14,086,408	$ 13,370,838	$ 27,457,246

NOTE 3 DETAILED NOTES (CONTINUED)

E. Regulated Leases

Certain leases entered into by PMGAA are subject to external laws, regulations, legal rulings, and agreements promulgated and enforced by the FAA. Under these regulations, the leases entered into between PMGAA and any air carrier or other aeronautical user (as defined in FAA Circular 150_5190_6) must adhere to the following requirements:

1. Lease rates cannot exceed a reasonable amount (i.e. market rates), with reasonableness being subject to determination by the FAA.
2. Lease rates must be similar for lessees which are similarly situated.
3. PMGAA, as lessor, cannot deny potential lessees the right to enter into leases if facilities are available (or land is available for the lessee to build their own facility), provided that the lessee's use of the facilities complies with airport minimum standards and use restrictions.

Under the provisions of GASB Statement No. 87, leases subject to external regulation should be excluded from the measurement of the lease receivable and, accordingly, PMGAA has excluded these agreements from the measurement of its receivable.

For the year ended June 30, 2023, PMGAA received $3,233,354 in payments from leases under regulated lease agreements. Future noncancelable minimum payments under regulated lease agreements are as follows:

Year Ending June 30,	
2024	$ 4,749,937
2025	4,985,231
2026	4,833,829
2027	4,264,700
2028	4,010,651
2029-2033	17,893,357
2034 and thereafter	77,260,651
Total minimum lease payments	$117,998,356

These future regulated lease revenues include $39,605,421 in base rent from the City of Mesa that will be used to service the debt on the Series 2012 Special Facility Bonds.

NOTE 4 OTHER INFORMATION

A. Risk Management

In addition to safety efforts, PMGAA's risk management activities include purchase of commercial insurance for all significant risks. Risks retained by PMGAA include normal deductibles and the small risk of losses in excess of insurance coverage. The amounts of settlements have not exceeded insurance coverage for the past three years. There have been no significant reductions in insurance coverage. The financial statements do not include any liability for claims at June 30, 2023.

Losses arising from claims and judgments are expensed when (1) it is probable that an asset has been impaired or a liability has been incurred at the date of the financial statements, and (2) the amount of the loss can be reasonably estimated.

B. Contingencies

Air Force Prime Lease and Deed

In January 1996, PMGAA entered into a prime lease with the United States Air Force for the real property encompassing approximately 3,005 of PMGAA's 3,042 acres of land, which comprised the majority of the former Williams Air Force Base, including the three runways, and 120 buildings or facilities (such as navigational aids) ("the property") for the purpose of developing a public airport. Since then, portions of the property have been deeded to PMGAA as environmental clearances have been completed. Today less than one acre remains under lease pending environmental clearance. The real property conveyed via quitclaim deed was recorded at estimated fair market value at the date of the transfer.

Under the terms of the deed, the property is restricted for public airport purposes for the use and benefit of the public. No land or improvements can be used, leased, sold, salvaged, or disposed of by PMGAA for other than airport purposes without the written consent of the Administrator of the FAA. The term "airport purposes" as used in this deed includes the use and/or development of the property, including hotel development, to produce sources of revenue from nonaviation business.

Non-compliance with the terms of the indenture could, at the option of the Federal government, result in the property reverting to the United States of America.

NOTE 4 OTHER INFORMATION (CONTINUED)

C. Related Party Transactions

PMGAA has earned revenues, incurred expenses, and made other payments involving some of its member governments. Following is a summary of these transactions:

Related Party	Member Contributions	Operating Revenues	Operating Expenses	Sales Tax Collected/ Remitted
City of Apache Junction, Arizona	$ 130,000	$ -	$ -	$ -
City of Mesa, Arizona	1,700,000	1,527,977	2,644,805	268,939
City of Phoenix, Arizona	1,300,000	-	-	-
Gila River Indian Community	450,000	-	-	-
Town of Gilbert, Arizona	350,000	-	-	-
Town of Queen Creek, Arizona	130,000	-	-	-
	$ 4,060,000	$ 1,527,977	$ 2,644,805	$ 268,939

PMGAA revenues above consist of member contributions, real property leases, and minor maintenance work. PMGAA expenses include airport rescue and firefighting (ARFF), police protection, water and trash utilities, lobbyist services, and permits. Included in City of Mesa expenses is $154,979 in accounts payable at June 30, 2023.

D. Pension and Other Postemployment Benefits

Arizona State Retirement System

PMGAA contributes to the Arizona State Retirement System (ASRS) Plan described below. The plan is a component unit of the State of Arizona.

Plan Description – PMGAA employees participate in the Arizona State Retirement System. The ASRS administers a cost-sharing multiple-employer defined benefit pension plan, a cost-sharing multiple-employer defined benefit health insurance premium benefit (OPEB) plan, and a cost-sharing multiple-employer defined benefit long-term disability (OPEB) plan. The Arizona State Retirement System Board governs the ASRS according to the provisions of A.R.S. Title 38, Chapter 5, Articles 2 and 2.1.

The ASRS issues a publicly available financial report that includes its financial statements and required supplementary information. The report is available on its Web site at www.azasrs.gov.

NOTE 4 OTHER INFORMATION (CONTINUED)

D. Pension and Other Postemployment Benefits (Continued)

Benefits Provided – The ASRS provides retirement, health insurance premium supplement, long-term disability, and survivor benefits. State statute establishes benefits terms. Retirement benefits are calculated on the basis of age, average monthly compensation, and service credit as follows:

	Retirement Initial Membership Date:	
	Before July 1, 2011	On or After July 1, 2011
Years of Service and Age and Age Required to Receive Benefit	Sum of Years and Age Equals 80 10 Years, Age 62 5 Years, Age 50* Any Years, Age 65	30 Years, Age 55 25 Years, Age 60 10 Years, Age 62 5 Years, Age 50* Any Years, Age 65
Final Average Salary is Based on	Highest 36 Consecutive Months of Last 120 Months	Highest 60 Consecutive Months of Last 120 Months
Benefit Percentage Per Year of Service	2.1% to 2.3%	2.1% to 2.3%

* With Actuarially Reduced Benefits

Retirement benefits for members who joined the ASRS prior to September 13, 2013, are subject to automatic cost-of-living adjustments based on excess investment earning. Members with a membership date on or after September 13, 2013, are not eligible for cost-of-living adjustments. Survivor benefits are payable upon a member's death. For retired members, the retirement benefit option chosen determines the survivor benefit. For all other members, the beneficiary is entitled to the member's account balance that includes the member's contributions and employer's contributions, plus interest earned.

Health insurance premium benefits are available to retired or disabled members with 5 years of credited service. The benefits are payable only with respect to allowable health insurance premiums for which the member is responsible. For members with 10 or more years of service, benefits range from $100 per month to $260 per month depending on the age of the member and dependents.

For members with 5 to 9 years of service, the benefits are the same dollar amounts as above multiplied by a vesting fraction based on completed years of service. Active members are eligible for a monthly long-term disability benefit equal to two-thirds of monthly earnings.

NOTE 4 OTHER INFORMATION (CONTINUED)

D. Pension and Other Postemployment Benefits (Continued)

Members receiving benefits continue to earn service credit up to their normal retirement dates. Members with long-term disability commencement dates after June 30, 1999, are limited to 30 years of service or the service on record as of the effective disability date if their service is greater than 30 years.

Contributions – In accordance with state statutes, annual actuarial valuations determine active member and employer contribution requirements. The combined active member and employer contribution rates are expected to finance the costs of benefits employees earn during the year, with an additional amount to finance any unfunded accrued liability. For the year ended June 30, 2023, statute required active ASRS members to contribute at the actuarially determined rate of 12.17% (12.03% for retirement and 0.14% for long-term disability) of the members' annual covered payroll, and statute required PMGAA to contribute at the actuarially determined rate of 12.17% (11.92% for retirement, 0.11% for health insurance premium benefit, and 0.14% for long-term disability) of the active members' annual covered payroll. In addition, PMGAA was required by statute to contribute at the actuarially determined rate of 9.68% (9.62% for retirement and 0.06% for long-term disability) of annual covered payroll of retired members who worked for PMGAA in positions that an employee who contributes to the ASRS would typically fill.

PMGAA's contributions to the pension, health insurance premium benefit, and long-term disability plans for the year ended June 30, 2023, were $918,945, $8,281, and $10,674, respectively.

Liability – At June 30, 2023, PMGAA reported the following assets and liabilities for its proportionate share of the ASRS' net pension/OPEB asset or liability.

	Net Pension/OPEB (Asset) Liability
Pension	$ 9,754,159
Health Insurance Premium Benefit	(335,361)
Long-term Disability	5,526

The net asset and net liabilities were measured as of June 30, 2022. The total liability used to calculate the net asset or net liability was determined using update procedures to roll forward the total liability from an actuarial valuation as of June 30, 2021, to the measurement date of June 30, 2022.

NOTE 4 OTHER INFORMATION (CONTINUED)

D. Pension and Other Postemployment Benefits (Continued)

PMGAA's proportion of the net asset or net liability was based on PMGAA's actual contributions to each plan relative to the total of all participating employers' contributions for the year ended June 30, 2022. PMGAA's proportionate share of each plan measured as of June 30, 2022, and the change from its proportionate share of each plan measured as of June 30, 2021 were:

	Proportion June 30, 2022	Increase (Decrease) from June 30, 2021
Pension	0.05976%	0.00043
Health Insurance Premium Benefit	0.06009%	0.00042
Long-term Disability	0.05983%	0.00036

Expense – For the year ended June 30, 2023, PMGAA recognized the following pension and OPEB expense:

	Pension/OPEB Expense
Pension	$ 967,851
Health Insurance Premium Benefit	(49,107)
Long-term Disability	1,978

Deferred Outflows/Inflows of Resources –At June 30, 2023, PMGAA reported deferred outflows of resources and deferred inflows of resources related to pension and OPEB from the following sources:

	Pension		Health Insurance Premium Benefit		Long-term Disability	
	Deferred Outflows of Resources	Deferred Inflows of Resources	Deferred Outflows of Resources	Deferred Inflows of Resources	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences Between Expected and Actual Experience	$ 83,111	$ -	$ -	$ 171,149	$ 2,876	$ 5,149
Changes of Assumptions or Other Inputs	484,118	-	5,443	9,146	3,009	13,487
Net Difference between Projected and Actual Earnings on Plan Investments	-	256,934	-	11,297	-	172
Changes in Proportion and Differences between PMGAA Contributions and Proportionate Share of Contributions	42,634	151,333	822	560	1,028	1,304
PMGAA Contributions Subsequent to the Measurement Date	918,945	-	8,281	-	10,674	-
	$ 1,528,808	$ 408,267	$ 14,546	$ 192,152	$ 17,587	$ 20,112

NOTE 4 OTHER INFORMATION (CONTINUED)

D. Pension and Other Postemployment Benefits (Continued)

The amounts as deferred outflows of resources related to pension and OPEB resulting from contributions subsequent to the measurement date will be recognized as an increase of the net asset or a reduction of the net liability in the year ended June 30, 2024. Other amounts reported as deferred outflows of resources and deferred inflows of resources pension and OPEB will be recognized in as expenses as follows:

Year Ending June 30,	Pension	Health Insurance Premium Benfit	Long-Term Disability
2024	$ 333,137	$ (51,097)	$ (1,087)
2025	(96,678)	(55,611)	(1,395)
2026	(446,098)	(60,965)	(2,690)
2027	411,235	(9,171)	(435)
2028	-	(9,043)	(2,814)
Thereafter	-	-	(4,778)

Actuarial assumptions- The significant actuarial assumptions used to measure the total pension/OPEB liability are as follows:

Actuarial Valuation Date	June 30, 2021
Actuarial Roll Forward Date	June 30, 2022
Actuarial Cost Method	Entry Age Normal
Asset Valuation	Fair Value
Discount Rate/Investment Rate of Return	7.0%
Project Salary Increases	2.9 - 8.4% for Pensions/Not Applicable for OPEB
Inflation	2.3%
Permanent Benefit Increase	Included for Pensions/Not Applicable for OPEB
Mortality Rates	2017 SRA Scale U-MP for Pensions and Health Insurance Premium Benefit
Recovery Rates	2012 GLDT for Long-Term Disability
Healthcare Cost Trend Rate	Not Applicable

Actuarial assumptions used in the June 30, 2021 valuation were based on the results of an actuarial experience study for the 5-year period ended June 30, 2020. A new experience study for the period ended June 30, 2020 will be utilized by the ASRS for future actuarial valuations.

The long-term expected rate of return on ASRS pension plan investments was determined to be 7.0% using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage.

NOTE 4 OTHER INFORMATION (CONTINUED)

D. Pension and Other Postemployment Benefits (Continued)

The target allocation and best estimates of geometric real rates of return for each major asset class are summarized as follows:

Asset Class	Target Allocation	Long-term Expected Geometric Real Rate of Return
Equity	50%	3.90%
Fixed Income - Credit	20%	5.30%
Fixed Income - Interest Rate Sensitive	10%	(0.20)%
Real Estate	20%	6.00%
Total	100%	

Discount Rate—At June 30, 2022, the discount rate used to measure the total pension/OPEB liability was 7.0%. The projection of cash flows used to determine the discount rate assumed that contributions from participating employers will be made based on the actuarially determined rates based on the ASRS Board's funding policy, which establishes the contractually required rate under Arizona statute.

Based on those assumptions, the plans' fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long-term expected rate of return on plan investments was applied to all periods of projected benefit payments to determine the total pension/OPEB liability.

Sensitivity of PMGAA's Proportionate Share of the ASRS Net Pension/OPEB (Asset) Liability to Changes in the Discount Rate—The following table presents PMGAA's proportionate share of the net pension/OPEB (asset) liability calculated using the discount rate of 7.0%, as well as what PMGAA's proportionate share of the net pension/OPEB (asset) liability would be if it were calculated using a discount rate that is 1 percentage point lower (6.0%) or 1 percentage point higher (8.0%) than the current rate:

	1% Decrease (6.0%)	Current Discount Rate (7.0%)	1% Increase (8.0%)
PMGAA's Proportionate Share of the			
Net Pension Liability	$ 14,391,972	$ 9,754,159	$ 5,886,948
Net Insurance Premium Benefit Liability (Asset)	(241,143)	(335,361)	(415,304)
Net Long-Term Disability Liability	9,160	5,526	2,004

NOTE 4 OTHER INFORMATION (CONTINUED)

D. Pension and Other Postemployment Benefits (Continued)

Plan Fiduciary Net Position – Detailed information about the pension plan's fiduciary net position is available in the separately issued ASRS financial report.

Deferred Compensation Plan

PMGAA offers its employees a deferred compensation plan created in accordance with Internal Revenue Code Section 457. Section 457 requires that the assets and income of a qualifying plan be held in trust for the exclusive benefit of participants and their beneficiaries. The plan, available to all PMGAA employees, permits them to defer a portion of their salary until future years. The deferred compensation is not available to employees until termination, retirement, death, or unforeseeable emergency.

Bi-weekly contributions to the plan are deducted from the wages of employees who choose to participate as prescribed by federal law and regulations. PMGAA offers a matching contribution up to $30 per pay period. These combined contributions are deposited with the third-party vendor in PMGAA's name and in trust on behalf of PMGAA employees. PMGAA has little administrative involvement and does not perform investing functions for this plan, therefore, this plan is not reflected in PMGAA's financial statements.

PMGAA contributions to the plan for the year ended June 30, 2023 were $24,380.

NOTE 4 OTHER INFORMATION (CONTINUED)

E. Subsequent Event

The City of Phoenix notified the CEO and Board of the PMGAA that effective June 30, 2024 it will conclude its membership with the Airport Authority. The City of Phoenix joined the PMGAA Board in May of 2006 and currently invests $1.3 million per year in Phoenix-Mesa Gateway Airport.

The goal of the City of Phoenix in joining the Authority was to provide funding and expertise to support critical development at Phoenix-Mesa Gateway Airport and to support its role as being a viable commercial reliever airport in our region. Phoenix Mesa-Gateway Airport has excelled with record-breaking traffic and is now well positioned for long-term growth and success. Given Phoenix-Mesa Gateway's financial strength, as well as Phoenix's need to continue to make financial investments in its own system of airports, now is the right time for Phoenix to conclude participation on the Board. Phoenix is providing a full year's notice to ensure an orderly transition and provide the Authority ample time to account for the reduction in member contributions associated with the City of Phoenix departure.

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REQUIRED SUPPLEMENTARY INFORMATION OTHER THAN MD&A

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
REQUIRED SUPPLEMENTARY INFORMATION OTHER THAN MD&A
SCHEDULE OF PMGAA'S PROPORTIONATE SHARE OF NET PENSION/OPEB LIABILITY
COST-SHARING PLANS
JUNE 30, 2023

Pension

	Reporting Fiscal Year (Measurement Date)			
	2023 (2022)	2022 (2021)	2021 (2020)	2020 (2019)
PMGAA's Proportion of the Net Pension Liability	0.05976%	0.05933%	0.06247%	0.06220%
PMGAA's Proportionate Share of the Net Pension Liability	$ 9,754,159	$ 7,795,699	$ 10,823,877	$ 9,050,824
PMGAA's Covered Payroll	7,144,721	6,689,029	6,845,232	6,574,179
PMGAA's Proportionate Share of the Net Pension Liability as a Percentage of its Covered Payroll	136.52%	116.54%	158.12%	137.67%
Plan Fiduciary net Position as a Percentage of the Total Pension Liability	74.26%	78.58%	69.33%	73.24%

Health Insurance Premium Benefit

	Reporting Fiscal Year (Measurement Date)			
	2023 (2022)	2022 (2021)	2021 (2020)	2020 (2019)
PMGAA's Proportion of the Net OPEB (Asset) Liability	0.06009%	0.05967%	0.06272%	0.06217%
PMGAA's Proportionate Share of the Net OPEB (Asset) Liability	$ (335,361)	$ (290,717)	$ (44,406)	$ (17,181)
PMGAA's Covered Payroll	7,144,721	6,689,029	6,845,232	6,574,179
PMGAA's Proportionate Share of the Net OPEB (Asset) Liability as a Percentage of its Covered Payroll	-4.69%	-4.35%	-0.65%	-0.26%
Plan Fiduciary net Position as a Percentage of the Total OPEB Liability	137.79%	130.24%	104.33%	101.62%

Long-term Disability

	Reporting Fiscal Year (Measurement Date)			
	2023 (2022)	2022 (2021)	2021 (2020)	2020 (2019)
PMGAA's Proportion of the Net OPEB (Asset) Liability	0.05983%	0.05947%	0.06256%	0.06209%
PMGAA's Proportionate Share of the Net OPEB (Asset) Liability	$ 5,526	$ 12,276	$ 47,459	$ 40,448
PMGAA's Covered Payroll	7,144,721	6,689,029	6,845,232	6,574,179
PMGAA's Proportionate Share of the Net OPEB (Asset) Liability as a Percentage of its Covered Payroll	0.08%	0.18%	0.69%	0.62%
Plan Fiduciary net Position as a Percentage of the Total OPEB Liability	95.40%	90.38%	68.01%	72.85%

Reporting Fiscal Year (Measurement Date)					
2019 (2018)	2018 (2017)	2017 (2016)	2016 (2015)	2015 (2014)	2014 (2013)
0.06082%	0.05781%	0.05524%	0.05129%	0.05309%	0.06116%
$ 8,482,250	$ 9,005,671	$ 8,916,291	$ 7,988,900	$ 7,855,199	$ 10,166,921
6,069,562	5,529,421	5,133,214	4,722,184	4,761,393	5,245,907
139.75%	162.87%	173.70%	169.18%	164.98%	193.81%
73.40%	69.92%	67.06%	68.35%	69.49%	63.58%

Reporting Fiscal Year (Measurement Date)		
2019 (2018)	2018 (2017)	2017 Through 2013
0.06096%	0.05800%	Information Not Available
$ (21,951)	(31,575)	
6,069,562	5,529,421	
-0.36%	-0.57%	
102.20%	103.57%	

Reporting Fiscal Year (Measurement Date)		
2019 (2018)	2018 (2017)	2017 Through 2013
0.06091%	0.05776%	Information Not Available
$ 31,826	20,937	
6,069,562	5,529,421	
0.52%	0.38%	
77.83%	84.44%	

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
REQUIRED SUPPLEMENTARY INFORMATION OTHER THAN MD&A
SCHEDULE OF PMGAA PENSION/OPEB CONTRIBUTIONS
JUNE 30, 2023

Pension	Fiscal Year			
	2023	2022	2021	2020
Statutorily Required Contribution	$ 918,945	$ 854,986	$ 777,064	$ 781,806
PMGAA's Contributions in relation to the Statutorily Required Contribution	918,945	854,986	777,064	781,806
PMGAA's Contribution Deficiency (Excess)	$ -	$ -	$ -	$ -
PMGAA's Covered Payroll	$ 7,761,072	$ 7,144,721	$ 6,689,029	$ 6,845,232
PMGAA's Contributions as a Percentage of Covered Payroll	11.84%	11.97%	11.62%	11.42%

Health Insurance Premium Benefit	Fiscal Year			
	2023	2022	2021	2020
Statutorily Required Contribution	$ 8,281	$ 14,658	$ 26,087	$ 33,542
PMGAA's Contributions in relation to the Statutorily Required Contribution	8,281	14,658	26,087	33,542
PMGAA's Contribution Deficiency (Excess)	$ -	$ -	$ -	$ -
PMGAA's Covered Payroll	$ 7,761,072	$ 7,144,721	$ 6,689,029	$ 6,845,232
PMGAA's Contributions as a Percentage of Covered Payroll	0.11%	0.21%	0.39%	0.49%

Long-term Disability	Fiscal Year			
	2023	2022	2021	2020
Statutorily Required Contribution	$ 10,674	$ 13,262	$ 12,040	$ 11,637
PMGAA's Contributions in relation to the Statutorily Required Contribution	10,674	13,262	12,040	11,637
PMGAA's Contribution Deficiency (Excess)	$ -	$ -	$ -	$ -
PMGAA's Covered Payroll	$ 7,761,072	$ 7,144,721	$ 6,689,029	$ 6,845,232
PMGAA's Contributions as a Percentage of Covered Payroll	0.14%	0.19%	0.18%	0.17%

Fiscal Year					
2019	2018	2017	2016	2015	2014
$ 733,438	$ 658,962	$ 596,071	$ 556,955	$ 514,245	$ 512,048
733,438	658,962	596,071	556,955	514,245	512,048
$ -	$ -	$ -	$ -	$ -	$ -
$ 6,574,179	$ 6,069,562	$ 5,529,421	$ 5,133,214	$ 4,722,184	$ 4,761,393
11.16%	10.86%	10.78%	10.85%	10.89%	10.75%

Fiscal Year					
2019	2018	2017	2016	2015	2014
$ 30,241	$ 26,706	$ 30,965	$ 25,666	$ 27,861	$ 28,568
30,241	26,706	30,965	25,666	27,861	28,568
$ -	$ -	$ -	$ -	$ -	$ -
$ 6,574,179	$ 6,069,562	$ 5,529,421	$ 5,133,214	$ 4,722,184	$ 4,761,393
0.46%	0.44%	0.56%	0.50%	0.59%	0.60%

Fiscal Year					
2019	2018	2017	2016	2015	2014
$ 10,519	$ 9,711	$ 7,741	$ 6,160	$ 5,667	$ 11,427
10,519	9,711	7,741	6,160	5,667	11,427
$ -	$ -	$ -	$ -	$ -	$ -
$ 6,574,179	$ 6,069,562	$ 5,529,421	$ 5,133,214	$ 4,722,184	$ 4,761,393
0.16%	0.16%	0.14%	0.12%	0.12%	0.24%

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OTHER INFORMATION

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGETARY-BASIS
YEAR ENDED JUNE 30, 2023

AIRPORT - All Operations

	Budget	Actual	Variance
OPERATING REVENUES			
Aeronautical Operating Revenues			
Aircraft Parking	$ 238,212	$ 290,927	$ (52,715)
Fuel Flowage Fees	741,352	654,118	87,234
Landing Fees	1,218,451	1,449,905	(231,454)
Lease Income Aero	2,706,284	3,233,354	(527,070)
Fuel Sales	7,201,310	7,304,272	(102,962)
Services Sold - Aero	5,977,002	5,929,722	47,280
Non-Aeronautical Operating Revenues			
Concessions	1,195,850	1,481,006	(285,156)
Lease Income Non-Aero	1,131,592	1,357,811	(226,219)
Parking	3,632,067	4,648,800	(1,016,733)
Rental Car Fees	2,193,000	3,058,465	(865,465)
Svcs Sold - Non Aero	150,402	173,114	(22,712)
Total Operating Revenues	26,385,522	29,581,494	(3,195,972)
OPERATING EXPENSES			
Personnel	10,468,250	10,249,475	218,775
Costs of Goods Sold	4,897,478	5,131,232	(233,754)
Comm & Utilities	898,999	933,711	(34,712)
Contractual Services	6,413,399	6,229,748	183,651
Insurance	652,189	658,116	(5,927)
Other	535,571	497,251	38,320
Repair & Maintenance	1,374,413	1,052,285	322,128
Supplies & Materials	983,523	938,405	45,118
Air Service Incentives	2,000,000	-	2,000,000
Operating Contingency	2,622,382	-	2,622,382
Total Operating Expenses	30,846,204	25,690,223	5,155,981
OPERATING INCOME - BUDGETARY-BASIS	**$ (4,460,682)**	3,891,271	**$ (8,351,953)**

RECONCILIATION OF BUDGETARY-BASIS STATEMENT TO GAAP-BASIS	
Depreciation is a GAAP-only Expenditure	(16,558,213)
Certain Expenditures (i.e. Compensated Leave) are recognized in Expense when Earned on a GAAP Basis, when Paid on a Budgetary-Basis	(78,223)
Pension and OPEB Expense is a GAAP-only Expenditure	(920,722)
Pension and OPEB Contributions are an Expense on a Budgetary-Basis	937,900
A Portion of Lease Income is presented as non-operating on a GAAP Basis	(425,936)
Lease Income Excludes Bond-Related Lease Income on a Budgetary-Basis	1,299,699
Operating Loss - GAAP Basis	**$ (11,854,224)**

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

SINGLE AUDIT ACT REPORTS

FISCAL YEAR ENDED JUNE 30, 2023

CPAs | CONSULTANTS | WEALTH ADVISORS

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
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INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

Board of Directors
Phoenix-Mesa Gateway Airport Authority
Mesa, Arizona

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities of Phoenix-Mesa Gateway Airport Authority (PMGAA), as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise PMGAA's basic financial statements, and have issued our report thereon dated September 13, 2023.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered PMGAA's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of PMGAA's internal control. Accordingly, we do not express an opinion on the effectiveness of PMGAA's internal control.

A *deficiency in internal* control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of PMGAA's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

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Board of Directors
Phoenix-Mesa Gateway Airport Authority

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether PMGAA's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of PMGAA's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering PMGAA's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

CliftonLarsonAllen LLP

CliftonLarsonAllen LLP

Phoenix, Arizona
September 13, 2023

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INDEPENDENT AUDITORS' REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM, REPORT ON INTERNAL CONTROL OVER COMPLIANCE, AND REPORT ON THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS REQUIRED BY THE UNIFORM GUIDANCE

Board of Directors
Phoenix-Mesa Gateway Airport Authority
Mesa, Arizona

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited PMGAA's compliance with the types of compliance requirements identified as subject to audit in the OMB *Compliance Supplement* that could have a direct and material effect on each of PMGAA's major federal programs for the year ended June 30, 2023. PMGAA's major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs.

In our opinion, PMGAA complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2023.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative* Requirements*, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditors' Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of PMGAA and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of PMGAA's compliance with the compliance requirements referred to above.

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Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to PMGAA's federal programs.

Auditors' Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on PMGAA's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about PMGAA's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.

- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding PMGAA's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.

- Obtain an understanding of PMGAA's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of PMGAA's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

Report on Internal Control Over Compliance

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditors' Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Board of Directors
Phoenix-Mesa Gateway Airport Authority

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of PMGAA as of and for the year ended June 30, 2023, and have issued our report thereon dated September 13, 2023, which contained an unmodified opinion on those financial statements. Our audit was performed for the purpose of forming an opinion on the financial statements as a whole. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the financial statements as a whole.

CliftonLarsonAllen LLP

CliftonLarsonAllen LLP

Phoenix, Arizona
September 13, 2023

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FISCAL YEAR ENDED JUNE 30, 2023

Section I – Summary of the Auditors' Results

Financial Statements

1. Type of auditors' report issued: Unmodified
2. Internal control over financial reporting:
   - Material weakness(es) identified? _____ yes ___X___ no
   - Significant deficiency(ies) identified? _____ yes ___X___ none reported
3. Noncompliance material to financial statements noted? _____ yes ___X___ no

Federal Awards

1. Internal control over major programs:
   - Material weakness(es) identified? _____ yes ___X___ no
   - Significant deficiency(ies) identified? _____ yes ___X___ none reported
2. Type of auditors' report issued on compliance for major programs: Unmodified
3. Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? _____ yes ___X___ no

Identification of Major Program

Assistance Listing Number(s)	**Name of Federal Program or Cluster**
20.106	Airport Improvement Program

Dollar threshold used to distinguish between Type A and Type B programs: $ 750,000

Auditee qualified as low-risk auditee? ___X___ yes _____ no

Section II – Financial Statement Findings

None noted.

Section III – Federal Award Findings and Questioned Costs

None noted.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FISCAL YEAR ENDED JUNE 30, 2023

Federal Grantor/Pass Through Grantor/Program Title	Federal Assistance Listing Number	Pass-Through Entity Identifying Number	Total Federal Expenditures	Passed-Through to Subrecipients
U.S. Department of Transportation				
Direct Grants				
Airport Improvement Program	20.106	AIP3-04-0078-046-2021	$ 1,207,762	$ -
Airport Improvement Program	20.106	AIP3-04-0078-051-2022	9,348,281	-
Airport Improvement Program	20.106	AIP3-04-0078-052-2022	33,229	-
Airport Improvement Program	20.106	AIP3-04-0078-053-2022	5,005,201	-
Airport Improvement Program	20.106	AIP3-04-0078-054-2022	11,052,423	-
Airport Improvement Program	20.106	AIP3-04-0078-055-2023	312,723	-
Total U.S. Department of Transportation			26,959,619	-
Total Expenditures of Federal Awards			$ 26,959,619	$ -

See accompanying Notes to the Schedule of Expenditures of Federal Awards.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
NOTES TO SCHEDULE OF EXPENDITURES
OF FEDERAL AWARDS
JUNE 30, 2023

NOTE 1 GENERAL

The accompanying schedule of expenditures of federal awards presents the activity of all federal awards of Phoenix-Mesa Gateway Airport Authority. PMGAA's reporting entity is defined in Note 1.A. to the basic financial statements for the year ended June 30, 2023. All federal awards received directly from federal agencies are included in the schedule.

NOTE 2 BASIS OF ACCOUNTING

The accompanying schedule of expenditures of federal awards is presented using the accrual basis of accounting, which is described in Note 1 to PMGAA's basic financial statements for the year ended June 30, 2023.

NOTE 3 INDIRECT COST RATE

PMGAA did not elect the 10% de minimus indirect cost rate as covered in 2CFR 200.414.

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MINUTES OF PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | September 19, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) was convened on Tuesday, September 19, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community*
Mayor Julia Wheatley, Queen Creek
Councilmember Scott Somers, Mesa
Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix*

** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney

1. **Call to Order** at 9:32 a.m. (Mayor Wilson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO
   Executive Director O'Neill provided a briefing on PMGAA financial performance, passenger activity, the community noise report, and various Airport projects.

   - 2024 Fiscal Year-to-Date (FYTD) Net Operating Income is $780,361.
   - 2023 Fiscal Year net operating income is $3,892,294.
   - Gateway Airport reported record-setting passenger activity in FY23 with 1,917,911 total passengers using the Airport during the 12-month period. The Airport welcomed 148,405 commercial passengers during July 2023.
   - Allegiant Air has announced Portland, Oregon as a new nonstop destination from Gateway Airport. Service will begin in November 2023.
   - Sun Country Airlines has announced they are returning in October with nonstop Minneapolis service.
   - DSV Air and Sea is a global transport and logistics company. DSV's B-747 scheduled international air cargo service began in August with weekly service arriving from Europe.
   - A ribbon-cutting event is planned for February 20, 2024 for Gateway Airport's 5-gate, 30,000 sq. ft. commercial passenger terminal addition. The project is expected to be complete in January 2024. Operations will begin after the ribbon-cutting event.

DRAFT

- Gateway Tomorrow East Side Terminal Planning Study held its 2nd study advisory committee meeting. This meeting determined options and layouts for one-level and two-level roadway alternatives.
- The existing Airport entry monument located at the intersection of Sossaman Road and Ray Road will be removed and a new Airport entrance monument will be constructed that better reflects the character of the Airport.

6. Consent Agenda

a) **Minutes** of the Board Meeting held on **July 18, 2023**.

b) **Resolution No. 23-45 –** Authorizing an Automated Teller Machine (ATM) Services Terminal Concession Lease Agreement with **BaumTech, LLC (BaumTech)** for ATM services at two (2) Airport Terminal Locations which include Baggage Claim and Gate 5. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option.

c) **Resolution No. 23-46 –** Authorizing a Vending Services Terminal Concession Lease Agreement with **Compass Group USA, Inc**., by and through its Canteen Division (Compass) for vending services located within Airport facilities that include the Charles L. Williams Passenger Terminal, Airport Administration Building, Gateway Aviation Services, and the Facilities Maintenance Building. The Agreement term is three (3) years, commencing on December 1, 2023, with one (1) two (2)-year extension option.

d) **Resolution No. 23-47 –** Authorizing the purchase of two vehicles from **San Tan Auto Partners, LLC, dba San Tan Ford (San Tan Ford)**, in an amount not to exceed $52,827.69.

e) **Resolution No. 23-48 –** Authorizing the procurement of Video Management Software (VMS) and licensing from **Convergint Technologies (Convergint)** in an amount not to exceed $79,020.01.

f) **Resolution No. 23-49 –** Authorizing the purchase of two Americans with Disabilities Act (ADA) Passenger Boarding Ramps from **Timberline GSE, Inc. (Timberline)** in an amount not to exceed $181,838.90.

g) **Resolution No. 23-50 –** Authorizing a Contract with **Jim Brown & Sons Roofing Co., Inc. dba JBS Roofing (JBS Roofing)** for Roofing Repair Services for PMGAA facilities, in an amount not to exceed $75,000 under CIP1269.

Mayor Brigette Peterson moved to approve the Consent Agenda.
Mayor Julia Wheatley seconded the motion.
The motion was carried unanimously.

Consideration and Approval of:

8. **Resolution No. 23-51** Authorizing (i) the recording of the Declaration of Covenants, Conditions and Restrictions for Gateway East ("CC&Rs"); (ii) the Development Lease with **Boyer Gateway East Mesa Building 1, L.C.** for 16.95 acres located within the Gateway East master development project and identified as Lot 210. The lease term is SIXTY-FIVE (65) years commencing on October 1, 2023; and (iii) the First Adjustment Amendment to the Master Lease with **Boyer Gateway East, L.C**.

Councilmember Scott Somers moved to approve Resolution No. 23-51.
Mayor Julia Wheatley seconded the motion.
The motion was carried unanimously.

9. **Board Member Comments/Announcements.**
   None.

10. **Next Meeting: Tuesday, October 17, 2023** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

11. **Adjournment.**
    The meeting adjourned at 9:50 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-52

To:	**Board of Directors**
From:	**Chris Brady, Mesa City Manager**
Through:	**Jill Casson Owen, Snell & Wilmer**
Subject:	**Employment Contract Amendment – Executive Director**
Date:	**October 17, 2023**

Proposed Motion
To approve a ninth amendment to the Executive Director's employment agreement effective October 1, 2023.

Narrative
The Board of Directors has approved annual and unscheduled employment contract adjustments with Mr. J. Brian O'Neill since he assumed the position of PMGAA Executive Director in 2016. The ninth amendment to Mr. O'Neill's Employment Agreement provides for (i) an approximate five and four tenths percent (5.4%) increase in his base salary, which is comprised of a three percent (3%) pay increase received by all eligible PMGAA employees and a salary adjustment associated with a new PMGAA Pay Plan Structure, and (ii) a modified contribution to his existing 457 deferred compensation account for a total contribution of $30,000 annually ($2,500 monthly), effective October 1, 2023. There are no other changes to the Agreement.

RESOLUTION NO. 23-52

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to approve a ninth amendment to the Executive Director's employment agreement effective October 1, 2023;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby approves a ninth amendment to the Executive Director's employment agreement effective October 1, 2023. This resolution also authorizes the Chair to execute such agreement, with such insertions, deletions, and changes as may be approved by the Chair, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 17th day of October, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
5835 SOUTH SOSSAMAN ROAD
MESA, ARIZONA 85212-6014

EXECUTIVE DIRECTOR'S OFFICE
PHONE (480) 988 7600
FAX (480) 988 2315

J. Brian O'Neill Fiscal Year 2023 (FY23) Annual Performance Review

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) is fortunate to have a team of highly motivated and experienced subject-matter experts serving all aspects of Phoenix-Mesa Gateway Airport's (Airport, Gateway Airport) operation. As Executive Director/CEO, my management philosophy is to recruit the best possible candidates, train them to successfully perform their unique duties, provide them with a positive work environment, and let them do their jobs. My primary responsibility is to ensure the Airport is operated in a safe, secure, customer-focused, efficient, environmentally friendly, and financially sustainable manner.

Each year, I strive to effectively communicate and work cooperatively with the PMGAA Board of Directors and Gateway Senior Staff as representatives of PMGAA's six Member Communities; federal, state, and local partners; and other key stakeholder groups to grow and improve the Airport in a responsible manner that maximizes its economic contribution to the entire greater Phoenix region.

In FY23, PMGAA achieved a very strong financial performance and record-setting passenger activity. The Authority also had more than one million square feet of private development under construction during the twelve-month reporting period. In recognition for past and current successes, PMGAA received the FY23 East Valley Partnership Legacy Award.

PMGAA staff continues to be guided by seven organizational goals identified by the PMGAA Board of Directors - **Increase Air Service; Maintain a High Level of Community Support; Strengthen Financial Sustainability; Invest in People and Operational Assets; Attract Commercial Development; Plan, Build, and Maintain Infrastructure; and Promote Regional Tourism**.

The information that follows is intended to highlight many of PMGAA's accomplishments during FY23 and their connection to PMGAA's established organizational goals.

Summary of FY23 PMGAA Organizational Achievements

- Airport Activity
  - Achieved record-setting passenger activity – 1.92MM total passengers
  - Continued airline recruitment efforts, meeting with six prospective airlines
  - DSV began scheduled weekly international air cargo service using B-747 aircraft
- Achieved strong FY23 financial performance - $3.9MM in net operating revenue
- Successfully completed FY23 FAA Part 139 Certification Inspection with no findings
- Successfully completed annual TSA Security Inspection with no findings

- Received clean FY23 Independent Financial Audit
- Implemented FY22-FY23 PMGAA Classification and Compensation Study
- Expanded A.V.I.A.T.O.R. Terminal Volunteer Program
- Commenced Gateway Tomorrow East Side Terminal Planning Study
- Serviced 125 executive jets during Super Bowl LVII
- Welcomed more than 500 area 5th grade students for Aviation Career Education (ACE) Day
- Several vehicle parking operation enhancements
    - Improved parking availability information on PMGAA website
    - Upgraded parking revenue and access control systems in Airport parking lots
    - Purchased new, larger parking lot shuttle busses
- PMGAA Construction Projects:
    - Completed Runway 12C-30C reconstruction and Runway 12R-30L design
    - Added 1,300 new parking spaces to the Ray Road Economy Parking Lot
    - Constructed 250,000 sq. ft. Alpha Apron Phase IV aircraft parking area
    - Began construction on 5-gate, 30,000 sq. ft. commercial passenger terminal addition
    - Began construction on enclosed pedestrian walkway
    - Commissioned new air traffic control tower
    - City of Mesa began construction of east side infrastructure
    - Constructed Taxiway Charlie connectors to Gulfstream's facility
    - Designed 150,000-gallon Fuel Farm expansion
    - Transportation Security Administration designed new in-line checked baggage system
    - Completed construction of Rental Car Return Lot improvements
    - Began construction of Rental Car Care Facility improvements
- Private Development Projects:
    - SkyBridge Arizona Master Development (Mesa SkyBridge, LLC)
        - Site preparation for 129-room hotel
        - Began construction on two 250,000 sq. ft. industrial buildings
        - Approved sublease for NAU School of Hotel and Restaurant Management Program and associated Kind Hospitality training restaurant
        - Began construction of interior roadways and utilities
        - Approved sublease for cross flow testing facility
    - Gateway East Master Development (The Boyer Company, LC)
        - Finalized Master Development Agreement, Master Lease, and Master Plan
        - Mesa City Council passed Development Agreement (DA)
    - Gateway Executive Airpark
        - Began construction of Virgin Galactic hangar (Hangar B) and manufacturing facility (Hangar C)
        - The Boeing Company completed improvements in their hangar (Hangar A)
    - Gulfstream Aerospace Corp.
        - Leased 50,000 sq. ft. hangar and three bays of SkyBridge Arizona's hangar
        - Hired approximately 100 local employees
        - Began construction on 225,000 sq. ft. West Coast Service Center
    - Terminal concessions - Opened Macayo's Mexican Food and Infusion Coffee and Tea Crafters
    - Allegiant Air leased an additional 63,000 sq. ft. maintenance hangar

FY23 Operational Metrics

PERFORMANCE METRICS	FYE22	FYE23	Variance
Total Commercial Passengers	1,815,369	1,917,911	102,542
Total Aircraft Operations	246,314	247,381	1,067
Aircraft Landing Fee Revenue	$1,562,305	$1,449,905	($112,400)
Terminal Tenant Lease Revenue	$161,418	$160,449	($969)
Airline Terminal Use Fee Revenue	$292,225	$271,675	($20,550)
Terminal Concession Revenue	$1,205,103	$1,481,006	$275,904
Facility/Land Lease Revenue	$4,726,455	$4,159,042	($567,413)
Ground Transportation Revenue	$220,792	$243,141	$22,349
Car Rental Revenue	$2,577,700	$3,058,465	$480,765
Vehicle Parking Revenue	$3,921,418	$4,405,848	$484,430
Fuel Sales	$6,324,413	$7,304,272	$979,858
Operating Revenue	$27,718,906	$29,581,494	$1,862,588
Net Operating Income	$4,739,767	$3,892,294	($847,473)

FY24 PMGAA Organizational Goals

- Complete Gulfstream Aerospace Corp. West Coast Service Center
- Complete 5-Gate Terminal Addition
- Complete Enclosed Pedestrian Walkway
- Begin Reconstruction of Runway 30L-12R
- Complete Construction of 150,000-gallon Fuel Farm expansion
- Continue PMGAA's Participation in Regional Transportation Planning Initiatives
- Maintain partnerships with Airport tenants, ASU, and CGCC
- Remove Airport Surveillance Radar (ASR) Facility and extinguish easement
- Increase net operating income and days of available cash on-hand
- Continue to control operational expenditures
- Promote SkyBridge Arizona Master Development and Unified Cargo Processing Program
- Promote Gateway***East*** Master Development
- Pursue all available federal, state, and local grants and other creative funding sources
- Continue providing guidance to adjacent communities on land use compatibility and other regional planning issues
- Lease Airport land to at least one new private development project
- Continue to recruit new airlines, pursue additional nonstop destinations, and increase passenger activity
- Continue to expand air cargo operations
- Achieve an exceptional FY24 FAA Part 139 Certification Inspection
- Achieve an exceptional FY24 TSA Security Inspection
- Receive a clean FY24 Independent Financial Audit

- Increase both aeronautical and non-aeronautical revenue
- Expand Community Outreach and Social Media Programs
- Support PMGAA staff development and subject-matter training opportunities
- Complete Rental Car Care Facility improvements
- Demolish old Air Traffic Control Tower and other surplus Airport structures

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-53

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Safety Management System (SMS) Planning Services – Dibble Engineering – CIP975**
Date:	**October 17, 2023**

Proposed Motion

To approve an Authorization of Services with Dibble Engineering (Dibble) for Safety Management System (SMS) Planning Services for the Phoenix-Mesa Gateway Airport Authority in an amount not to exceed $323,668 under CIP 975.

Narrative

PMGAA is engaging the consultant services provided by Dibble, and sub-consultants, to perform a safety system gap analysis, produce an SMS implementation plan, and to produce a Safety Management System Manual that complies with FAR Part 139 sub-E, and using AC 150/5200-37 guidance. The FAA issued the Part 139 SMS Rule requiring small hub airports to create and submit an implementation plan for the Airport Safety Management System within 12 months of April 24, 2024. Subsequently, the Airport must also submit an SMS Manual 12-months after the FAA implementation plan approval is received, and fully implement the SMS within 36 months.

Dibble, as the Prime Consultant, will provide overall contract management and coordination between PMGAA and Garver, LLC (SMS Planning Subconsultant). Dibble will facilitate the meetings and will provide independent quality control reviews of the five major project submittals. Garver, LLC (Garver) will develop a comprehensive SMS implementation plan and manual, which will apply to all portions of the airport – airside, terminal, and landside.

In 2019, a Request for Qualifications, 2020-007-RFQ for On-Call Engineering Services was issued. Dibble Engineering was one of two firms selected as the most qualified. In accordance with the terms of our agreement, C-2020007-B, Dibble Engineering worked with Airport staff to refine a Scope of Work for Safety Management System (SMS) Planning Services. The total cost for these combined services was negotiated based upon the contract fee schedule at a cost not-to-exceed $323,668.

Fiscal Impact

This project was added to the FY24 Capital Budget utilizing FAA BIL Funds under CIP 975.

Attachment(s): AOS, Proposal

RESOLUTION NO. 23-53

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to approves an Authorization of Services with Dibble Engineering (Dibble) for Safety Management System (SMS) Planning Services for the Phoenix-Mesa Gateway Airport Authority in an amount not to exceed $323,668 under CIP 975;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby approves an Authorization of Services with Dibble Engineering (Dibble) for Safety Management System (SMS) Planning Services for the Phoenix-Mesa Gateway Airport Authority in an amount not to exceed $323,668 under CIP 975. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 17th day of October, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

AUTHORIZATION OF SERVICES
Dibble, AOS 20B-2401

The signing of this Authorization (Agreement) by Phoenix-Mesa Gateway Airport Authority (PMGAA) and Dibble & Associates Consulting Engineers Inc., 7878 N. 16th Street, Ste 300, Phoenix, AZ 85202, ("Dibble"), authorizes Dibble to carry-out and complete the services described below in consideration of the mutual covenants set forth below:

1. **PROJECT**: Safety Management System (SMS) Planning Services under CIP 975.

2. **SCOPE OF WORK**: Perform and provide Planning Services for the Safety Management System (SMS) Program for PMGAA. All services are to be performed in accordance with PMGAA Agreement C-2020-007-B, including the Standard Terms, and the attached detailed scope of work. Services shall be coordinated with and approved by PMGAA Authorized Representative prior to start of work.

3. **FEE FOR SERVICES**: The fee for services shall be based upon the attached scope of work, not to exceed Three hundred twenty-three thousand, six hundred sixty-eight dollars and zero cents ($323,668) of PMGAA funds without the express written approval of PMGAA.

4. **AVAILABILITY OF PROJECT FUNDING:** The approval and continuation of this contract is subject to the availability of funds provided to, made available to, or appropriated by PMGAA for this purpose. In the event that funds are not available or appropriated for PMGAA's payment requirements under this contract for the goods and/or services to be provided hereunder, PMGAA may terminate this contract by providing notice to the consultant of the lack of the availability of funds. The consultant acknowledges and agrees that one source of funding for this contract may be funds made available from the Federal Aviation Administration and/or Arizona Department of Transportation, and that this contract, its approval and continuation, may contingent on the availability of those funds being made to PMGAA.

5. **INCORPORATED:** The following documents are hereby incorporated with this Authorization of Services and made part thereof:

   ☑ PMGAA Agreement C-2020007-B dated December 17, 2019.

6. **ATTACHED:** The following documents are attached to this Agreement and are incorporated herein by this reference made part thereof:

☑ Scope and Fee Proposal dated September 20, 2023.

PMGAA and Dibble acknowledge that they are in agreement with the terms and conditions as set forth in this Authorization.

APPROVED FOR PMGAA:	**ACCEPTED FOR Dibble:**
By:_____	By: _____
Print: J. Brian O'Neill, A.A.E.	Print: Jared Bass, PE
Title: Executive Director/CEO	Title: Vice President
Date:_____	Date: 9/28/2023

3020 E. Camelback Rd Suite 210
Phoenix, Arizona 85016
P 602.957.1155
F 602.957.2838
www.dibblecorp.com

September 20, 2023

Phoenix-Mesa Gateway Airport
5835 South Sossaman Road
Mesa, Arizona 85212

Attention: Mr. Bob Draper, P.E., LEED-AP, C.M.
Engineering & Facilities Director

RE: ENGINEERING SERVICES PROPOSAL
PMGAA Contract No: C-2020007-B
PMGAA Project No: 1072
Authorization of Services No: 20B-2203
Safety Management System (SMS) Planning

We sincerely appreciate the opportunity to provide Planning Services for the Safety Management System (SMS) program at the Phoenix-Mesa Gateway Airport (PMGAA).

Dibble, as the Prime Consultant, will provide overall contract management and coordination between PMGAA and Garver. Dibble will attend the Kickoff Meeting and select status meetings; and will also provide independent quality control reviews of the five major project submittals prior to sending them to PMGAA. Garver will develop a comprehensive SMS implementation plan and manual per their attached scope of work. The SMS planning and Manual development is anticipated to run through June of 2025, with implementation and training to occur through the end of 2025.

The Dibble Team members are identified below, and their anticipated effort is shown in the estimated manhour matrix included herein. See Garver's scope of work and fee proposal for the full services they are providing.

- Project Principal/Quality Manager – Ken Snyder, PE
- Sr. Project/Contract Manager – Jared Bass, PE
- Engineering Technician/SMS Specialist – Kurt Dalton
- Administrative Assistant – Jim Hodge

Dibble in conjunction with their subconsultant, Garver, LLC, will perform these services for the following Lump Sum fees:

1. **SMS Planning Services**:
   1. Dibble.....Contract Management and Project Oversight..... $29,148.00
   2. Garver.....SMS Programming..... $294,520.00

Project Total..... $323,668.00

Transmitted herewith is our proposed fee summary, estimated manhours matrix, and subconsultant proposal (includes project schedule).

We are very grateful for this opportunity to work with the Phoenix-Mesa Gateway Airport on this new program. If you need additional information or have questions, please do not hesitate to contact us.

Sincerely,

Dibble

Jared Bass, P.E.
Airport Development - Senior Project Manager
Vice President

Kenneth L. Snyder, P.E.
Airport Development – Principal Engineer
Vice President

Enclosures

Firm:	Dibble Engineering	Contract Number:	C-2020007-B
	On-Call Engineering	Project Number:	1072
Project:	**Safety Management System**	Task Number:	20B-2204
	Planning Services	Amendment Number:	N/A
	Phoenix-Mesa Gateway Airport	FAA Number:	N/A
Date:	9/20/2023	ADOT Number:	N/A

Summary	Dibble	Subs

A. Design Phase Services

		Fee	Type		
1	Dibble Base Fee (Prime Consultant).....	$29,148.00	Lump Sum	$29,148.00	
2	Garver, LLC (SMS Planning Subconsultant).....	$294,520.00	Lump Sum		$294,520.00
	***Total*.....**	***$323,668.00***		***$29,148.00***	***$294,520.00***
				DBE Participation	*0.0%*

Firm:	Dibble Engineering	Contract Number:	C-2020007-B
	On-Call Engineering	Project Number:	1072
Project:	**Safety Management System**	Task Number:	20B-2204
	Planning Services	Amendment Number:	N/A
	Phoenix-Mesa Gateway Airport	FAA Number:	N/A
Date:	9/20/2023	ADOT Number:	N/A

SMS PLANNING SERVICES SUMMARY

	Classification	Total Hours	2019 On-Call Direct Rates	Direct Labor Costs
1	Project Principal	18	$88.36	$1,590.48
2	Senior Project Manager	82	$70.50	$5,781.00
3	Project Manager	0	$56.89	$0.00
4	Land Survey Manager	0	$49.88	$0.00
4	Senior Survey Technician	0	$42.63	$0.00
5	Senior Engineer	0	$57.60	$0.00
6	Project Engineer	22	$45.05	$991.10
7	Assist Project Engineer	0	$31.77	$0.00
8	Senior Designer	0	$40.37	$0.00
9	Admin Assistant	26	$31.01	$806.26
	Total Hours	148		

Direct Labor Costs:	**148 Hours**		**$9,168.84**
2019 On-Call OH:	**189.0%**		**$17,329.11**
2019 On-Call Profit:	**10.0%**		**$2,649.79**
		Total Fee (rounded):	**$29,148.00**

DIRECT COSTS

	Item	Cost	Type of Compensation
1	Submittal Printing (Dibble).....	$0.00	T&M
2	Travel (Dibble).....	$0.00	T&M

Sub-Total for Direct Costs..... **$0.00**

SMS PLANNING SUBCONSULTANTS

	Firm	Cost	Type of Compensation
1	Garver (SMS Program Planning).....	$154,715.00	Lump Sum
2	Garver (SMS Manual Development).....	$81,985.00	Lump Sum
3	Garver (SMS Implementation Support).....	$57,820.00	Lump Sum

Sub-Total for Subconsultants: **$294,520.00**

SMS PLANNING TOTAL FEE

TOTAL FEE..... $323,668.00

Firm:	Dibble Engineering	Contract Number:	C-2020007-B
	On-Call Engineering	Project Number:	1072
Project:	**Safety Management System**	Task Number:	20B-2204
	Planning Services	Amendment Number:	N/A
	Phoenix-Mesa Gateway Airport	FAA Number:	N/A
Date:	9/20/2023	ADOT Number:	N/A

DESIGN PHASE SERVICES - ESTIMATED MANHOURS

TASK	PRINCIPAL ENGINEER	SENIOR PROJECT MANAGER	PROJECT MANAGER	LAND SURVEY MANAGER	SENIOR SURVEY TECH	SENIOR ENGINEER	PROJECT ENGINEER	ASSIST PROJECT ENGINEER	SENIOR DESIGNER	ADMIN ASSISTANT	TOTAL HOURS BY TASK
1 SMS Program Planning (12-Month Program)											
1a Project Management & Administration		52								26	78
1b Project Kick-Off Meeting		2					2				4
1c Pre-Plan Development Meeting		2					2				4
1d Internal QA/QC Project Review	8										8
2 SMS Manual Development (12-Month Program)											
2a SMS Manual Meeting		2					2				4
2b FAA/PMGAA/Garver Collaboration		8									8
2c Internal QA/QC Project Review	8										8
3 SMS Implementation Support (6-Month Program)											
3a SMS Training		16					16				32
3b Internal QA/QC Project Review	2										2
TOTAL HOURS BY CLASSIFICATION	18	82	0	0	0	0	22	0	0	26	148

13750 San Pedro Ave.
Suite 350
San Antonio, TX 78232

TEL 210.447.6250

www.GarverUSA.com

September 18, 2023

Dibble
ATTN: Jared Bass, P.E.
1640 S. Stapley Drive, Suite 120
Mesa, AZ 85204

Re: Phoenix-Mesa Gateway Airport – Safety Management System Project

Dear Mr. Bass,

We appreciate the opportunity to support you on the Phoenix-Mesa Gateway Airport – Safety Management System project. Attached you will find the following related to our role on this project:

- Exhibit A: Scope of Services
- Exhibit B: Fee Proposal
- Exhibit C: Project Schedule

Please call me if you have any questions.

Sincerely,

GARVER

Nathan Polsgrove, A.A.E., IAP, ACE
Aviation Planning Director

Attachments: Exhibit A: Scope of Services
Exhibit B: Fee Proposal
Exhibit C: Project Schedule

EXHIBIT A
PHOENIX-MESA GATEWAY AIRPORT
SCOPE OF SERVICES
GARVER, LLC

Objective:

The objective of this project is to develop a Safety Management System (SMS) program for the Phoenix-Mesa Gateway Airport (IWA or Airport). This project includes:

- The development of a comprehensive SMS implementation plan and manual (i.e., an SMS implementation plan and manual that apply to all portions of the airport – airside, terminal, and landside).
- The development of a regulatory implementation plan and SMS manual meeting the requirements set forth in 14 Code of Federal Regulations (CFR) Part 139 and Federal Aviation Administration (FAA) Advisory Circular (AC) 150/5200-37A. These documents will be an appendix to the comprehensive SMS implementation plan and manual discussed in the bullet point above.
- Defined support activities related to the implementation of SMS at IWA.

Situation:

IWA is a small-hub airport as defined by the FAA and must therefore establish a SMS program under the final SMS rule published by the FAA on February 23, 2023 with an effective date of April 24, 2023. Under the final rule, IWA has twelve (12) months from the effective date of the rule (April 24, 2024) to develop and submit their SMS implementation plan to the FAA. Once the implementation plan is approved by FAA, IWA has twelve (12) months to develop their SMS manual and thirty-six (36) months to fully implement their SMS program.

Garver understands that IWA intends to expand its SMS program beyond the requirements established by the FAA. The IWA SMS program is expected to include integration with Occupational Safety and Health Administration (OSHA) requirements and apply throughout the airport campus (e.g., airside, terminal, and landside).

Specified Services:

This section discusses the specified services to be provided by Garver related to the development and implementation of an SMS program for IWA. This scope of work is broken down into three project phases with multiple tasks under each phase. Additionally, the deliverables for each project phase are defined.

<u>Phase One – SMS Program Planning</u>

The focus of this phase is to establish a foundation of data/information that will be used to develop the SMS implementation plan that will be created at the end of this phase. Consequently, this phase includes a review of existing safety practices and policies, a gap analysis, a best practices analysis, and the evaluation of existing technology platforms used by IWA and their ability to meet SMS requirements.

Task 1.1 – Project Kick-Off and General Project Management/Coordination

Upon receiving a Notice to Proceed (NTP) from the Airport, Garver will complete a virtual project kick-off meeting with Airport staff. The focus of the project kick-off meeting will be to:

- Identify and discuss the members of the Project Steering Committee (PSC).

- Identify and discuss existing safety policies, procedures, and manuals that can be provided to Garver for review in advance of the visioning and gap analysis visits.
- Identify and discuss specific organizations or individuals that should be interviewed as part of the gap analysis site visit (discussed in Task 1.6).

The project kick-off meeting will be attended by two (2) Garver staff members and is expected to take approximately one (1) hour.

Additionally, this task includes bi-weekly project status meetings with key airport staff to discuss project progress, next steps, and action items. Thirty (30) one (1) hour bi-weekly virtual meetings are assumed. The meetings will be attended by one (1) Garver staff member. Project status meetings may be stopped during periods of time where IWA and Garver are waiting to receive comments on draft deliverables from the FAA.

Task 1.2 – Safety Inventory

IWA staff will provide copies of all existing safety procedures, policies, training materials, and safety related data (e.g., incidents, accidents, etc.) to Garver for review. This is expected to include reviewing the following materials related to the regulatory portion of the SMS program:

- Incident/accident reports at IWA for the previous 24-month period (airside only)
- Airside safety related data review (e.g. runway incursions, vehicle accidents or moving violations) for the previous 24-month period
- Established safety policies and procedures for Airport staff including accident/incident investigation procedures (airside only)
- Established safety and security training for Airport badge holders and/or Airport staff
- Airport Driver's Training Program materials
- Safety enforcement policies
- Airport rules and regulations
- Airport Certification Manual
- Existing safety promotion programs and materials
- Safety communication policies and procedures
- Existing safety/hazard reporting programs, if established
- Existing safety related inspection procedures
- Other safety related programs (e.g. FOD programs, ramp safety programs, etc.), if established.
- Airport construction safety policies and materials (e.g., standard bid specifications for safety related items during construction)

Additionally, the following materials will be reviewed related to the comprehensive SMS program that will extend beyond 14 CFR Part 139 requirements:

- Incident/accident reports at IWA for the previous 24-month period (terminal and landside)
- Occupational Safety and Health Administration (OSHA) training materials and records
- Safety related data review (e.g. employee injuries, passenger injuries, OSHA reports, etc.)

This information will be reviewed by Garver staff to develop an inventory of existing safety related procedures, policies, and training materials to be evaluated further as part of the gap analysis.

Task 1.3 – Airport Best Practices Research and Survey

Garver will survey a minimum of three (3) and up to five (5) comparable commercial service airports in the United States to gather information regarding their goals, scope, organizational structure, technology, and operating principals related to their SMS program. Garver will prepare a draft version of the best practices survey for IWA staff review and approval. Once the survey questions have been approved by IWA staff, Garver will complete the best practices research.

The results of this task will be reviewed in a virtual meeting with the PSC to identify and discuss specific best practices to be incorporated into the IWA SMS program. The virtual meeting is expected to be two (2) hours and will be attended by two (2) Garver staff members. Garver will provide an electronic version of the PowerPoint to IWA staff for future reference.

Task 1.4 – Existing Technology Platform Evaluation

Garver will inventory the existing technology platforms currently utilized by IWA and evaluate the potential for those platforms to fulfill the safety reporting and data retention/analysis requirements set forth in the FAA's current standards. This task is expected to include a virtual meeting with IWA's Information Technology (IT) staff and the Airport's SMS Committee to identify and discuss the current technology platforms used by the Airport. This meeting is expected to be two (2) hours in length and will be attended by two (2) Garver staff members. Up to three (3) additional one (1) hour virtual meetings will also be completed, if required, with existing software vendors to gather data/information related to the capabilities of their platforms to meet SMS requirements. This task also includes online research regarding existing and emerging SMS related software packages.

At the conclusion of this task, Garver will prepare a brief report summarizing the existing technology platforms used at IWA and discussing their ability to potentially meet SMS requirements. This report will include an initial recommendation on if an existing software package could be used to meet SMS requirements or if a new software package will need to be procured. The report is expected to be between five (5) and seven (7) pages in length. The report will include a draft scope of services that IWA staff could use to help procure a software program to support their SMS system and evaluation criteria. The report will be provided to IWA staff for review and comment. One comment/revision cycle is assumed.

Task 1.5 – Safety Culture Survey

Garver will facilitate the conduct of the Futron Airport Safety Culture Survey (Futron ASCA) to measure the current IWA safety climate and assess aspects of the existing IWA safety culture. The FAA Advisory Circular 150/5200-37A, paragraph 2.3.1 states that airports ". . . may need to consider their current safety culture and account for further cultural development in their SMS implementation plan." It further states in paragraph 2.3.2 that in the development of the SMS Implementation Plan, one of the suggested steps is to "Inventory existing safety processes, . . . and understand the current safety culture of the organization. This is the current state or starting point." Futron's ASCA will provide this important view of the current state of the safety climate at the Airport and provide a starting point for crafting safety culture-shaping strategies that can be included in the IWA SMS Implementation Plan.

Garver will work with IWA staff to accomplish the following:

- Modify the existing survey framework to fit the needs and interests of IWA.
    - This will be accomplished via a one (1) hour virtual meeting, attended by two (2) Garver team members. Additional coordination may take place by email, if needed.
- Provide necessary information for IWA personnel to access the survey.

- Monitor and manage the conduct of the survey
    - Garver will distribute the survey on the Airport's behalf or the Airport may choose to distribute the survey to determined recipients. A mutually agreed-upon timeframe for the survey to be active will be determined at the start of this task.
- Analyze the survey data
    - Provide a virtual presentation and briefing of the survey results to IWA leadership This presentation will be a one (1) hour meeting attended by two (2) Garver team members.

Task 1.6 – Gap Analysis

Utilizing the results of the preceding tasks as a foundation, Garver will conduct a gap analysis to review how IWA's existing safety practices compare to industry standards and best practices for SMS and safety. This gap analysis includes identifying and analyzing gaps related to the following standards applicable to the regulatory SMS requirements set forth by the FAA:

- 14 CFR Part 139
- AC 150/5200-37A

For the non-regulatory portion of the SMS program, the following industry standards and best practices will also be considered:

- National Fire Protection Association (NFPA)
- Occupational Safety and Health (OSHA)
- ICAO
- ACI
- ACRP
- International Standard for Business Aircraft Handling (IS-BAH)

To inform the gap analysis, Garver will complete a two (2) day gap analysis site visit at IWA. This site visit will be expanded to four (4) days if the SMS program includes nonregulatory areas (e.g. terminal/landside areas). This site visit will be completed on consecutive days and will be attended by two (2) Garver staff members. The gap analysis is expected to include the following activities:

- Interviews with up to six (6) individuals or groups to discuss existing safety practices, procedures, and activities. The individuals or groups will be identified in consultation with airport staff. This will likely include interviews with airport operations, Aircraft Rescue and Fire Fighting (ARFF), airport maintenance, and others.
- General observations of airside activities
- Air carrier apron ramp inspection
- Fuel farm inspection
- Perimeter inspection
- Safety and training records inspection

The gap analysis shall be expanded to include other non-SMS regulatory areas (e.g. terminal/landside). Consequently, the following work will be included:

- Up to four (4) additional interviews
- Terminal facility inspection
- OSHA training records inspection

- Landside facilities (e.g., parking, roadways, etc.) inspection

Task 1.7 – FAA Airport Certification Safety Inspector (ACSI) Collaboration

The Airport will be the only conduit to the ACSI, all communications and collaboration shall be through the Airport and no direct communication with the ACSI shall occur without prior approval from the Airport.

This task includes up to two (2) virtual meetings with IWA's FAA ACSI to discuss SMS planning and development. The meetings are expected to be one (1) hour in length and will be attended by two (2) Garver staff members.

Task 1.8 – Pre-Plan Development Meeting

This task includes a virtual meeting with Airport Executives to discuss SMS planning and development. The meeting is expected to be one (1) hour in length and will be attended by two (2) Garver staff members.

Task 1.9 – Implementation Plan Development

As part of this task Garver will develop the following:

- SMS Implementation Plan to Meet FAA Requirements – This implementation plan will be based on the requirements and template provided in Appendix C of FAA AC 150/5200-37A. This document is expected to be between ten (10) to twenty (20) pages in length. The SMS implementation plan checklist contained in Appendix C of FAA AC 150/5200-37A will also be completed.
- SMS Comprehensive Implementation Plan – This implementation plan will further define the development strategy for the comprehensive SMS program for IWA. This document is expected to be between twenty (20) to thirty (30) pages in length.

Both implementation plans will be submitted to IWA staff for review and comment. One comment/revision cycle is assumed. Up to four (4) virtual one (1) hour meetings are included in this task.

The SMS Implementation Plan to meet FAA requirements will be submitted to the FAA for their official review. Any comments on the proposed implementation plan will be addressed by Garver. The development and submittal of the FAA required implementation plan will be prioritized.

Phase One Deliverables

As discussed in the preceding tasks, the following deliverables are included as part of Phase One:

- Technology Report
- Provide a draft procurement scope for software technology including evaluation criteria.
- SMS Implementation Plan to Meet FAA Requirements
- SMS Comprehensive Implementation Plan

Phase Two – SMS Manual Development

This phase will build upon the results of Phase One to develop an SMS Manual for IWA. As discussed in the Objective section at the beginning of this scope of services, Garver will develop a comprehensive SMS manual for IWA in addition to a more succinct manual to meet only the regulatory requirements established by FAA.

Task 2.1 – SMS Manual Development

As part of this task Garver will develop the following:

- SMS Manual Meeting FAA Requirements – This SMS manual will be based on the requirements and template provided in Appendix D of FAA AC 150/5200-37A. This document is expected to be between twenty (20) and thirty (30) pages.

- Comprehensive SMS Manual – This SMS manual will outline all the elements of the comprehensive SMS program at IWA and will include multiple chapters/sections. The length of this document may vary based on the strategy for SMS implementation. However, it is expected that the document will be between six (6) to eight (8) chapters.

The SMS Manual to meet FAA requirements will be submitted to the Airport and then the FAA for their official review. Any comments on the proposed manual will be addressed by Garver. One comment/revision cycle is assumed for each review.

For the comprehensive SMS manual, chapters will be developed individually for review by airport staff. This task includes up to twelve (12) virtual one (1) hour meetings to discuss various chapters of the SMS manual and to support the manual's adoption by airport leadership. One comment/revision cycle is assumed for each chapter.

The initial focus will be on the development of the safety policy and Safety Risk Management (SRM) policies and chapters. Subsequent chapters will be developed related to safety promotion, safety assurance, and other key aspects of airport safety.

Task 2.2 – SMS Manual Meeting

This task includes a virtual meeting with Airport Executives to discuss SMS planning and development. The meeting is expected to be one (1) hour in length and will be attended by two (2) Garver staff members.

Task 2.3 – FAA Airport Certification Safety Inspector (ACSI) Collaboration

The Airport will be the only conduit to the ACSI, all communications and collaboration shall be through the Airport and no direct communication with the ACSI shall occur without prior approval from the Airport.

This task includes up to two (2) virtual meetings with IWA's FAA ACSI to discuss the SMS manual. The meetings are expected to be one (1) hour in length and will be attended by two (2) Garver staff members.

Phase Two Deliverables

As discussed in the preceding tasks, the following deliverables are included as part of Phase Two:

- SMS Manual Meeting FAA Requirements
- Comprehensive SMS Manual

Phase Three – SMS Implementation Support

The focus of this phase is to provide support related to the implementation of SMS at IWA. Specifically, this phase is focused on providing support related to the implementation of the FAA regulated portion of the SMS program.

Task 3.1 – FAA Required SMS Training

Garver will provide up to three (3) virtual training sessions to individuals with responsibilities under the FAA regulatory portion of IWA's SMS program. This training is intended to meet the requirements set forth in 14 CFR Part 139.402(d)(3). Each training session will be up to two (2) hours in length and will be attended by two (2) Garver staff members. Copies of the PowerPoint presentation and other training materials will be provided to IWA staff.

Task 3.2 – Development of SMS Promotional Materials

Garver will create up to two (2) different SMS promotional flyers/posters for the airport to distribute to personnel authorized to access airport areas regulated under the FAA regulatory potion of IWA's SMS program. Per the requirements set forth in 14 CFR Part 139.402(d)(1) this will include information related to hazard identification and reporting. This may include supporting minor changes to existing safety and security training provided to airport badge holders.

Task 3.3 – Safety Risk Management Training

Garver will provide a single Safety Risk Management (SRM) training session for any airport personnel that may be required to lead an SRM process. The SRM process will take place in person at IWA and will be completed in a single day. As part of the training, a mock SRM will be conducted. Mock SRM forms will also be completed to serve as an example. Two (2) Garver personnel will conduct this training. Training curriculum, including presentation materials will be provided to the airport. The in-person training may be recorded for future training use by the airport.

Task 3.4 – SMS Quick Reference Guide

Garver will create a SMS quick reference guide that provides an executive summary of the SMS program and requirements at IWA. An electronic version of the quick reference guide will be provided to IWA staff for printing and distribution.

Phase Three Deliverables

As discussed in the preceding tasks, the following deliverables are included as part of Phase Three:

- FAA Required SMS Training materials
- Two (2) SMS Promotional Flyers/Posters
- SRM Training Materials
- SMS Quick Reference Guide

Excluded Scope:

For clarity, the following items are specifically not included within the scope of this project:

- Development of emergency, hazardous materials, evacuation, or security related response plans or training that may be related to SMS.
- Implementation support related to non-FAA regulated portions of the SMS program (e.g., terminal, landside, etc.).
- Procurement of a new technology platform to support SMS implementation.

Exhibit B

Phoenix-Mesa Gateway Airport
IWA SMS

FEE SUMMARY

Fee Type	Title I Service	Estimated Fees
Lump Sum	SMS Program Planning	$ 154,715.00
Lump Sum	SMS Manual Development	$ 81,985.00
Lump Sum	SMS Implementation Support	$ 57,820.00
	Subtotal for Title I Service	**$ 294,520.00**
	Total All Services	**$ 294,520.00**

Exhibit B

Phoenix-Mesa Gateway Airport
IWA SMS

SMS Program Planning

	WORK TASK DESCRIPTION	P-4	P-2	P-1	AM-2
		$290.00	$215.00	$150.00	$135.00
		hr	hr	hr	hr
1.	**Task 1.1 – Project Kick-Off and General Project Management/Coordination**				
	Prep for Kick-Off Meeting	2	4		
	Kick-Off Meeting	2	2	8	
	Bi-Weekly Project Status Meetings	40	8		
	Subtotal - Task 1.1 – Project Kick-Off and General Project Management/Coordination	**44**	**14**	**8**	**0**
2.	**Task 1.2 – Safety Inventory**				
	- Review of Regulatory Documents	2	30	25	
	- Review of Comprehensive SMS Safety Inventory Documents	2	30	15	
	Subtotal - Task 1.2 – Safety Inventory	**4**	**60**	**40**	**0**
3.	**Task 1.3 – Airport Best Practices Survey**				
	- Survey Development and Approval	2	8	8	
	- Survey Adminstration	2	12	24	
	- Best Practices PowerPoint Development and Virtual Meeting	2	8	16	6
	- QC	2			
	Subtotal - Task 1.3 – Airport Best Practices Survey	**8**	**28**	**48**	**6**
4.	**Task 1.4 – Technology Platform Evaluation**				
	- Existing Technology Review	2	8	6	
	- Existing Vendor Review	2	6	6	
	- Vendor Meetings	2	4	6	
	- Technology Report and Meeting	4	8	24	6
	- QC	2			
	Subtotal - Task 1.4 – Technology Platform Evaluation	**12**	**26**	**42**	**6**
5.	**Task 1.5 – Safety Culture Survey**				
	- Survey Development	2			
	- Survey Administration	2			
	- Survey Results Analysis	4			
	- Survey Results Review Meeting	4			
	- QC	2			
	Subtotal - Task 1.5 – Safety Culture Survey	**14**	**0**	**0**	**0**
6.	**Task 1.6 – Gap Analysis**				
	- Gap Analysis Prep	4	18	4	
	- Regulatory Gap Analysis Site Visit (2 day)	20	20	4	
	- Comprehensive Gap Analysis Site Visit (2 Additional Days)	20	20	4	
	- Gap Analysis Documentation Development	2			
	Subtotal - Task 1.6 – Gap Analysis	**46**	**58**	**12**	**0**
7.	**Task 1.7 – FAA Airport Certification Safety Inspector (ACSI) Collaboration**				
	- FAA Meetings	3	3		
	Subtotal - Task 1.7 – FAA Airport Certification Safety Inspector (ACSI) Collaboration	**3**	**3**	**0**	**0**
8.	**Task 1.8 – Pre-Plan Development Meeting**				
	- Meeting with Airport Executive Team	4	8		6
	Subtotal - Task 1.8 – Pre-Plan Development Meeting	**4**	**8**	**0**	**6**
9.	**Task 1.9 – Implementation Plan Development**				
	- Regulatory Implementaiton Plan Development	2	6	24	
	- Comprehensive Implementation Plan Development	5	32	58	
	- Quality Control	8			16
	Subtotal - Task 1.9 – Implementation Plan Development	**15**	**38**	**82**	**16**

Hours	**150**	**235**	**232**	**34**
SUBTOTAL - SALARIES:		**$133,415.00**		
DIRECT NON-LABOR EXPENSES				
Document Printing/Reproduction/Assembly		$300.00		
Postage/Freight/Courier		$0.00		
IA-BAH Suite		$2,500.00		
Travel Costs		$3,500.00		
SUBTOTAL - DIRECT NON-LABOR EXPENSES:		**$6,300.00**		
SUBTOTAL:		**$139,715.00**		
SUBCONSULTANTS FEE:		**$15,000.00**		
-Futron - Culture Survey		$15,000.00		
TOTAL FEE:		**$154,715.00**		

Exhibit B

Phoenix-Mesa Gateway Airport
IWA SMS

SMS Manual Development

	WORK TASK DESCRIPTION	P-4	P-2	P-1	AM-2
		$290.00	$215.00	$150.00	$135.00
		hr	hr	hr	hr
1.	**Task 2.1 – SMS Manual Development**				
	- Regulatory Manual Development	12	40	25	12
	- Comprehensive Manual Development (Manual Chapters and Forms)	24	150	60	36
	- Quality Control	16			12
	Subtotal - Task 2.1 – SMS Manual Development	**52**	**190**	**85**	**60**
2.	**Task 2.2 – SMS Manual Meeting**				
	- SMS Manual Meeting	4	8		6
	Subtotal - Task 2.2 – SMS Manual Meeting	**4**	**8**	**0**	**6**
3.	**Task 2.3 – FAA Airport Certification Safety Inspector (ACSI) Collaboration**				
	- FAA Meetings	3	3		
	Subtotal - Task 2.3 – FAA Airport Certification Safety Inspector (ACSI) Collaboration	**3**	**3**	**0**	**0**
	Hours	**59**	**201**	**85**	**66**

SUBTOTAL - SALARIES:		**$81,985.00**
DIRECT NON-LABOR EXPENSES		
Document Printing/Reproduction/Assembly	$0.00	
Postage/Freight/Courier	$0.00	
Office Supplies/Equipment	$0.00	
Travel Costs	$0.00	
SUBTOTAL - DIRECT NON-LABOR EXPENSES:		**$0.00**
SUBTOTAL:		**$81,985.00**
SUBCONSULTANTS FEE:		**$0.00**
TOTAL FEE:		**$81,985.00**

Exhibit B

Phoenix-Mesa Gateway Airport
IWA SMS

SMS Implementation Support

	WORK TASK DESCRIPTION	P-4	P-2	P-1	AM-2
		$290.00	$215.00	$150.00	$135.00
		hr	hr	hr	hr
1.	**Task 3.1 – FAA Required SMS Training**				
	Task 3.1 – FAA Required SMS Training	4	32	48	24
	Quality Control	4			
	Subtotal - Task 3.1 – FAA Required SMS Training	**8**	**32**	**48**	**24**
2.	**Task 3.2 – Development of SMS Promotional Materials**				
	Task 3.2 – Development of SMS Promotional Materials	2	12	12	36
	Quality Control	2			
	Subtotal - Task 3.2 – Development of SMS Promotional Materials	**4**	**12**	**12**	**36**
3.	**Task 3.3 – Safety Risk Management Training**				
	Task 3.3 – Safety Risk Management Training	4	24	36	24
	Quality Control	4			
	Subtotal - Task 3.3 – Safety Risk Management Training	**8**	**24**	**36**	**24**
4.	**Task 3.4 – SMS Quick Reference Guide**				
	Task 3.4 – SMS Quick Reference Guide	2	12	12	32
	Quality Control	2			
	Subtotal - Task 3.4 – SMS Quick Reference Guide	**4**	**12**	**12**	**32**

Hours	**24**	**80**	**108**	**116**

SUBTOTAL - SALARIES: **$56,020.00**

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	$300.00
Postage/Freight/Courier	$0.00
Office Supplies/Equipment	$0.00
Travel Costs	$1,500.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: **$1,800.00**

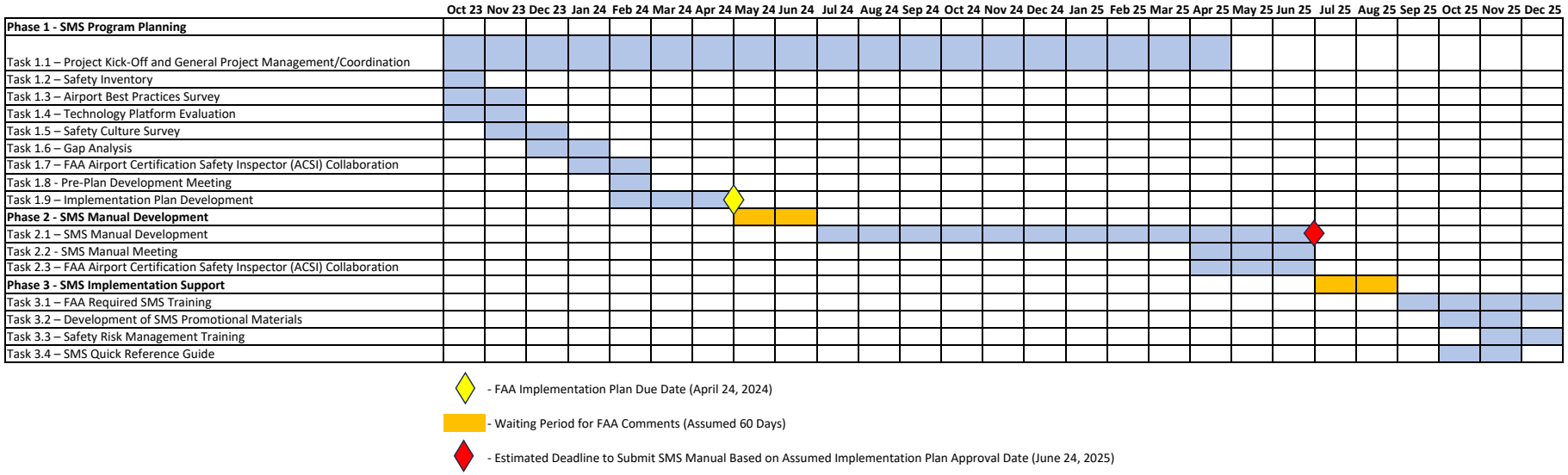
SUBTOTAL: **$57,820.00**

SUBCONSULTANTS FEE: **$0.00**

TOTAL FEE: **$57,820.00**

Exhibit C

IWA - SMS Project Schedule



- FAA Implementation Plan Due Date (April 24, 2024)

- Waiting Period for FAA Comments (Assumed 60 Days)

- Estimated Deadline to Submit SMS Manual Based on Assumed Implementation Plan Approval Date (June 24, 2025)

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-54

To:	**Board of Directors**
From:	**Art Montoya, Interim Information Technology Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Microsoft Licensing Renewals through CDW-G**
Date:	**October 17, 2023**

Proposed Motion
To authorize a purchase with CDW Government, Inc. (CDW-G) for annual Microsoft licensing renewals, in an amount not to exceed $56,638.04.

Narrative
Multiple Microsoft software and programs are currently used throughout the organization. The software requires annual licensing renewals. CDW-G is an authorized Microsoft reseller.

Board authorization for the purchase of the Microsoft annual software maintenance licensing renewals is necessary for access and to continue use of the Microsoft software including our cloud-based Office 365 product suite.

Phoenix-Mesa Gateway Airport Authority (PMGAA) is a participant of the National IPA (NIPA) cooperative purchasing group. Under NIPA, CDW-G was awarded Information Technology Solutions and Services contract #2018011-01. It is through this cooperative purchasing agreement that PMGAA will utilize CDW-G for Microsoft licensing renewals. This contract is available upon request.

Fiscal Impact
This purchase was included in the FY24 ITS Operating Budget.

Attachment(s)
Quote

RESOLUTION NO. 23-54

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a purchase with CDW Government, Inc. (CDW-G) for annual Microsoft licensing renewals, in an amount not to exceed $56,638.04;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a purchase with CDW Government, Inc. (CDW-G) for annual Microsoft licensing renewals, in an amount not to exceed $56,638.04. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 17th day of October, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

QUOTE CONFIRMATION

BRIAN WALLACE,

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

Convert Quote to Order

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NNJC501	9/6/2023	ANNUAL PAYMENT	11231946	$56,638.04

IMPORTANT - PLEASE READ

Special Instructions: Annual Payment due 11/1
EA 80745099
Terms 11/1/2023 - 10/31/2024

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
MS EA O365 E3 GCC P USER Mfg. Part#: AAA-11894-12-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	130	3753337	$233.52	$30,357.60
Microsoft Azure Active Directory Premium P1 - subscription license - 1 user Mfg. Part#: MQM-00001-12-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	130	5430962	$54.12	$7,035.60
Microsoft Core CAL Bridge for Office 365 - subscription license (1 month) - Mfg. Part#: AAA-12414-12-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	130	3931585	$19.80	$2,574.00
Microsoft Audio Conferencing Select Dial Out - subscription license - 1 lic Mfg. Part#: NYH-00001-12-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	130	6976615	$0.00	$0.00
Microsoft Exchange Online Plan 1 - subscription license - 1 user Mfg. Part#: 3MS-00001-12-SLG	10	3083170	$35.87	$358.70

QUOTE DETAILS (CONT.)

Terms 11/1/2023 - 10/31/2024
Electronic distribution - NO MEDIA
Contract: National IPA Technology Solutions (2018011-01)

MS EA PROJECT P3 GCC P USER Mfg. Part#: 7MS-00001-12-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	6	4381361	$270.60	$1,623.60
MS EA VISIO P2 GCC P USER Mfg. Part#: P3U-00001-12-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	16	3576069	$135.36	$2,165.76
Microsoft Office Professional Plus - software assurance - 1 PC Mfg. Part#: 269-05704-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	11	2084640	$113.78	$1,251.58
Microsoft SQL Server Standard Core Edition - software assurance - 2 cores Mfg. Part#: 7NQ-00292-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	4	2716749	$607.95	$2,431.80
MS EA WIN SVR DCCORE SA MVL Mfg. Part#: 9EA-00278-SLG Terms 11/1/2023 - 10/31/2024 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	42	4354663	$130.54	$5,482.68

SUBTOTAL	$53,281.32
SHIPPING	$0.00
SALES TAX	$3,356.72
GRAND TOTAL	**$56,638.04**

PURCHASER BILLING INFO	DELIVER TO
Billing Address: PHOENIX-MESA GATEWAY AIRPORT AUTH ACCOUNTS PAYABLE 5835 S SOSSAMAN RD MESA, AZ 85212-6014 **Phone:** (480) 988-7619 **Payment Terms:** Net 30 Days-Govt State/Local	**Shipping Address:** PHOENIX-MESA GATEWAY AIRPORT AUTH BRIAN WALLACE 5835 S SOSSAMAN RD MESA, AZ 85212-6014 **Phone:** (480) 988-7619 **Shipping Method:** ELECTRONIC DISTRIBUTION
	Please remit payments to:
	CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515

Sales Contact Info

Chris Anderson | (877) 570-2643 | chrande@cdwg.com

LEASE OPTIONS			
FMV TOTAL	**FMV LEASE OPTION**	**BO TOTAL**	**BO LEASE OPTION**
$53,281.32	**$1,428.47/Month**	**$53,281.32**	**$1,650.12/Month**

Monthly payment based on 36 month lease. Other terms and options are available. Contact your Account Manager for details. Payment quoted is subject to change.

Why finance?

• Lower Upfront Costs. Get the products you need without impacting cash flow. Preserve your working capital and existing credit line.

• Flexible Payment Terms. 100% financing with no money down, payment deferrals and payment schedules that match your company's business cycles.

• Predictable, Low Monthly Payments. Pay over time. Lease payments are fixed and can be tailored to your budget levels or revenue streams.

• Technology Refresh. Keep current technology with minimal financial impact or risk. Add-on or upgrade during the lease term and choose to return or purchase the equipment at end of lease.

• Bundle Costs. You can combine hardware, software, and services into a single transaction and pay for your software licenses over time! We know your challenges and understand the need for flexibility.

General Terms and Conditions:

This quote is not legally binding and is for discussion purposes only. The rates are estimate only and are based on a collection of industry data from numerous sources. All rates and financial quotes are subject to final review, approval, and documentation by our leasing partners. Payments above exclude all applicable taxes. Financing is subject to credit approval and review of final equipment and services configuration. Fair Market Value leases are structured with the assumption that the equipment has a residual value at the end of the lease term.

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About Us | Privacy Policy | Terms and Conditions

This order is subject to CDW's Terms and Conditions of Sales and Service Projects at
http://www.cdwg.com/content/terms-conditions/product-sales.aspx
For more information, contact a CDW account manager

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Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-55

To:	**Board of Directors**
From:	**Arturo Montoya, Information Technology Director**
Through:	**Chuck Odom, CFO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**CIP 1244 Network Core and Edge Equipment Life Cycle Refresh**
Date:	**October 17, 2023**

Proposed Motion
To authorize the procurement of network equipment from Hye Tech Network and Security Solutions, LLC (Hye Tech) in an amount not to exceed $292,195.

Narrative
The Phoenix-Mesa Gateway Airport Authority's (PMGAA) Information Technology Service ensures the Airport's operation, compliance, and disaster recovery functionality relative to information technology industry standards. FY24 is slated to continue with prior fiscal years practice of computer equipment refresh replacement program per a pre-established schedule. The procurement of new network routers and switches will complete a seven-year refresh life cycle program.

As a qualified member of the Arizona Department of Administration State Procurement Office (ADSPO), PMGAA is able to procure goods and services under state contracts that have been competitively bid. The State has currently contracted with Hye Tech for computer hardware and support under contract CTR059868. It is under this contract that PMGAA will procure the equipment. This contract is available upon request.

Fiscal Impact
This purchase was included in the FY24 Capital Improvement Projects and is funded under CIP 1244.

Attachment(s)
Hye Tech Quote

RESOLUTION NO. 23-55

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the procurement of network equipment from Hye Tech Network and Security Solutions, LLC (Hye Tech) in an amount not to exceed $292,195;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the procurement of network equipment from Hye Tech Network and Security Solutions, LLC (Hye Tech) in an amount not to exceed $292,195. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 17th day of October, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Quotation

HyeTech Network & Security Solutions, LLC.
10235 S. 51st Street #120
Phoenix, AZ 85044

Date: October 03, 2023
Quotation #: 1331-009
Customer ID: 1331
Prepared by: Scott Clore
Quotation valid until: October 27, 2023
Project Detail: Network Refresh - v2
Contract: AZ State Contract BPM003793 - CTR059868

Bill To:
Phoenix Mesa Gateway Airport Authority
Art Montoya
5835 S SOSSAMAN RD
Mesa, AZ 85212

Ship To:
Phoenix Mesa Gateway Airport Authority
Art Montoya
5835 S SOSSAMAN RD
Mesa, AZ 85212

Products:

Part	Description	Term	List Price	Unit Price	Qty	Ext. Price
C9500-48Y4C-A	Catalyst 9500 48-port x 1/10/25G + 4-port 40/100G, Advantage	---	$28,637.65	$12,314.19	2	$24,628.38
CON-SNT-C9504YA4	SNTC-8X5XNBD Catalyst 9500 48-port 25/100G only, Adva	12	$2,052.00	$1,641.60	2	$3,283.20
CAB-C13-CBN	Cabinet Jumper Power Cord, 250 VAC 10A, C14-C13 Connectors	---	$0.00	$0.00	4	$0.00
C9K-PWR-650WAC-R	650W AC Config 4 Power Supply front to back cooling	---	$0.00	$0.00	2	$0.00
C9K-PWR-650WAC-R/2	650W AC Config 4 Power Supply front to back cooling	---	$2,663.25	$1,518.05	2	$3,036.10
C9K-F1-SSD-BLANK	Cisco pluggable SSD storage	---	$0.00	$0.00	2	$0.00
C9K-T1-FANTRAY	Catalyst 9500 Type 4 front to back cooling Fan	---	$0.00	$0.00	4	$0.00
C9500-NW-A	C9500 Network Stack, Advantage	---	$0.00	$0.00	2	$0.00
S9500UK9-179	Cisco Catalyst 9500 XE 17.9 UNIVERSAL	---	$0.00	$0.00	2	$0.00
C9500-SSD-NONE	No SSD Card Selected	---	$0.00	$0.00	2	$0.00
C9500-DNA-48Y4C-A	C9500 DNA Advantage, Term License	---	$0.00	$0.00	2	$0.00
C9500-DNA-A-3Y	Cisco Catalyst 9500 DNA Advantage 3 Year License	36	$14,312.91	$6,870.20	2	$13,740.40
PI-LFAS-T	Prime Infrastructure Lifecycle & Assurance Term - Smart Lic	---	$0.00	$0.00	6	$0.00
PI-LFAS-AP-T-3Y	PI Dev Lic for Lifecycle & Assurance Term 3Y	36	$0.00	$0.00	6	$0.00
NETWORK-PNP-LIC	Network Plug-n-Play Connect for zero-touch device deployment	---	$0.00	$0.00	2	$0.00
C9200L-48P-4X-E	Catalyst 9200L 48-port PoE+, 4 x 10G, Network Essentials	---	$9,485.19	$3,699.22	14	$51,789.08
CON-SNT-C9200L4X	SNTC-8X5XNBD Catalyst 9200L 48-port PoE+, 4 x 10G, Ne	12	$701.00	$560.80	14	$7,851.20
C9200L-NW-E-48	C9200L Network Essentials, 48-port license	---	$0.00	$0.00	14	$0.00
PWR-C5-1KWAC/2	1KW AC Config 5 Power Supply - Secondary Power Supply	---	$4,233.19	$2,031.93	14	$28,447.02
CAB-TA-NA	North America AC Type A Power Cable	---	$0.00	$0.00	28	$0.00
C9200-STACK-BLANK	Catalyst 9200 Blank Stack Module	---	$0.00	$0.00	28	$0.00
C9200L-DNA-E-48	C9200L Cisco DNA Essentials, 48-port Term license	---	$0.00	$0.00	14	$0.00
C9200L-DNA-E-48-3Y	C9200L Cisco DNA Essentials, 48-port, 3 Year Term license	36	$1,324.59	$635.80	14	$8,901.20
NETWORK-PNP-NONE	Network Plug-n-Play Opt Out SKU	---	$0.00	$0.00	14	$0.00
C9200L-24P-4X-E	Catalyst 9200L 24-port PoE+, 4 x 10G, Network Essentials	---	$5,495.34	$2,143.18	15	$32,147.70
CON-SNT-C920024X	SNTC-8X5XNBD Catalyst 9200L 24-port PoE+, 4 x 10G, Ne	12	$406.00	$324.80	15	$4,872.00
C9200L-NW-E-24	C9200L Network Essentials, 24-port license	---	$0.00	$0.00	15	$0.00
PWR-C5-600WAC/2	600W AC Config 5 Power Supply - Secondary Power Supply	---	$2,822.13	$1,354.62	15	$20,319.30
CAB-TA-NA	North America AC Type A Power Cable	---	$0.00	$0.00	30	$0.00

Quotation

Products:

Part	Description	Term	List Price	Unit Price	Qty	Ext. Price
C9200-STACK-BLANK	Catalyst 9200 Blank Stack Module	---	$0.00	$0.00	30	$0.00
C9200L-DNA-E-24	C9200L Cisco DNA Essentials, 24-port Term license	---	$0.00	$0.00	15	$0.00
C9200L-DNA-E-24-3Y	C9200L Cisco DNA Essentials, 24-port, 3 Year Term license	36	$721.59	$346.36	15	$5,195.40
NETWORK-PNP-NONE	Network Plug-n-Play Opt Out SKU	---	$0.00	$0.00	15	$0.00
SFP-25G-AOC1M=	25GBASE Active Optical SFP28 Cable, 1M	---	$570.96	$245.51	3	$736.53
C9200L-STACK-KIT=	Cisco Systems:Cisco Catalyst 9200L Stack Module	---	$1,604.66	$770.24	11	$8,472.64
STACK-T4-50CM	Cisco Systems:50CM Type 4 Stacking Cable	---	$0.00	$0.00	11	$0.00
C9200-STACK	Cisco Systems:Catalyst 9200 Stack Module	---	$0.00	$0.00	22	$0.00
SFP-10G-AOC2M=	Cisco Systems:10GBASE ACTIVE OPTICAL SFP+ CABLE, 2M	---	$279.01	$122.76	2	$245.52
C8500L-8S4X	Cisco Catalyst 8500 Series 4x SFP+ and 8x SFP, 4x10GE, 8x1GE	---	$34,954.25	$15,030.33	2	$30,060.66
CON-SNT-C8500L8X	SNTC-8X5XNBD Cisco Catalyst 8500 Series 12-port SFP+,	12	$3,012.00	$2,409.60	2	$4,819.20
C-RFID-1R	Cisco Catalyst 8000 Edge RFID - 1RU	---	$0.00	$0.00	2	$0.00
M2USB-16G	Cisco Catalyst 8000 Edge M.2 USB 16GB	---	$0.00	$0.00	2	$0.00
C8500L-RM-19-1R	Cisco Catalyst 8500L Rack mount kit - 19" 1R	---	$0.00	$0.00	2	$0.00
NETWORK-PNP-LIC	Network Plug-n-Play Connect for zero-touch device deployment	---	$0.00	$0.00	2	$0.00
C8000-HSEC	U.S. Export Restriction Compliance license for C8000 series	---	$0.00	$0.00	2	$0.00
SC8KAESUK9-176	UNIVERSAL	---	$0.00	$0.00	2	$0.00
IOSXE-AUTO-MODE	IOS XE Autonomous boot up mode for Unified image	---	$0.00	$0.00	2	$0.00
PWR-CH1-400WAC	Cisco C8500L 400W AC Power Supply, Reverse Air	---	$0.00	$0.00	4	$0.00
CAB-AC	AC Power Cord (North America), C13, NEMA 5-15P, 2.1m	---	$0.00	$0.00	4	$0.00
DNA-P-T2-A-3Y	Cisco DNA Advantage On-Prem Lic 3Y - upto 1G (Aggr, 2G)	36	$12,600.00	$6,048.00	2	$12,096.00
					Subtotal:	**$260,641.53**

Professional Services:

Objectives:

- Perform discovery of PMGA distribution and core switching environment
- Configure up to two (2) campus core switches
- Configure up to three (3) access layer switches in a switch stack
- Configure up to two (2) internet edge routers

Network Device Configuration:

- Perform code upgrade on all infrastructure to latest recommended release
- Perform configuration to client standards based on HyeTech and manufacturer best practice
  - Review existing Core switch configuration
  - Review existing topology
- Initialize each device for management
  - Configure Management IP addressing
  - Configure SSH access for remote management
- Upgrade IOS firmware to vendor recommended levels
- Perform base device configuration
- Device and protocol hardening and security
  - Ensure all encrypted protocols are used
  - Protect management and control plane
- Enable best practices protocols for Catalyst operation

Professional Services:

- Configure layer 2 and layer 3 functions per design
  - VLANs / Layer 2
  - Networks / Layer 3
  - Routing and routing protocols
- Configure interface settings
  - MTU
  - Interface VLAN configuration
  - L3 Interface configuration
- Configure Quality of Service for all pathways

Internet Edge Router Configuration:

- Interface policing and QoS configuration as needed
- Peer with Internet Providers, advertise appropriate routers and receive default route
- Create BGP adjacency with core device and advertise default route to internal network

Onsite Cutover

- Schedule change window with PMGA IT
- Migrate core connections with the assistance of PMGA IT to new core stack
- Perform network level testing to ensure successful cutover
- Work with PMGA IT to perform application level testing
- Provide up to 4 hours of next-day support

Project Management:

- Provide project management throughout engagement to ensure successful outcome
- Provide regular project status meetings
- Milestone tracking
- Risk tracking
- Project closeout

Deliverables:

- Provide as-built documentation of Core switch stack
- Provide configuration template for access layer switches

Assumptions:

- Customer to provide Hye Tech with all relevant organizational policies such as standardization, naming convention, IP addressing, or other pertinent information to the project
- Customer will participate and provide access to information, documentation, and technology necessary for project discovery
- Customer to provision access to necessary infrastructure
- Customer to physically rack / stack / and cable all network devices
- Customer to provide access to any support or licensing contracts associated with the project
- Items not specified in this scope of work are explicitly excluded from this service offering

Quote Summary	Amount
Products:	$260,641.53
Professional Services:	$9,920.00
Subtotal:	**$270,561.53**
Estimated Tax:	**$21,633.25**
Total:	**$292,194.78**

Terms & Conditions:

Invoicing & Payment

Unless otherwise stated in an SOW, exhibit, or definitive agreement, HyeTech shall invoice Customer on a project basis. Customer shall pay HyeTech within thirty (30) calendar days from the date of invoice for any of the Services and expenses provided or incurred hereunder. HyeTech may charge Customer interest and late fees on any overdue and unpaid portion of the Fees in an amount equal to one and one half percent (1.5%) per month. All payments shall be made in U.S. dollars. In the event Customer disputes any Fees, Customer shall pay any undisputed portion of the invoice containing the disputed Fees.

Suspension

In the event of non-payment of any Fees or other fees payable within forty-five (45) days from the date of invoice, HT may, in addition to any other rights and remedies it may have, suspend Customer's access to the Products and Services.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-56

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**FY24 Capital Budget Amendment – TSA In-Line Checked Baggage System Design – CIP 1265**
Date:	**October 17, 2023**

Proposed Motion

To Authorize an Amendment of the FY24 Capital Budget to provide an additional $367,387.50 under Contract Modification #1, to the initial $438,891 in funding for the Transportation Security Administration In-Line Checked Baggage System Design under CIP 1265. The new design contract total will be $806,278.50.

Narrative

Due to the increase in passenger traffic at the Phoenix-Mesa Gateway Airport (PMGAA), it was determined that the existing Baggage Handling System (BHS) will not be able to adequately keep up with the number of bags being checked. PMGAA staff are working with Studdiford Technical Solutions, LLC (STS), an Engineering and Design Architectural Firm, to provide planning and design services for a new in-line Checked Baggage Inspection System (CBIS). This project is being done in collaboration and coordination with the Transportation Security Administration (TSA), airlines and other airport stakeholders to deliver a system which meets the screening requirements set forth by the TSA.

The scope of this contract modification is to provide additional planning and design services for the new in-line CBIS. Initially the project was anticipated and funded to be a 1+1 Explosive Detection System (EDS) CBIS. During the preliminary design phase, PMGAA provided new flight data to STS that showed the EDS count needed to increase from a 1+1 EDS to a 2+1 EDS CBIS. The Main Terminal at IWA does not have sufficient space to install a 2+1 EDS system without greatly impacting the ticketing lobby and passenger experience. STS developed three (3) alternatives for PMGAA to review and select. PMGAA Management determined the reduction in space was not acceptable and the building expansion alternative would suit the Airport's needs best. The building expansion is 7,500 sq ft (65' x 115') and is an extension of the south side of the existing Ticketing Terminal Building and will be designed in accordance with the TSA's Planning Guidelines and Design Standards (PGDS) for Checked Baggage Inspection Systems.

Fiscal Impact

Requesting that these additional funds ($367,387.50) listed under Contract Modification #1, for the TSA In-Line Checked Baggage System Design, be added and included in the FY24 Capital Budget utilizing PMGAA non-grant funds under CIP 1265, for a new project total of $806,278.50.

Attachment(s)

None

RESOLUTION NO. 23-56

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an Amendment of the FY24 Capital Budget to provide an additional $367,387.50 under Contract Modification #1, to the initial $438,891 in funding for the Transportation Security Administration In-Line Checked Baggage System Design under CIP 1265. The new design contract total will be $806,278.50;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an Amendment of the FY24 Capital Budget to provide an additional $367,387.50 under Contract Modification #1, to the initial $438,891 in funding for the Transportation Security Administration In-Line Checked Baggage System Design under CIP 1265. The new design contract total will be $806,278.50. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 17th day of October, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-57

To:	**Board of Directors**
From:	**Veronica Lewis, Human Resources Director**
Through:	**Chuck Odom, Chief Financial Officer/CFO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Employee Benefit Package for Calendar Year 2024**
Date:	**October 17, 2023**

Proposed Motion

Authorize Phoenix-Mesa Gateway Airport Authority's (PMGAA's) insurance broker, USI Insurance Services LLC, to purchase benefit plans (medical, dental, vision, basic life/accidental death & dismemberment, and short-term disability) from various carriers. This consists of a 12-month renewal January 1, 2024 through December 31, 2024 with an estimated plan cost of $1,127,684 for the calendar year.

Narrative

PMGAA's benefit broker, USI Insurance Services LLC, received quotes from current and other industry-leading insurance carriers for a 12-month medical plan. USI negotiated the best possible rate from each carrier and was able to negotiate decreases in the rates. As a result, PMGAA staff is proposing a carrier change from Cigna to Blue Cross Blue Shield who quoted an average 12.5% decrease in rates with similar plan coverage options.

PMGAA staff is recommending that PMGAA contribute $1,600 of the $3,200 deductible per year for employee coverage, $2,250 of the $6,400 deductible per year for employee plus spouse or children, and $3,000 of the $6,000 deductible per year for the family coverage to employee Health Savings Accounts. This recommendation is to encourage enrollment in the HDHP plans which is a consumer driven plan and has been shown to help manage plan cost over the long-term for both employees and PMGAA.

PMGAA staff proposes that Delta Dental continue to be the carrier for dental, EyeMed continue to be the carrier for vision, and Mutual of Omaha continue to be the carrier for basic life/accidental death & dismemberment, and short-term disability plans as there is a 0% increase in premiums for these carriers. Additionally, it is recommended that we maintain our Employee Assistance program with IBH Population Health Solutions with no change in premium.

Providing competitive benefits has been and continues to be a major retention and attraction tool in PMGAA's recruiting and employee retention efforts. In that regard, the objective is to maintain a high level of plan services and minimize costs. We considered plan benefit levels, costs to employees, and the overall budget effect of the plans.

Fiscal Impact
Cost of the benefits package for Calendar Year 2024 is estimated to be $962,387 (employer's portion) and $165,297 (employee's portion) for a total of $1,127,684. This reflects a 12.5% decrease from the previous calendar year.

Attachment(s)
Group Benefits Renewal and Marketing Review
Group Benefits Renewal and Negotiation Review

RESOLUTION NO. 23-57

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize Phoenix-Mesa Gateway Airport Authority's (PMGAA's) insurance broker, USI Insurance Services LLC, to purchase benefit plans (medical, dental, vision, basic life/accidental death & dismemberment, and short-term disability) from various carriers. This consists of a 12-month renewal January 1, 2024 through December 31, 2024 with an estimated plan cost of $1,127,684 for the calendar year;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes Phoenix-Mesa Gateway Airport Authority's (PMGAA's) insurance broker, USI Insurance Services LLC, to purchase benefit plans (medical, dental, vision, basic life/accidental death & dismemberment, and short-term disability) from various carriers. This consists of a 12-month renewal January 1, 2024 through December 31, 2024 with an estimated plan cost of $1,127,684 for the calendar year. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 17th day of October, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

September 27, 2023

GROUP BENEFITS RENEWAL and MARKETING REVIEW

Phoenix Mesa Gateway Airport Authority (PMGAA)

Jack Bender | Leslie Rachels | Dena Elmahdi | Daryn Orr
www.usi.com

USI

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II	Medical Plan
III	Dental Plan
IV	Vision Plan
V	Life & Disability
VI	Compensation Disclosure

Section I

Summaries

Executive Summary
January 1, 2024

USI Insurance Services is pleased to present Phoenix-Mesa Gateway Airport Authority with the renewal and marketing evaluation for the 2024 plan year. The following outlines the strategies and projections for your consideration.

Medical Renewal - Cigna

Initial Renewal: 14.8% (9.5% increase in claims, 23.2% increase in fixed costs)

USI's Financial Projection: 10% increase

Negotiated Renewal:

- **With no changes: 9.0%** (9.7% increase in claims, 7.9% increase in fixed costs)
- **With adjustment in pooling point (from $45k to $50k): 9.9%** (13.8% increase in claims, 3.8% increase in fixed costs)

The requested increase is driven by the following factors:

- 2023 YTD Net Loss Ratio of 103.6% (target is 80-85%)
- 2022 ended just above target with 86.3% Net Loss Ratio
- 2 large claims, 1 active and 1 on COBRA
  - COBRA large claimant is $212,746 over the specific stop loss of $45,000
  - Active large claimant is $66,747 over the specific stop loss and is an ongoing cancer claim

Cigna will provide 4-tier rates once PMGAA determines if they will renew

Market Response:

- Aetna – Level Funding: 5.2% *below current*
- BCBS of AZ – Balanced Funding: 10.1% increase
- BCBS of AZ – Fully Insured: 5.7% *below current*
- UHC – Level Funding: 1.1% *below current*

Dental Renewal - Delta Dental

Renewal: 0% increase

Delta Dental's renewal reflects no changes in benefits. Rates are guaranteed to January 1, 2025.
Included is a 4 tier rate option.

Vision Renewal - EyeMed

Renewal: 0% increase

EyeMed's contract is under a rate guarantee until January 1, 2025. There are no changes in benefits.

Life and Accidental Death & Dismemberment - Mutual of Omaha
Renewal - 0% Increase

Mutual of Omaha is in rate guarantee until January 1, 2025

Voluntary Life and Accidental Death & Dismemberment - Mutual of Omaha
Renewal 0% increase

Mutual of Omaha is in rate guarantee until January 1, 2025

Short Term Disability - Mutual of Omaha
Renewal 0% Increase

Mutual of Omaha is in rate guarantee until January 1, 2025

Critical Illness - UNUM
UNUM is in rate guarantee until January 1, 2025

Employee Assistance Program (EAP) - IBH Population Health Solutions
Renewal 0% Increase

Uprise is in rate guarantee until January 1, 2025
Beginning January 1, 2024, Uprise will switch from monthly billing to annual invoicing.

Thank you for this opportunity to present Phoenix-Mesa Gateway Airport Authority's renewal and market analysis. We value your business and look forward to another successful year.

Phoenix Mesa Gateway Airport Authority (PMGAA)
Cost Summary
January 1, 2024 Renewal Date

Carriers	Current	Renewal	Negotiated Renewal As-Is	Negotiated Renewal Increased Pooling Point
Medical	CIGNA	CIGNA	CIGNA	CIGNA
Dental	Delta Dental	Delta Dental	Delta Dental	Delta Dental
Vision	EyeMed	EyeMed	EyeMed	EyeMed
Life / AD&D	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha
Voluntary Life / AD&D	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha
Short Term Disability	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha
Employee Assistance Program	Uprise	Uprise	Uprise	Uprise

Total Annual Cost

Medical	$1,133,690	$1,301,814	$1,235,760	$1,245,984
Dental	$55,969	$55,969	$55,969	$55,969
Vision	$10,489	$10,489	$10,489	$10,489
Life / AD&D	$12,911	$12,911	$12,911	$12,911
Short Term Disability	$13,650	$13,650	$13,650	$13,650
Employee Assistance Program	$3,600	$3,600	$3,600	$3,600
Annual Total	**$1,225,309**	**$1,393,433**	**$1,324,879**	**$1,335,103**
Change from Current		$168,124	$99,571	$109,795
Percentage Change		13.7%	8.1%	9.0%

Notes

1. Voluntary Life / AD&D is omitted from total annual cost as this coverage is fully employee paid.

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Cost Summary
January 1, 2024 Renewal Date

Carriers	Current	Option 1	Option 2	Option 3	Option 4
Medical	CIGNA	**Aetna**	**BCBS of AZ**	**BCBS of AZ**	**UHC**
Dental	Delta Dental	Delta Dental	Delta Dental	Delta Dental	Delta Dental
Vision	EyeMed	EyeMed	EyeMed	EyeMed	EyeMed
Life / AD&D	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha
Voluntary Life / AD&D	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha
Short Term Disability	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha	Mutual of Omaha
Employee Assistance Program	Uprise	Uprise	Uprise	Uprise	Uprise

Total Annual Cost

Medical	$1,133,690	$1,074,727	$1,247,629	$1,068,740	$1,091,543
Dental	$55,969	$55,969	$55,969	$55,969	$55,969
Vision	$10,489	$10,489	$10,489	$10,489	$10,489
Life / AD&D	$12,911	$12,911	$12,911	$12,911	$12,911
Short Term Disability	$13,650	$13,650	$13,650	$13,650	$13,650
Employee Assistance Program	$3,600	$3,600	$3,600	$3,600	$3,600
Annual Total	**$1,225,309**	**$1,156,346**	**$1,324,248**	**$1,145,359**	**$1,168,162**
Change from Current		-$68,963	$98,940	-$79,950	-$57,146
Percentage Change		-5.6%	8.1%	-6.5%	-4.7%

Notes

1. Voluntary Life / AD&D is omitted from total annual cost as this coverag

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Section II

Medical Plan

Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline	Current Base	Current Buy-up	Renewal Base	Renewal Buy-up
	$5,000 Health Engagement Fund		$5,000 Health Engagement Fund	
Carrier	CIGNA	CIGNA	CIGNA	CIGNA
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	OAP HDHP	OAP 500 PPO
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	$500 / $1,500
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	$6,000 / $12,000	$1,000 / $3,000
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	$5,000 / $10,000	$3,000 / $6,000
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	No Charge
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	After deductible, $10 / $35 / $60	$10 / $35 / $60
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	After deductible, $25 / $88 / $150	$25 / $88 / $150
Specialty Prescription Drugs	See Above	See Above	See Above	See Above

Rates & Total Cost	Base	Buy-up				
Employee	19	24	$589.96	$821.86	$688.30	$935.03
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,415.29	$1,921.44
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$1,830.92	$2,484.57
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,830.92	$2,484.57
Total Employees	**35**	**44**				
Annual Subtotal			$414,446	$719,244	$483,531	$818,283
Percent Change by Plan					16.7%	13.8%
HSA Total						
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,301,814**
Change from Current						$168,124
Percentage Change						14.8%

Notes

1. (dw) = deductible waived

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
Benefit Outline and Cost Summary
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	$5,000 Health Engagement Fund		$7,500 Health Engagement Fund $45,000 Pooling Point		$7,500 Health Engagement Fund $50,000 Pooling Point	
		Current		Negotiated Renewal v1		Negotiated Renewal v2
Benefit Outline	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Carrier	CIGNA	CIGNA	CIGNA	CIGNA	CIGNA	CIGNA
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	OAP HDHP	OAP 500 PPO	OAP HDHP	OAP 500 PPO
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	$500 / $1,500	**$3,200 / $6,400**	$500 / $1,500
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	$6,000 / $12,000	$1,000 / $3,000	$6,000 / $12,000	$1,000 / $3,000
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	$5,000 / $10,000	$3,000 / $6,000	$5,000 / $10,000	$3,000 / $6,000
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay	80% after deductible	$50 copay
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay	80% after deductible	$75 copay
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay	80% after deductible	$200 copay
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	No Charge	80% after deductible	No Charge
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	After deductible, $10 / $35 / $60	$10 / $35 / $60	After deductible, $10 / $35 / $60	$10 / $35 / $60
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	After deductible, $25 / $88 / $150	$25 / $88 / $150	After deductible, $25 / $88 / $150	$25 / $88 / $150
Specialty Prescription Drugs	See Above	See Above	See Above	See Above	See Above	See Above

Rates & Total Cost	**Base**	**Buy-up**						
Employee	19	24	$589.96	$821.86	$647.32	$892.46	$654.76	$898.17
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,331.03	$1,833.93	$1,346.30	$1,845.69
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$1,721.89	$2,371.42	$1,741.66	$2,386.61
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,721.89	$2,371.42	$1,741.66	$2,386.61
Total Employees	**35**	**44**						
Annual Subtotal			$414,446	$719,244	$454,740	$781,020	$459,962	$786,022
Percent Change by Plan					9.7%	8.6%	11.0%	9.3%
HSA Total								
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,235,760**		**$1,245,984**
Change from Current						$102,071		$112,295
Percentage Change						9.0%		9.9%

Notes

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
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			$7,500 First Year Surplus Guarantee		$12,500 Implementation Fund	
	$5,000 Health Engagement Fund		$7,500 Annual Wellness Fund		$7,500 Annual Wellness Fund	
			$40,000 Pooling Point		$30,000 Pooling Point	
		Current		Option 1		Option 2
Benefit Outline	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Carrier	CIGNA	CIGNA	**Aetna**	**Aetna**	**BCBS of AZ**	**BCBS of AZ**
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	**CPOSII 3200 HDHP**	**CPOSII 500 PPO**	**BluePreferred HSA Statewide 3200**	**BluePreferred PPO Statewide 500**
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	**$500 / $1,000**	**$3,200 / $6,400**	**$500 / $1,000**
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	**$5,000 / $10,000**	**$1,000 / $2,000**	**$6,400 / $12,800**	**$1,000 / $2,000**
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	**$5,000 / $7,500**	$3,000 / $6,000	**$5,500 / $11,000**	**$4,500 / $9,000**
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000	**$11,000 / $22,000**	**$9,000 / $18,000**
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay	80% after deductible	**$45 copay**
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay	80% after deductible	**$60 copay**
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay	80% after deductible	**$350 copay**
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	**80% after deductible**	80% after deductible	**OV copay or 80% after deductible**
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	**OV copay or 80% after deductible**
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	**After deductible, $5 / $40 / $80**	**$5 / $30 / $55**	**20% after deductible**	**$15 / $55 / $85 / $150**
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	**After deductible, $10 / $80 / $160**	**$10 / $60 / $110**	**20% after deductible**	**$30 / $110 / $170 / $300**
Specialty Prescription Drugs	See Above	See Above	**20% up to $250**	**20% up to $250**	**20% after deductible**	**$60 / $110 / $160 / $210**

Rates & Total Cost	**Base**	**Buy-up**						
Employee	19	24	$589.96	$821.86	$489.84	$697.09	$557.18	$835.07
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,364.80	$1,942.23	$1,225.80	$1,837.16
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$861.00	$1,225.28	$1,058.65	$1,586.64
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,461.14	$2,079.33	$1,782.99	$2,672.23
Total Employees	**35**	**44**						
Annual Subtotal			$414,446	$719,244	$386,442	$688,285	$435,940	$811,689
Percent Change by Plan					-6.8%	-4.3%	5.2%	12.9%
HSA Total								
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,074,727**		**$1,247,629**
Change from Current						-$58,963		$113,940
Percentage Change						-5.2%		10.1%

Notes

1. (dw) = deductible waived

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Phoenix Mesa Gateway Airport Authority (PMGAA)
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			$7,500 First Year Surplus Guarantee		$12,500 Implementation Fund	
	$5,000 Health Engagement Fund		$7,500 Annual Wellness Fund		$7,500 Annual Wellness Fund	
			$40,000 Pooling Point		$30,000 Pooling Point	
		Current		Option 1		Option 2
Benefit Outline	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Carrier	CIGNA	CIGNA	**Aetna**	**Aetna**	**BCBS of AZ**	**BCBS of AZ**
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	**CPOSII 3200 HDHP**	**CPOSII 500 PPO**	**BluePreferred HSA Statewide 3200**	**BluePreferred PPO Statewide 500**
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	**$500 / $1,000**	**$3,200 / $6,400**	**$500 / $1,000**
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	**$5,000 / $10,000**	**$1,000 / $2,000**	**$6,400 / $12,800**	**$1,000 / $2,000**
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	**$5,000 / $7,500**	$3,000 / $6,000	**$5,500 / $11,000**	**$4,500 / $9,000**
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000	**$11,000 / $22,000**	**$9,000 / $18,000**
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay	80% after deductible	**$45 copay**
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay	80% after deductible	**$60 copay**
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay	80% after deductible	**$350 copay**
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	**80% after deductible**	80% after deductible	**OV copay or 80% after deductible**
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	**OV copay or 80% after deductible**
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	**After deductible, $5 / $40 / $80**	**$5 / $30 / $55**	**80% after deductible**	**$15 / $55 / $85 / $150**
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	**After deductible, $10 / $80 / $160**	**$10 / $60 / $110**	**80% after deductible**	**$30 / $110 / $170 / $300**
Specialty Prescription Drugs	See Above	See Above	**20% up to $250**	**20% up to $250**	**80% after deductible**	**$60 / $110 / $160 / $210**

Rates & Total Cost	**Base**	**Buy-up**						
Employee	19	24	$589.96	$821.86	$489.84	$697.09	$557.18	$835.07
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,364.80	$1,942.23	$1,225.80	$1,837.16
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$861.00	$1,225.28	$1,058.65	$1,586.64
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,461.14	$2,079.33	$1,782.99	$2,672.23
Total Employees	**35**	**44**						
Annual Subtotal			$414,446	$719,244	$386,442	$688,285	$435,940	$811,689
Percent Change by Plan					-6.8%	-4.3%	5.2%	12.9%
HSA Total								
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,074,727**		**$1,247,629**
Change from Current						-$58,963		$113,940
Percentage Change						-5.2%		10.1%

Notes

1. (dw) = deductible waived

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Phoenix Mesa Gateway Airport Authority (PMGAA)
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			$12,500 Implementation Fund		$10,000 First Year Surplus Guarantee	
	$5,000 Health Engagement Fund		$7,500 Annual Wellness Fund		$10,000 Transition Credit	
			Fully Insured Quote		$45,000 Pooling Point	
Benefit Outline	**Base**	**Current Buy-up**	**Base**	**Option 3 Buy-up**	**Base**	**Option 4 Buy-up**
Carrier	CIGNA	CIGNA	**BCBS of AZ**	**BCBS of AZ**	**UHC**	**UHC**
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	**BluePreferred HSA Statewide 3200**	**BluePreferred PPO Statewide 500**	**HPVV350022B**	**P500i8021B**
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	**$500 / $1,000**	**$3,200 / $6,400**	**$500 / $1,000**
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	**$6,400 / $12,800**	**$1,000 / $2,000**	**$5,000 / $10,000**	**$3,000 / $6,000**
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	**$5,500 / $11,000**	**$4,500 / $9,000**	$5,000 / $10,000	$3,000 / $6,000
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	**$11,000 / $22,000**	**$9,000 / $18,000**	$10,000 / $20,000	$6,000 / $12,000
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	**$45 copay**	80% after deductible	$50 copay
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	**$60 copay**	80% after deductible	$75 copay
Emergency Room	80% after deductible	$200 copay	80% after deductible	**$350 copay**	80% after deductible	**$300 copay, then 80% after deductible**
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	**OV copay or 80% after deductible**	80% after deductible	No Charge
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	**OV copay or 80% after deductible**	80% after deductible	80% after deductible
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	**80% after deductible**	**$15 / $55 / $85 / $150**	**80% after deductible**	**$10 / $35 / $75 / $250**
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	**80% after deductible**	**$30 / $110 / $170 / $300**	**80% after deductible**	**$25 / $87.50 / $187.50 / $625**
Specialty Prescription Drugs	See Above	See Above	**80% after deductible**	**$60 / $110 / $160 / $210**	**80% after deductible**	**$10 / $150 / $350 / $500**

Rates & Total Cost	**Base**	**Buy-up**						
Employee	19	24	$589.96	$821.86	$480.59	$712.68	$578.13	$778.36
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,057.30	$1,567.90	$1,214.08	$1,634.55
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$913.12	$1,354.09	$1,156.27	$1,556.71
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,537.89	$2,280.58	$1,536.18	$2,068.20
Total Employees	**35**	**44**						
Annual Subtotal			$414,446	$719,244	$376,014	$692,726	$407,434	$684,109
Percent Change by Plan					-9.3%	-3.7%	-1.7%	-4.9%
HSA Total								
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,068,740**		**$1,091,543**
Change from Current						-$64,950		-$42,146
Percentage Change						-5.7%		-3.7%

Notes

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Phoenix Mesa Gateway Airport Authority (PMGAA)
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Level-Funded Rates & Factors
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Stop Loss Outline				Current		Option 1		Option 2		Option 4	
TPA / Network Name				CIGNA / OAP		**Aetna / Broad**		**BCBS of AZ / Statewide**		**UHC**	
Stop Loss Carrier				CIGNA		**Aetna**		**BCBS of AZ**		**UHC**	
Specific Stop Loss (SSL)				$45,000		**$40,000**		**$30,000**		$45,000	
Aggregate Stop Loss (ASL)				110%		110%		110%		110%	
Fixed Costs		**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Administration	Employee	19	24	$4.87	$7.46	$5.13	$5.13	$40.53	$40.53	$48.86	$48.86
	Employee + Spouse	5	7	$10.01	$15.34	$14.29	$14.29	$89.16	$89.16	$69.61	$69.61
	Employee + Child(ren)	0	0	$10.01	$15.34	$9.02	$9.02	$77.00	$77.00	$67.72	$67.72
	Family	11	13	$12.95	$19.83	$15.30	$15.30	$129.69	$129.69	$80.11	$80.11
Est. Pharmacy Rebates to Client					$0.00		$0.00		$0.00		$0.00
Add. Fees & Revenue Share					$0.00		$0.00		$0.00		$0.00
Annual Total					**$9,951**		**$9,111**		**$71,103**		**$58,307**
Percentage Change							-8.4%		614.5%		486.0%
Specific SL Premium	Employee	19	24	$231.31	$236.63	$342.60	$372.82	$323.29	$457.90	$170.15	$217.76
	Employee + Spouse	5	7	$475.62	$486.26	$954.56	$1,038.76	$711.24	$1,007.38	$357.32	$457.30
	Employee + Child(ren)	0	0	$475.62	$486.26	$602.19	$655.30	$614.25	$870.01	$340.30	$435.52
	Family	11	13	$615.29	$628.78	$1,021.94	$1,112.08	$1,034.53	$1,465.28	$452.12	$578.62
Aggregate SL Premium	Employee	19	24	$29.58	$48.31	$3.98	$11.44	$44.99	$78.63	$67.32	$93.73
	Employee + Spouse	5	7	$60.83	$99.28	$11.09	$31.87	$98.98	$172.99	$141.37	$196.83
	Employee + Child(ren)	0	0	$60.83	$99.28	$7.00	$20.11	$85.49	$149.40	$134.64	$187.46
	Family	11	13	$78.69	$128.38	$11.87	$34.12	$143.98	$251.62	$178.88	$249.06
Annual Total					**$432,640**		**$652,829**		**$809,652**		**$441,131**
Percentage Change							50.9%		87.1%		2.0%
Annual Total Fixed Costs					**$442,591**		**$661,940**		**$880,756**		**$499,438**
Percentage Change							49.6%		99.0%		12.8%
Claims Liability		**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Maximum Claims	Employee	19	24	$324.20	$529.46	$138.13	$307.70	$148.37	$258.01	$322.58	$449.09
	Employee + Spouse	5	7	$666.62	$1,088.00	$384.86	$857.31	$326.42	$567.63	$677.42	$943.09
	Employee + Child(ren)	0	0	NA	NA	$242.79	$540.85	$281.91	$490.23	$645.17	$898.19
	Employee + Spouse & Child(ren)	11	13	$862.39	$1,406.70	$412.03	$917.83	$474.79	$825.64	$857.15	$1,193.30
Annual Total					**$691,072**		**$412,786**		**$366,873**		**$622,050**
Percentage Change							-40.3%		-46.9%		-10.0%
Total Cost				**Total All Plans**		**Total All Plans**		**Total All Plans**		**Total All Plans**	
Annual Total Expected Costs					**$1,070,838**		**$1,037,201**		**$1,214,277**		**$1,064,938**
Change from Current							($33,638)		$143,439		($5,901)
Percentage Change							-3.1%		13.4%		-0.6%
Annual Total Maximum Costs					**$1,133,663**		**$1,074,727**		**$1,247,629**		**$1,121,487**
Change from Current							($58,936)		$113,966		($12,176)
Percentage Change							-5.2%		10.1%		-1.1%
Runout Claims					$78,531		$46,908		$41,690		$70,687
Runout Fees					$829		$759		$5,925		$4,859
Total Runout Liability (not included in totals above)					**$79,360**		**$47,667**		**$47,615**		**$75,546**

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Section III

Dental Plan

Phoenix Mesa Gateway Airport Authority (PMGAA)
Dental Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline	Current	Renewal	Option 1
Carrier	Delta Dental of Arizona	Delta Dental of Arizona	Delta Dental of Arizona
Plan Type	Dental PPO	Dental PPO	Dental PPO
Deductible (Individual / Family)	$50 / $150	$50 / $150	$50 / $150
Waived For Preventive	Yes	Yes	Yes
Annual Maximum	$2,000	$2,000	$2,000
Max Rollover	[select]	[select]	[select]
Preventive Services	100%	100%	100%
Basic Services	90%	90%	90%
Major Services	60%	60%	60%
Endodontics / Periodontics	90%	90%	90%
Implants	60%	60%	60%
Orthodontia	50%	50%	50%
Eligibility	50%	50%	50%
Lifetime Maximum	$1,000	$1,000	$1,000
Waiting Periods (Prev. / Basic / Major)	None	None	None
Non-Network	MAC	MAC	MAC
Deductible (Individual / Family)	$50 / $150	$50 / $150	$50 / $150
Annual Maximum	$2,000	$2,000	$2,000
Prev. / Basic / Major	100% / 80% / 50%	100% / 80% / 50%	100% / 80% / 50%
Rate Guarantee	1 Year	1 Year	1 Year

Rates & Total Cost				4 Tier Rates	
Employee	49	$25.33	$25.33	Employee	$25.33
Employee + 1 Dependent	15	$63.89	$63.89	Employee + Spouse	$51.93
Employee + 2 Dependent	26	$94.79	$94.79	Employee + Child(ren)	$59.53
Total Employees	**90**			Family	106.86
Annual Total		**$55,969**	**$55,969**		
Change From Current			$0		
Percentage Change			0.0%		

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Section IV

Vision Plan

Phoenix Mesa Gateway Airport Authority (PMGAA)
Vision Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline		EyeMed Current	EyeMed Renewal
Exam Copay		$20	$20
Materials Copay		$0	$0
Exam		100% after $20 copay	100% after $20 copay
Lenses			
Single		100%	100%
Bifocal		100%	100%
Trifocal		100%	100%
Lenticular		100%	100%
Frames		Up to $130 allowance; 20% off balance	Up to $130 allowance; 20% off balance
Elective Contacts		Up to $130 allowance; 15% off balance	Up to $130 allowance; 15% off balance
Benefit Frequencies (E/L/F/C)		12 / 12 / 12 / 12	12 / 12 / 12 / 12
Non-network Benefits		Schedule	Schedule
Rate Guarantee			1/1/2025
Rates and Premium	**Current**		
Employee	49	$5.61	$5.61
Employee + 1 Dependent	18	$10.67	$10.67
Employee + 2+ Dependents	26	$15.66	$15.66
Total Employees	**93**		
Annual Total		**$10,489**	**$10,489**
Change from Current			**$0**
Percentage Change			**0%**

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Section V

Life & Disability

Phoenix Mesa Gateway Airport Authority (PMGAA)
Life / AD&D Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline	Current	Renewal
Carrier	Mutual of Omaha Insurance	Mutual of Omaha Insurance
Contributory / Non-Contributory	Non-Contributory	Non-Contributory
Eligibility	FTE Working ≥ 40 HPW	FTE Working ≥ 40 HPW
Class 1	Salaries less than $40K	Salaries less than $40K
Class 2	Salaries greater than $40K	Salaries greater than $40K
Class 3	Executive Director	Executive Director
Benefit Amount (Class 1 / 2 / 3)	Flat / 1x Annual Earnings / 2x Annual Earnings	Flat / 1x Annual Earnings / 2x Annual Earnings
Benefit Maximums (Class 1 / 2 / 3)	$40,000 / $150,000 / $410,000	$40,000 / $150,000 / $410,000
Guarantee Issue	Full Benefit Amount	Full Benefit Amount
Benefit Reductions	Reduces To: 65% at Age 70; 50% at Age 75	Reduces To: 65% at Age 70; 50% at Age 75
Waiver of Premium	9 Mo. Elimination Period	9 Mo. Elimination Period
Benefits Extend To	Age 65	Age 65
If Disabled Prior To	Age 60	Age 60
Accelerated Benefits	Included	Included
Life Expectancy	Terminal Conditin;< 12 Mo.	Terminal Conditin;< 12 Mo.
Benefit Amount Accessible	80%	80%
Portability	Included	Included
Conversion	Included	Included
Rate Guarantee		**1/1/2025**

Volumes, Rates & Total Cost		
Number of Employees	104	105
Benefit Volume	$7,685,000	$7,685,000
Life Rate Per $1,000	$0.110	$0.110
AD&D Rate Per $1,000	$0.030	$0.030
Rate Per Family Unit		
Annual Total	**$12,911**	**$12,911**
Change From Current		$0
Percentage Change		0.0%

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Voluntary Life / AD&D Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline	Current	Renewal
Carrier	Mutual of Omaha Insurance Company	Mutual of Omaha Insurance Company
Definition of Earnings	Base Salary Only	Base Salary Only
Eligibility	FTE Working ≥ 30 HPW	FTE Working ≥ 30 HPW
Child Age Requirement	14 Days to Age 26	14 Days to Age 26
Benefit Increments		
Employee	$10,000	$10,000
Spouse	$5,000	$5,000
Children	$2,000	$2,000
Benefit Maximums		
Employee	5 x Salary to $500,000	5 x Salary to $500,000
Spouse	100% of EE Amt to $100,000	100% of EE Amt to $100,000
Children	$10,000	$10,000
Guarantee Issue		
Employee	$100,000	$100,000
Spouse	$25,000	$25,000
Children	Full Benefit Amount	Full Benefit Amount
Benefit Reductions	Reduces To: 65% at Age 70; 50% at Age 75	Reduces To: 65% at Age 70; 50% at Age 75
Waiver of Premium	9 Mo. Elimination Period	9 Mo. Elimination Period
Benefits Extend to	Age 65	Age 65
If Disabled Prior to	Age 60	Age 60
Portability	Included	Included
Conversion	Included	Included
Rate Guarantee		**1/1/2025**

Life Per $1,000	Employee / Spouse	Employee / Spouse
Under Age 25	$0.090	$0.090
25-29	$0.090	$0.090
30-34	$0.090	$0.090
35-39	$0.120	$0.120
40-44	$0.180	$0.180
45-49	$0.300	$0.300
50-54	$0.480	$0.480
55-59	$0.800	$0.800
60-64	$0.990	$0.990
65-69	$1.470	$1.470
70-74	$2.840 / N/A	$2.840 / N/A
75-99	$2.840 / N/A	$2.840 / N/A
Child Life	$0.245	$0.245

AD&D Per $1,000		
EE / SP AD&D	$0.030	$0.030
Child AD&D	$0.030	$0.030

Phoenix Mesa Gateway Airport Authority (PMGAA)
Short Term Disability Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline	Current	Renewal
Carrier	Mutual of Omaha	Mutual of Omaha
Definition of Earnings	Base Salary Only	Base Salary Only
Contributory / Non-Contributory	Non-Contributory	Non-Contributory
Eligibility	FTE Working ≥ 30 HPW	FTE Working ≥ 30 HPW
Elimination Period		
Accident	30 days	30 days
Sickness	30 days	30 days
Benefit Percentage	60%	60%
Maximum Weekly Benefit	$1,000	$1,000
Definition of Disability	Duties and Earnings	Duties and Earnings
Benefit Duration (after EP)	26 weeks	26 weeks
Pre-Existing Conditions Exclusion	None text	None text
Rate Guarantee		
Volumes, Rates & Total Cost		
Number of Employees	104	104
Volume: Covered Benefit	$75,834	$75,834
STD Rate Per $10	$0.150	$0.150
ASO / ATP Rate PEPM		
Annual Total	**$13,650**	**$13,650**
Change From Current		$0
Percentage Change		0.0%

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Phoenix-Mesa Gateway Airport Authority (PMGAA)
Voluntary Critical Illness
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

UNUM - Current | **UNUM - Current**

Benefit Outline

UNUM - Traditional Enrollment		
Eligibility	All active FTE's working ≥ 30 hpw	
Covered Conditions	**1st Occurrence**	**2nd Occurrence**
Cancer		
Invasive Cancer	100%	100%
Carcinoma in Situ	25%	25%
Benign Brain Tumor	100%	100%
Skin Cancer	$500	$500
Vascular		
Heart Attack	100%	100%
Stroke	100%	100%
Heart Failure	100%	100%
Coronary Arteriosclerosis	50%	50%
Other		
Organ Failure	100%	100%
Kidney Failure	100%	100%
Wellness Benefit	$50 per year payment for wellnes screenings	
Dependent Age Limit	0 days old to 26 years old	
Pre-Existing Conditions	12 / 12	
Benefit Increments	Employee: $10,000 | Spouse: 50%	
Guarantee Issue	Employee: $20,000 | Spouse: 50%	
Benefit Separation Period	3 months	
Participation (Required)	10 enrolled or 5%, the greater of	
Rate Guarantee	To January 1, 2024	

Monthly Premium

Employee

Benefit Amount	< 25	25-29	30-34	35-39	40-44	45-49
$10,000	$3.08	$3.68	$4.48	$5.38	$7.28	$10.18
$20,000	$4.28	$5.48	$7.08	$8.88	$12.68	$18.48

	50-54	55-59	60-64	65-69	70-74	75-79
$10,000	$14.78	$20.48	$29.38	$43.08	$64.28	$89.78
$20,000	$27.68	$39.08	$56.88	$84.28	$126.68	$177.68

	80-84	85+
$10,000	$123.68	$194.18
$20,000	$245.48	$386.48

Spouse

Benefit Amount	< 25	25-29	30-34	35-39	40-44	45-49
$5,000	$2.48	$2.78	$3.18	$3.63	$4.58	$6.03
$10,000	$3.08	$3.68	$4.48	$5.38	$7.28	$10.18

	50-54	55-59	60-64	65-69	70-74	75-79
$5,000	$8.33	$11.18	$15.63	$22.48	$33.08	$45.83
$10,000	$14.78	$20.48	$29.38	$43.08	$64.28	$89.78

	80-84	85+
$5,000	$62.78	$98.03
$10,000	$123.68	$194.18

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Employee Assistance Program
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline	Current/Renewal
Carrier	IBH Population Health Solutions
Number of In-Person Counseling Visits	6
Available to dependents	Yes
Telephonic Counseling	Included
Online Counseling	Included
Child Care Consultation	Included
Elder Care Consultation	Included
Financial Consultation	Included
Legal Consultation	Included
School Selection Assistance/College Assistance	Included
Online Member Portal	Included
Wellbeing Assessement w/ Personalized care Plan	Not Included
Self-Guided Cognitive Behavioral Therapy	Not Included
Uprise Health Digital EAP Platform	Not Included
Health Coaching	Not Included
Employee | Supervisor Training	Included
Rate Guarantee	

Rates & Total Cost	
Number of Employees	107
PEPM Fee	N/A
Quarterly Fee	$750.00
Annual Total	**$3,600**
Change From Current	$0
Percentage Change	0.0%

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Section VI

Compensation Disclosure

Phoenix Mesa Gateway Airport Authority (PMGAA)
USI Administered Employee Benefit Plans
Compensation Disclosure
January 1, 2024 Renewal Date

USI is making the following compensation information available effective with the renewal date above. For ERISA group health plan fiduciaries this is in accordance with requirements under ERISA 408(b)(2).

1. The direct compensation USI expects to receive for servicing your health benefits is:

Broker Fee, independent from any specific coverage/plan below	$32,000 per year

	Plan Type		Renewal
Medical (Fully Insured)	Medical PPO	CIGNA	0.0%
Dental	Dental PPO	Delta Dental of Arizona	0.0%
Vision	Vision	Mutual of Omaha Insurance Company	0.0%
Employee Assistance Program	Employee Assistance Program (EAP)	Uprise	0.0%
Voluntary Critical Illness	Voluntary Critical Illness	Unum Life Insurance Company of America	0.0%

Non health plans; one or more of life, disability, non-ERISA stop loss, other ancillary	Ranges from 0%

2. The expected indirect compensation USI expects to receive is:

It is possible that some of the insurance companies from which USI obtains coverage may pay it additional incentive commissions, sometimes referred to as contingent, supplemental, or bonus commissions, which may be based on the total volume of business we sell for them, and/or the growth rate of that business, retention rate, claims loss ratio, or other factors considering our entire book of business with an insurance company for a designated period of time. Such additional commissions, if any, would be in addition to any other compensation USI may receive. By coverage type indirect compensation ranges are as follows:

Medical & Stop Loss approximately 0%

Dental, Vision, Ancillary approximately 0%

35. The services USI will provide include some or all of the following:

Design of health care plans, cost-containment and other plan design recommendations. Preparation of bid specifications (RFP). Analysis of proposals and presentation of findings. Renewal analysis and negotiation. Reporting/Servicing Meetings. Contract Review. Employee Meetings. Employer/Employee Communications.

4. USI does not offer or provide fiduciary services to the plan.

5. In some cases USI may involve the services of a general agent based carrier requirements or distribution model. In some cases general agent may be owned by USI, and will receive compensation in addition to what is detailed above, and will be in the range of 1% to 2% of medical premium or $3.00 to $16 PEPM based on enrolled and 1% to 6% on dental and vision premium.

6. This disclosure document includes the disclosures USI is required to make in accordance with ERISA Section 408(b)(2). Any other plan service provider that is subject to the 408(b)(2) disclosure requirements is required to make its own independent 408(b)(2) disclosure and any such disclosures are not included in this disclosure.

Phoenix-Mesa Gateway Airport

October 3, 2023

GROUP BENEFITS RENEWAL and NEGOTIATION REVIEW

Phoenix Mesa Gateway Airport Authority (PMGAA)

Jack Bender | Leslie Rachels | Dena Elmahdi | Daryn Orr
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USI

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

Benefit Outline	Current Base	Current Buy-up	Renewal Base	Renewal Buy-up
	$5,000 Health Engagement Fund		$5,000 Health Engagement Fund	
Carrier	CIGNA	CIGNA	CIGNA	CIGNA
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	OAP HDHP	OAP 500 PPO
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	$500 / $1,500
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	$6,000 / $12,000	$1,000 / $3,000
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	$5,000 / $10,000	$3,000 / $6,000
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	No Charge
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	After deductible, $10 / $35 / $60	$10 / $35 / $60
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	After deductible, $25 / $88 / $150	$25 / $88 / $150
Specialty Prescription Drugs	See Above	See Above	See Above	See Above

Rates & Total Cost	Base	Buy-up				
Employee	19	24	$589.96	$821.86	$688.30	$935.03
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,415.29	$1,921.44
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$1,830.92	$2,484.57
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,830.92	$2,484.57
Total Employees	**35**	**44**				
Annual Subtotal			$414,446	$719,244	$483,531	$818,283
Percent Change by Plan					16.7%	13.8%
HSA Total						
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,301,814**
Change from Current						$168,124
Percentage Change						14.8%

Notes

1. (dw) = deductible waived

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

	$5,000 Health Engagement Fund		$7,500 Health Engagement Fund $45,000 Pooling Point		$7,500 Health Engagement Fund $50,000 Pooling Point	
	Current		Negotiated Renewal v1		Negotiated Renewal v2	
Benefit Outline	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Carrier	CIGNA	CIGNA	CIGNA	CIGNA	CIGNA	CIGNA
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	OAP HDHP	OAP 500 PPO	OAP HDHP	OAP 500 PPO
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	$500 / $1,500	**$3,200 / $6,400**	$500 / $1,500
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	$6,000 / $12,000	$1,000 / $3,000	$6,000 / $12,000	$1,000 / $3,000
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	$5,000 / $10,000	$3,000 / $6,000	$5,000 / $10,000	$3,000 / $6,000
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay	80% after deductible	$50 copay
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay	80% after deductible	$75 copay
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay	80% after deductible	$200 copay
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	No Charge	80% after deductible	No Charge
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	After deductible, $10 / $35 / $60	$10 / $35 / $60	After deductible, $10 / $35 / $60	$10 / $35 / $60
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	After deductible, $25 / $88 / $150	$25 / $88 / $150	After deductible, $25 / $88 / $150	$25 / $88 / $150
Specialty Prescription Drugs	See Above	See Above	See Above	See Above	See Above	See Above

Rates & Total Cost	**Base**	**Buy-up**						
Employee	19	24	$589.96	$821.86	$647.32	$892.46	$654.76	$898.17
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,331.03	$1,833.93	$1,346.30	$1,845.69
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$1,721.89	$2,371.42	$1,741.66	$2,386.61
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,721.89	$2,371.42	$1,741.66	$2,386.61
Total Employees	**35**	**44**						
Annual Subtotal			$414,446	$719,244	$454,740	$781,020	$459,962	$786,022
Percent Change by Plan					9.7%	8.6%	11.0%	9.3%
HSA Total								
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,235,760**		**$1,245,984**
Change from Current						$102,071		$112,295
Percentage Change						9.0%		9.9%

Notes

1. (dw) = deductible waived

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

	$5,000 Health Engagement Fund		$7,500 Health Engagement Fund $45,000 Pooling Point	
	Current		Negotiated Renewal v3	
Benefit Outline	**Base**	**Buy-up**	**Base**	**Buy-up**
Carrier	CIGNA	CIGNA	CIGNA	CIGNA
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	OAP HDHP	OAP 500 PPO
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	**$500 / $1,000**
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	**$5,000 / $10,000**	**$1,000 / $2,000**
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	**$5,000 / $7,500**	$3,000 / $6,000
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	No Charge
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	After deductible, $10 / $35 / $60	$10 / $35 / $60
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	After deductible, $25 / $88 / $150	$25 / $88 / $150
Specialty Prescription Drugs	See Above	See Above	See Above	See Above

Rates & Total Cost	**Base**	**Buy-up**				
Employee	19	24	$589.96	$821.86	$565.86	$787.70
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,188.30	$1,654.16
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$1,075.12	$1,496.62
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,697.56	$2,363.10
Total Employees	**35**	**44**				
Annual Subtotal			$414,446	$719,244	$424,392	$734,451
Percent Change by Plan					2.4%	2.1%
HSA Total						
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,158,843**
Change from Current						$25,153
Percentage Change						2.2%

Notes

1. (dw) = deductible waived

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

			$7,500 First Year Surplus Guarantee		$12,500 Implementation Fund	
	$5,000 Health Engagement Fund		$7,500 Annual Wellness Fund		$7,500 Annual Wellness Fund	
			$40,000 Pooling Point		$30,000 Pooling Point	
		Current		Option 1		Option 2
Benefit Outline	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Carrier	CIGNA	CIGNA	**Aetna**	**Aetna**	**BCBS of AZ**	**BCBS of AZ**
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	**CPOSII 3200 HDHP**	**CPOSII 500 PPO**	**BluePreferred HSA Statewide 3200**	**BluePreferred PPO Statewide 500**
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	**$500 / $1,000**	**$3,200 / $6,400**	**$500 / $1,000**
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	**$5,000 / $10,000**	**$1,000 / $2,000**	**$6,400 / $12,800**	**$1,000 / $2,000**
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	**$5,000 / $7,500**	$3,000 / $6,000	**$5,500 / $11,000**	**$4,500 / $9,000**
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	$10,000 / $20,000	$6,000 / $12,000	**$11,000 / $22,000**	**$9,000 / $18,000**
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	$50 copay	80% after deductible	**$45 copay**
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	$75 copay	80% after deductible	**$60 copay**
Emergency Room	80% after deductible	$200 copay	80% after deductible	$200 copay	80% after deductible	**$350 copay**
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	**80% after deductible**	80% after deductible	**OV copay or 80% after deductible**
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	**OV copay or 80% after deductible**
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	**After deductible, $5 / $40 / $80**	**$5 / $30 / $55**	**20% after deductible**	**$15 / $55 / $85 / $150**
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	**After deductible, $10 / $80 / $160**	**$10 / $60 / $110**	**20% after deductible**	**$30 / $110 / $170 / $300**
Specialty Prescription Drugs	See Above	See Above	**20% up to $250**	**20% up to $250**	**20% after deductible**	**$60 / $110 / $160 / $210**

Rates & Total Cost	**Base**	**Buy-up**						
Employee	19	24	$589.96	$821.86	$489.84	$697.09	$517.80	$774.10
Employee + Spouse	5	7	$1,213.08	$1,688.88	$1,364.80	$1,942.23	$1,139.15	$1,703.02
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$861.00	$1,225.28	$983.81	$1,470.79
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,461.14	$2,079.33	$1,656.95	$2,477.12
Total Employees	**35**	**44**						
Annual Subtotal			$414,446	$719,244	$386,442	$688,285	$405,125	$752,425
Percent Change by Plan					-6.8%	-4.3%	-2.2%	4.6%
HSA Total								
Annual Premium Total (w/out HSA)				**$1,133,690**		**$1,074,727**		**$1,157,550**
Change from Current						-$58,963		$23,860
Percentage Change						-5.2%		2.1%

Notes

1. (dw) = deductible waived

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Phoenix Mesa Gateway Airport Authority (PMGAA)
Medical Plan
Benefit Outline and Cost Summary
January 1, 2024 Renewal Date

			$12,500 Implementation Fund		$10,000 First Year Surplus Guarantee	
	$5,000 Health Engagement Fund		$7,500 Annual Wellness Fund		$10,000 Transition Credit	
			Fully Insured Quote		$45,000 Pooling Point	
		Current		Option 3		Option 4
Benefit Outline	**Base**	**Buy-up**	**Base**	**Buy-up**	**Base**	**Buy-up**
Carrier	CIGNA	CIGNA	**BCBS of AZ**	**BCBS of AZ**	**UHC**	**UHC**
Plan Type, Name, Network	OAP HDHP	OAP 500 PPO	**BluePreferred HSA Statewide 3200**	**BluePreferred PPO Statewide 500**	**HPVV350022B**	**P500i8021B**
Deductible (Individual / Family)	$3,000 / $6,000	$500 / $1,500	**$3,200 / $6,400**	**$500 / $1,000**	**$3,200 / $6,400**	**$500 / $1,000**
Non-Network Deductible (Individual / Family)	$6,000 / $12,000	$1,000 / $3,000	**$6,400 / $12,800**	**$1,000 / $2,000**	**$5,000 / $10,000**	**$3,000 / $6,000**
Deductible Embedded / Non-Embedded	Embedded	Embedded	Embedded	Embedded	Embedded	Embedded
Out-of-Pocket Maximum (Individual / Family)	$5,000 / $10,000	$3,000 / $6,000	**$5,500 / $11,000**	**$4,500 / $9,000**	$5,000 / $10,000	$3,000 / $6,000
Non-Network OOP Max (Individual / Family)	$10,000 / $20,000	$6,000 / $12,000	**$11,000 / $22,000**	**$9,000 / $18,000**	$10,000 / $20,000	$6,000 / $12,000
Annual HSA Contribution (EE / EE+1 / Family)	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A	$1,350 / $1,900 / $2,500	N/A
Coinsurance (In / Out)	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%	80% / 50%
Wellness / Preventive Care	100%	100%	100%	100%	100%	100%
Primary Care Office Visit	80% after deductible	$25 copay	80% after deductible	$25 copay	80% after deductible	$25 copay
Specialist Office Visit	80% after deductible	$50 copay	80% after deductible	**$45 copay**	80% after deductible	$50 copay
Walk-In / Urgent Care Visit	80% after deductible	$75 copay	80% after deductible	**$60 copay**	80% after deductible	$75 copay
Emergency Room	80% after deductible	$200 copay	80% after deductible	**$350 copay**	80% after deductible	**$300 copay, then 80% after deductible**
Outpatient Lab / X-Ray	80% after deductible	No Charge	80% after deductible	**OV copay or 80% after deductible**	80% after deductible	No Charge
Complex Imaging (MRI, CAT, PET, et al.)	80% after deductible	80% after deductible	80% after deductible	**OV copay or 80% after deductible**	80% after deductible	80% after deductible
Outpatient Surgical Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Inpatient Hospital Facility	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible	80% after deductible
Retail Prescription Drug Copays	After deductible, $10 / $35 / $60	$10 / $35 / $60	**20% after deductible**	**$15 / $55 / $85 / $150**	**20% after deductible**	**$10 / $35 / $75 / $250**
Mail Order Prescription Drug Copays	After deductible, $25 / $88 / $150	$25 / $88 / $150	**20% after deductible**	**$30 / $110 / $170 / $300**	**20% after deductible**	**$25 / $87.50 / $187.50 / $625**
Specialty Prescription Drugs	See Above	See Above	**20% after deductible**	**$60 / $110 / $160 / $210**	**20% after deductible**	**$10 / $150 / $350 / $500**

Rates & Total Cost	**Base**	**Buy-up**						
Employee	19	24	$589.96	$821.86	$447.12	$661.18	$578.13	$778.36
Employee + Spouse	5	7	$1,213.08	$1,688.88	$983.66	$1,454.60	$1,214.08	$1,634.55
Employee + Child(ren)	0	0	$1,569.32	$2,183.86	$849.53	$1,256.24	$1,156.27	$1,556.71
Employee + Spouse & Child(ren)	11	13	$1,569.32	$2,183.86	$1,430.78	$2,115.78	$1,536.18	$2,068.20
Total Employees	**35**	**44**						
Annual Subtotal			$414,446	$719,244	$349,826	$642,668	$407,434	$684,109
Percent Change by Plan					-15.6%	-10.6%	-1.7%	-4.9%
HSA Total								
Annual Premium Total (w/out HSA)				**$1,133,690**		**$992,494**		**$1,091,543**
Change from Current						-$141,196		-$42,146
Percentage Change						-12.5%		-3.7%

Notes

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Phoenix Mesa Gateway Airport Authority (PMGAA)
USI Administered Employee Benefit Plans
Compensation Disclosure
January 1, 2024 Renewal Date

USI is making the following compensation information available effective with the renewal date above. For ERISA group health plan fiduciaries this is in accordance with requirements under ERISA 408(b)(2).

1. The direct compensation USI expects to receive for servicing your health benefits is:

Broker Fee, independent from any specific coverage/plan below	$32,000 per year

	Plan Type		Renewal
Medical (Fully Insured)	Medical PPO	CIGNA	0.0%
Dental	Dental PPO	Delta Dental of Arizona	0.0%
Vision	Vision	Mutual of Omaha Insurance Company	0.0%
Employee Assistance Program	Employee Assistance Program (EAP)	Uprise	0.0%
Voluntary Critical Illness	Voluntary Critical Illness	Unum Life Insurance Company of America	0.0%

Non health plans; one or more of life, disability, non-ERISA stop loss, other ancillary	Ranges from 0%

2. The expected indirect compensation USI expects to receive is:

It is possible that some of the insurance companies from which USI obtains coverage may pay it additional incentive commissions, sometimes referred to as contingent, supplemental, or bonus commissions, which may be based on the total volume of business we sell for them, and/or the growth rate of that business, retention rate, claims loss ratio, or other factors considering our entire book of business with an insurance company for a designated period of time. Such additional commissions, if any, would be in addition to any other compensation USI may receive. By coverage type indirect compensation ranges are as follows:

Medical & Stop Loss approximately 0%

Dental, Vision, Ancillary approximately 0%

35. The services USI will provide include some or all of the following:

Design of health care plans, cost-containment and other plan design recommendations. Preparation of bid specifications (RFP). Analysis of proposals and presentation of findings. Renewal analysis and negotiation. Reporting/Servicing Meetings. Contract Review. Employee Meetings. Employer/Employee Communications.

4. USI does not offer or provide fiduciary services to the plan.

5. In some cases USI may involve the services of a general agent based carrier requirements or distribution model. In some cases general agent may be owned by USI, and will receive compensation in addition to what is detailed above, and will be in the range of 1% to 2% of medical premium or $3.00 to $16 PEPM based on enrolled and 1% to 6% on dental and vision premium.

6. This disclosure document includes the disclosures USI is required to make in accordance with ERISA Section 408(b)(2). Any other plan service provider that is subject to the 408(b)(2) disclosure requirements is required to make its own independent 408(b)(2) disclosure and any such disclosures are not included in this disclosure.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: August 2023 Financials
Date: October 17, 2023

Attached is the monthly Financials Report for August 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
August, 2023

	Month of August 2023				Y-T-D as of August 2023			
	August FY23 Actual	August FY24 Actual	YOY Variance	B/(W)	YTD FY23 Actual	YTD FY24 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	27,052	26,812	(240)	-1%	53,935	51,917	(2,018)	-4%
Fuel Flowage Fees	51,320	56,744	5,424	11%	96,489	123,225	26,736	28%
Landing Fees	91,491	177,062	85,571	94%	190,105	278,328	88,223	46%
Lease Income Aero	233,153	318,655	85,502	37%	637,089	755,050	117,961	19%
Fuel Sales	641,983	542,495	(99,488)	-15%	1,164,826	1,002,607	(162,219)	-14%
Services Sold - Aero	312,650	455,818	143,168	46%	681,838	1,117,290	435,452	64%
Sub-total Aero Operating Revenues	1,357,649	1,577,586	219,937	16%	2,824,282	3,328,417	504,134	18%
Non-Aeronautical Operating Revenues								
Concessions	118,862	91,603	(27,259)	-23%	206,871	198,662	(8,209)	-4%
Lease Income Non-Aero	106,808	108,377	1,569	1%	220,029	232,222	12,193	6%
Parking	445,750	460,086	14,336	3%	939,386	1,056,223	116,837	12%
Rental Car Fees	130,545	126,187	(4,358)	-3%	259,480	252,192	(7,288)	-3%
Svcs Sold - Non Aero	2,139	21,131	18,992	888%	4,187	22,876	18,689	446%
Sub-total Non-Aero Operating Revenues	804,104	807,384	3,280	0%	1,629,953	1,762,175	132,223	8%
Total Operating Revenues	**2,161,753**	**2,384,970**	**223,217**	**10%**	**4,454,235**	**5,090,592**	**636,357**	**14%**
Operating Expenses								
Cost of Goods Sold	472,758	360,719	112,039	24%	869,505	653,980	215,525	25%
Personnel	714,289	811,072	(96,783)	-14%	1,406,164	1,600,777	(194,613)	-14%
Comm & Utilities	110,918	138,695	(27,777)	-25%	212,629	236,086	(23,457)	-11%
Contractual Services	545,274	581,215	(35,941)	-7%	990,858	1,112,490	(121,632)	-12%
Insurance	50,587	33,512	17,075	34%	101,538	96,473	5,065	5%
Other	15,827	15,723	104	1%	41,542	48,890	(7,348)	-18%
Repair & Maintenance	112,414	39,917	72,497	64%	164,585	91,332	73,253	45%
Supplies & Materials	52,911	68,722	(15,811)	-30%	131,027	135,217	(4,190)	-3%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,812,142]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**2,074,978**	**2,049,575**	**25,403**	1%	**3,917,848**	**3,975,245**	**(57,395)**	-1%
Operating Income (Loss) Before Depreciation	**86,775**	**335,395**	**248,620**	286.5%	**536,387**	**1,115,347**	**578,960**	108%
	4.0%	14.1%			12.0%	21.9%		
Depreciation		1,172,784				2,343,686		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **October 17, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Request for Qualifications	2024-002-RFQ	Car Rental Concessions	November 2023
Request for Qualifications	2024-007-RFQ	Airport Entry Monument Design Services	November 2023
Request for Proposals	2024-010-RFP	Fire Pumps & Installation Services	November 2023
Request for Proposals	2024-008-RFP	Access Control & Alarm Monitoring System Services	December 2023
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	December 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Buildings	October 2023	January 2024
Invitation for Bid	2024-011-IFB	Refuel Defuel Cart	November 2023	December 2023
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	November 2023	February 2024
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage Improvements	January 2024	April 2024

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $12,550.00
If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS - TELEPHONIC

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a telephonic meeting open to the public on **Tuesday, November 21, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Chip Wilson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via audio conference.

2. **Roll Call** (Mayor Chip Wilson, Chair)

3. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

4. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **October 17, 2023**.

   b) **Resolution No. 23-58 –** Authorizing an agreement with **EPS Group, Inc. (EPS)**, for Design Services for the Airport Entrance Monument Signage Project, in an amount not to exceed $69,844.20, under CIP 1268.

   c) **Resolution No. 23-59 –** Authorizing the purchase and installation of two (2) 2500GPM Fire Pump Skids with new tanks and stands, from **Cross Fire Protection LLC (Cross Fire)** in an amount not to exceed $260,589.27 under CIP1259.

   d) **Resolution No. 23-60 –** Authorizing Phoenix-Mesa Gateway Airport Authority (PMGAA) staff to negotiate and execute final Concession Agreements for Rental Car Concessions with **Enterprise Leasing Company of Phoenix LLC, Avis Budget Car Rental LLC, and The Hertz Corporation** for non-exclusive on-airport rental car concessions at PMGAA.

   e) **Resolution No. 23-61 –** Authorizing an amendment of the **FY24 Capital Budget** to add $200,000 to the Rental Car Care Facility Improvements Project, for the purchase and site preparation of a Kiosk for the Car Rental Return Lot under CIP 1242. This will be funded with CFC funds.

   f) **Resolution No. 23-62 –** Authorizing the purchase of one (1) Customer Service Booth (Kiosk), for the Rental Car Return Lot, from **Madison Industries (Madison)** in an amount not to exceed $94,783 under CIP 1242.

g) **Resolution No. 23-63 –** Authorizing the Executive Director to execute an Air Carrier Operating Agreement with **Sun Country, Inc.** for commercial air service at the Airport.

5. Board Member Comments/Announcements

6. Next Meeting: Tuesday, December 19, 2023 at 9:00 a.m.

7. Adjournment

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

- **PMGAA Named 2023 PHX East Valley Partnership Legacy Award Winner**
- **Gateway Airport Celebrate its Twenty-Millionth Passenger**
- **The Boyer Company Clearing Gateway East Site for XNRGY Climate Systems**
- **Three New Storage Tanks for 150,000 Gallon Fuel Farm Expansion Installed**
- **Sun Country Airlines' Nonstop Service to Minneapolis, MN Returned in October**
- **Allegiant Air's Nonstop Service to Portland, OR Begins on November 17th**

Executive Director's Report
November 2023

Terminal Addition

Gulfstream

SkyBridge Arizona

Virgin Galactic

Rental Car Care Facility

Fuel Farm Addition

Over <u>One Million Square Feet</u> of Construction Underway at Phoenix-Mesa Gateway Airport

Financial Snapshot

OPERATING INCOME	September		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY23	FY24	
Revenues	$2,129,667	$2,296,341	**$166,674**	$6,583,900	$7,386,931	**$803,031**
Less Expenses	$2,078,751	$2,146,490	**$67,739**	$5,996,599	$6,121,736	**$125,137**
Operating Income *(Before Depreciation)*	**$50,916**	**$149,851**	**$98,935**	**$587,301**	**$1,265,195**	**$677,894**

Investment Fund Balances: As of September, the Local Governmental Investment Pool (LGIP) 700 = $6,214,969; Wells Fargo; Collateralized Money Market = $15,111,619 and Brokered CD's = $43,871,340; Total $65,197,928. PMGAA invests in fixed rate instruments.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA) reported a net operating income of $149,851 for September 2023, making it the strongest financial performance for a September in the history of Phoenix-Mesa Gateway Airport (Airport, Gateway Airport). This September's results exceeded September 2022 by $98,935. Aeronautical revenues increased by 8% compared to last September due to additional hangar space leased by Allegiant and DSV. September non-aeronautical revenues improved by 7%, due to increased food, beverage, and retail concession spending.

It's worth noting that, although passenger activity was down during the month of September, concession revenue per passenger continues to increase as more and more passengers enjoy the new and improved concession options available in the terminal.

Operating expenditures for September 2023 increased by 3% and totaled $2,146,490. The increase is attributed to higher personnel costs and increased contractual services agreements. The contractual services increase was primarily a function of invoice timing, as compared to the previous September.

Total operating expenditures are 9% below the PMGAA Board-approved Fiscal Year 2024 (FY24) Operating Budget.

Active/Pending Solicitations

TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Request for Qualifications	2024-002-RFQ	Car Rental Concessions	November 2023
Request for Qualifications	2024-007-RFQ	Airport Entry Monument Design Services	November 2023
Request for Proposals	2024-010-RFP	Fire Pumps & Installation Services	November 2023
Request for Proposals	2024-008-RFP	Access Control & Alarm Monitoring System Services	December 2023
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	December 2023

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Invitation for Bid	2024-011-IFB	Defuel/Refuel Cart	November 2023
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Airport Facilities	November 2023
Invitation for Bid	2024-012-IFB	Taxiway Whiskey Rehabilitation	December 2023
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	December 2023
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage System Improvements	January 2024
Request for Qualifications	2024-013-RFQ	Primary Legal Services	January 2024
Request for Qualifications	2024-014-RFQ	Website Redesign Services	January 2024

Airport Operations

Allegiant Air's Nonstop Service to Portland, OR Begins on November 17th.

Great News! Allegiant Air, Gateway Airport's largest airline is adding twice weekly nonstop service to Portland, Oregon beginning this November. Portland is an extremely popular two-way destination for Phoenix. In the winter, Oregonians flock south for some much-needed sunshine, and in the summer, Valley residents head north away from the heat. For more information visit www.allegiantair.com.

Sun Country Airlines' Nonstop Service to Minneapolis Returned in October

Welcome back Sun Country! The popular Midwest-based low-cost airline returned to Gateway Airport in October for a third season of high-quality, low-fare nonstop service to its hub in Minneapolis. There's a lot of connectivity between greater Phoenix and the Midwest section of the country. Many Valley residents are transplants from Minnesota, Wisconsin, Michigan, and Illinois. Friends and family back home are frequent visitors to Arizona during the long winter months. For more information about Sun Country's Gateway Airport schedule, please visit www.suncountry.com.

Gateway Airport Celebrates its Twenty-Millionth Passenger

Allegiant Flight Crew Helps Celebrate Milestone

20-Million Passengers!

Passengers Enjoy Goodies and Giveaways

Gateway Airport has twenty million reasons to celebrate this month. The growing Phoenix area airport surpassed a significant activity milestone, officially welcoming its twenty millionth passenger since beginning commercial air service in October 2007. During the past sixteen years, the Airport has significantly increased air service and now offers nonstop flights to more than forty-five popular destinations across the U.S. PMGAA anticipates continued growth as Allegiant and other airlines announce more exciting destinations in the future. Allegiant's new nonstop service to Portland, Oregon begins on November 17th.

"The economic impact generated by millions of sun-seeking out-of-state visitors is enormous, and Gateway Airport continues to be a major driver of the Arizona economy," said Mayor Chip Wilson, Chairman of the PMGAA Board of Directors. *"Gateway Airport provides exceptional value and convenience for air travelers coming to Arizona for that much-needed vacation or visit with family and friends."*

Allegiant, a leading ultra low-cost air carrier, has been the predominant airline at Gateway Airport since 2007. Currently, more than 30 of their 45 nonstop destinations at the Airport don't have nonstop competition in Phoenix. Air travelers using Gateway Airport to access Arizona have spent billions of dollars on transportation, lodging, food & beverage, retail purchases, outdoor activities, and entertainment during their trips.

Marc Garcia, CEO of Visit Mesa, added, *"Gateway Airport plays a critical role in the tourism industry in Mesa and Greater Phoenix. Allegiant brings visitors to the region that might otherwise stay home or take a drive vacation within the boundaries of their local area. East Valley hotels, restaurants, golf courses, and entertainment venues rely on the millions of air travelers choosing Gateway Airport for their continued success."*

J. Brian O'Neill, A.A.E. PMGAA's Executive Director/CEO added, *"Gateway Airport is appreciative of the airline partners, airport tenants, customers, and local communities that have played such an important role in the Airport's ongoing transformation. We look forward to opening our new five-gate, 30,000 square foot South Concourse terminal addition in February and the honor of serving the next twenty million Airport passengers."*

Great job to the entire Communications and Government Relations Team – Ryan, Tiffany, Brian, Sean, and Misty – for a fun-filled and yummy celebration in the terminal!

PASSENGER COUNTS		**September**		**% Change**	**FYTD**		**% Change**
		2022	**2023**		**FY23**	**FY24**	
Passengers	**TOTAL**	114,515	95,400	-17%	384,576	361,414	-6%
	Deplaned	57,678	48,419	-16%	194,139	182,119	-6%
	Enplaned	56,837	46,981	-17%	190,437	179,295	-6%
Allegiant	**Scheduled**	113,855	95,059	-17%	383,584	360,953	-6%
Swoop	**Scheduled**	600	0	-100%	600	0	-100%
Sun Country	**Scheduled**	0	341	100%	0	341	100%
WestJet	**Scheduled**	0	0	0%	0	0	0%
Flair	**Scheduled**	0	0	0%	0	0	0%
Swift	**Charter**	60	0	-100%	392	0	-100%

OPERATIONS	September		% Change	FYTD		% Change
	2022	2023		FY23	FY24	
Air Carrier	854	770	-10%	2,694	2,450	-9%
Military	209	157	-25%	903	506	-44%
General Aviation	23,147	24,723	7%	60,873	60,429	-1%
TOTAL	**24,210**	**25,650**	**6%**	**64,470**	**63,385**	**-2%**

Engineering and Planning

Three New Storage Tanks for 150,000 Gallon Fuel Farm Expansion Installed

PMGAA is increasing its on-Airport fuel storage capacity by 60% to ensure that Gateway Airport has sufficient aviation fuel in the future for the growing number of tenants and transient customers requiring and requesting fuel. PMGAA is installing three additional 50,000-gallon fuel storage tanks, increasing storage capabilities from 4-5 days to 7-8 days. Pipeline disruptions, facility closures, and trucking delays can negatively impact scheduled fuel deliveries. Having the additional on-Airport fuel storage will mitigate these disruptions.

Three New 50,000 Gallon Fuel Storage Tanks Being Installed

Community Noise Report

CALLERS	September		FYTD	
	2022	2023	FY23	FY24
Total	7	5	30	22

AIRCRAFT TYPE	September		FYTD	
	2022	2023	FY23	FY24
	Callers	Callers	Callers	Callers
Commercial	4	4	19	18
GA Total	2	1	4	4
Helicopter	0	0	0	0
Military	1	0	7	0
Total	7	5	30	22

LOCATION	September		FYTD	
	2022	2023	FY23	FY24
Mesa	5	2	18	8
Gilbert	2	2	10	8
Gold Canyon	0	0	0	0
Queen Creek	0	1	1	5
Queen Valley	0	0	1	1
Apache Junction	0	0	0	0
Fountain Hills	0	0	0	0
TOTAL	**7**	**5**	**30**	**22**

PMGAA received communications from five individuals regarding aircraft noise issues during the month of September 2023, compared to 7 received last September. During the mild Arizona winter months, windows reopen, and more area residents spend time outside. PMGAA prides itself on answering questions and addressing community noise issues in a timely manner. Brian Sexton, PMGAA's Community Relations Manager, does a nice job educating the general public and neighbors about aircraft activities.

Gateway Aviation Services

PMGAA pumped more than 1.07MM gallons of aviation fuel during the month of September 2023, a 14% decrease compared to the 1.24MM gallons dispensed last September.

FUEL (Gallons)	September			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	49,426	39,164	-21%	125,330	95,437	-24%
Retail Jet A	60,680	69,362	14%	160,322	162,628	1%
Contract	345,315	271,453	-21%	944,434	1,100,234	16%
Commercial	774,394	683,355	-12%	2,475,767	2,355,322	-5%
Cargo	9,848	7,063	-28%	9,848	10,472	6%
TOTAL	**1,239,663**	**1,070,397**	**-14%**	**3,715,701**	**3,724,093**	**0%**

Business Development

The Boyer Company Clearing Gateway East Site for XNRGY Climate Systems

XNRGY Climate Systems Rendering

The Boyer Company, master developer for Gateway East, a 273-acre mixed-use non-aeronautical airport business park including manufacturing, warehouse, first-class office, and commercial retail development opportunities has begun clearing and prepping a 17-acre site to construct a 275,000 sq. ft. facility for XNRGY Climate Systems (XNRGY), a leader in the design and manufacturing of advanced energy-efficient commercial climate control systems. This will be XNRGY's U.S. headquarters.

Phase one of the project will include a 250,000 sq. ft research and production facility and 25,000 sq. ft. of office space. XNRGY also has options to build future phases totaling an additional 750,000 sq. ft adjacent to their Phase I facility.

Community and Government Relations

PMGAA Named 2023 PHX East Valley Partnership Legacy Award Winner

"The PHX East Valley Partnership has a long tradition of recognizing outstanding organizations for their tireless work and tremendous contributions to our region.

It is with that in mind that we are writing – to congratulate the Phoenix-Mesa Gateway Airport Authority for being named a 2023 Legacy Award winner. The award is presented annually to one individual and one organization who have made an indelible mark on business and the quality of life in the PHX East Valley, Greater Phoenix, and the State of Arizona. From record-setting passenger activity to thoughtful development, Phoenix-Mesa Gateway Airport is the jewel of our region."

PMGAA Team Member Spotlight

Employee Name: **Brian Wallace**
Employee Title: **Business Systems Analyst**
PMGAA Department: **Information Technology**
Years with PMGAA: **24+**

What are your job responsibilities for PMGAA? I'm 1/3 of the I.T. Department here at the Airport. I'm primarily responsible for the servers and desktops, user account creation and maintenance, deployment, configuration, and maintenance of software, and coding our websites.

What is your most memorable Gateway Airport moment? It's hard to put a finger on one. I've been here for many memorable moments over the last 25 years. It's been a lot of fun to watch the Airport grow from Windows 3.1 to Windows 10, from no passenger terminal to having 11 gates and 32 ticket counters, from zero commercial passengers to nearly 2 million a year. It's always fun to talk about how fast the Airport is growing.

What is something people may not know about you? People are generally surprised to learn that I'm a metal-head. 🤘 I love good heavy music and especially love it when they mix in symphonic elements that give it additional depth and fullness. 🎸 + 🎻 + 🎺 = 🙂

Twice Weekly Nonstop Service Begins November 17th!

MINUTES OF THE PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS | October 17, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) was convened on Tuesday, October 17, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community
Vice Mayor Jeff Brown, Queen Creek
Mayor John Giles, Mesa
Mayor Brigette Peterson, Gilbert
Councilmember Jim Waring, Phoenix*
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney

1. **Call to Order** at 9:01 a.m. (Mayor Wilson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Motion to convene into Executive Session**
   a) Pursuant to A.R.S. § 38-431-03 (A)(1), the Board of Directors may convene into executive session for the purpose of discussion and consideration regarding the Executive Director/CEO's annual review.

   Mayor Brigette Peterson moved to convene into Executive Session.
   Vice Mayor Jeff Brown seconded the motion.
   The motion was carried unanimously.

5. **Motion to Reconvene from Executive Session to Regular Session (9:40 a.m.)**

   Mayor Brigette Peterson moved to reconvene the PMGAA Board of Directors meeting.
   Vice Mayor Jeff Brown seconded the motion.
   The motion was carried unanimously.

6. **Call to the Public**
   Prior to the start of this morning's meeting, PHX East Valley Partnership CEO John Lewis submitted to the Clerk of the Board a public comment card to speak on a topic not on the agenda. He congratulated PMGAA for being named a 2023 Legacy Award winner by the PHX East Valley Partnership. The annual award is presented to one organization that has made an indelible mark on business and the quality of life in the Phoenix East Valley.

7. **Executive Director's Report** – J. Brian O'Neill, A.A.E., Executive Director/CEO

DRAFT

Executive Director O'Neill provided a briefing on PMGAA's financial performance, passenger activity, the community noise report, and various Airport projects.

- 2024 Fiscal Year-to-Date (FYTD) Net Operating Income is $1,115,347.
- Phoenix-Mesa Gateway Airport (Airport, Gateway Airport) welcomed 117,609 commercial passengers during August 2023. This is a slight dip compared to the 119,403 passengers during August last year.
- Executive Director O'Neill and a leadership team from the Authority traveled to Allegiant headquarters in Las Vegas to meet with their leadership team to discuss their continued commitment and investment in Gateway Airport.
- DSV Air and Sea is a global transport and logistics company. DSV's B-747 scheduled international air cargo is a weekly service arriving from Europe on Fridays.
- Two teams are representing the Authority at the 2023 National Business Aviation Association Business Aviation Convention & Exhibition (NBAA-BACE) in Las Vegas. The Business Development team and the Fixed-Base Operator team are forging relationships with attendees to create awareness and drive interest in relocating businesses to the Airport and East Valley.
- The existing Airport entry monument, located at the intersection of Sossaman Road and Ray Road, will be removed and a new Airport entrance monument will be constructed that better reflects the emerging character of the Airport. The Authority has released an RFQ to design the entry monument.
- A ribbon-cutting event is planned for February 20, 2024, for Gateway Airport's 5-gate, 30,000 sq. ft. commercial passenger terminal addition. Operations in the new terminal addition will begin after the ribbon-cutting event.
- Last week the Authority hosted an Airport Tour for Arizona State Legislators and staff members.
- Virgin Galactic is leasing two of the three hangars in the Gateway Executive Airpark located at the north end of the airfield. Progress for the customization of these hangars continues. Completion of these two hangars is anticipated for Q1 2024.
- Progress on Phase 1 of Gulfstream's West Coast Service Center continues. They have begun paving the ramp in front of their 225,000 sq. ft. building. The ramp will link to the two taxiway connectors that provide access to the airfield.
- Gateway East is a nearly 300-acre, mixed-use, non-aeronautical development opportunity located on the east side of the Airport. The master developer for this project is the Boyer Company (Boyer) from Salt Lake City, UT. The City of Mesa has provided roadway and utility infrastructure to allow for Phase I of Gateway East's development. In September, Boyer received PMGAA Board approval to construct and sublease a 278,000 sq. ft. building to house the U.S. headquarters and manufacturing facility for XNRGY North America, LLC, a climate technology company.
- The Authority has purchased three new 50,000-gallon Jet-A fuel storage tanks. These tanks will arrive on the 30th of October and will be installed on the 31st. This additional fuel storage capacity will provide the Airport with approximately seven days of on-Airport fuel storage.
- The Study Advisory Committee for the Gateway Tomorrow East Side Terminal Planning Study has selected the preferred alternative for the terminal layout. The consultant is costing out the various components of the preferred alternative. The results will be presented to the PMGAA Board in November or December 2023.

- Progress continues for Gateway Airport's 5-gate, 30,000 sq. ft. commercial passenger terminal addition. The ductwork is in and sheetrock is being installed. This project creates efficiencies that will allow the Airport to grow in the future with more nonstop service from Allegiant and possibly additional airlines.
- Construction continues for the enclosed pedestrian walkway connecting the ticketing terminal and the security screening checkpoint. This customer service enhancement project will increase the queuing area for the security screening checkpoint and will keep passengers in a climate-controlled environment from ticketing through security screening. This project is expected to be completed before the busy travel period begins in February/March 2024.
- Improvements to the Rental Car Care Facility are ongoing. The project includes new vehicle wash and vacuum bays, upgraded maintenance facilities, additional vehicle queuing/storage, and new operations offices. The funding for the project comes from the Airport's dedicated Customer Facility Charge (CFC) account.
- A new TSA In-Line Check Baggage System (BHS) is being constructed to improve efficiency and increase the speed of baggage processing. Much of this project will be funded through a TSA grant. A 7,500 sq. ft. addition to the ticketing terminal is being built by the Authority to house the new system. TSA is providing the system.

8. Audited Financials – Sandra Cronstrom, Principal CliftonLarsonAllen, LLP

Ms. Cronstrom provided a brief overview of the Fiscal Year 2023 Audited Financials, resulting in the issuance of an unmodified (clean) opinion for the Phoenix-Mesa Gateway Airport Authority. No material audit adjustments were made.

Ms. Cronstrom will retire at the end of December. She introduced Richard Gillespie, manager with CliftonLarsonAllen who will be succeeding her as the Authority's principal contact.

Chuck Odom, PMGAA CFO thanked Ms. Cronstrom for coming out today to present to the board. Executive Director O'Neill thanked the finance team for their efforts in this successful independent audit.

9. Consent Agenda

a) **Minutes** of the Board Meeting held on **September 19, 2023**.

b) **Resolution No. 23-52 –** Approving a ninth amendment to the **Executive Director's** employment agreement effective October 1, 2023.

c) **Resolution No. 23-53 –** Approving an Authorization of Services with **Dibble Engineering (Dibble)** for Safety Management System (SMS) Planning Services for the Phoenix-Mesa Gateway Airport Authority in an amount not to exceed $323,668 under CIP 975.

d) **Resolution No. 23-54 –** Authorizing a purchase with **CDW Government, Inc. (CDW-G**) for annual Microsoft licensing renewals, in an amount not to exceed $56,638.04.

e) **Resolution No. 23-55 –** Authorizing the procurement of network equipment from **Hye Tech Network and Security Solutions, LLC (Hye Tech**) in an amount not to exceed $292,195.

f) **Resolution No. 23-56 –** Authorizing an Amendment of the FY24 Capital Budget to provide an additional $367,387.50 under Contract Modification #1, to the initial $438,891 in funding for the **Transportation Security Administration** In-Line Checked Baggage System Design under CIP 1265. The new design contract total will be $806,278.50.

g) **Resolution No. 23-57 –** Authorizing Phoenix-Mesa Gateway Airport Authority's insurance broker, **USI Insurance Services LLC**, to purchase benefit plans (medical, dental, vision, basic life/accidental death & dismemberment, and short-term disability) from various carriers. This consists of a 12-month renewal from January 1, 2024, through December 31, 2024, with an estimated plan cost of $1,127,684 for the calendar year.

Vice Mayor Jeff Brown moved to approve the Consent Agenda.
Mayor John Giles seconded the motion.
The motion was carried unanimously.

8. **Board Member Comments/Announcements.**
None.

9. **Next Meeting: Tuesday, November 21, 2023,** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

10. **Adjournment.**
The meeting adjourned at 10:09 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-58

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Airport Entrance Monument Design Services – EPS Group, Inc. – CIP1268**
Date:	**November 21, 2023**

Proposed Motion
To authorize an agreement with EPS Group, Inc. (EPS), for Design Services for the Airport Entrance Monument Signage Project, in an amount not to exceed $69,844.20, under CIP 1268.

Narrative
Due to the continued growth and evolution of the Phoenix-Mesa Gateway Airport (PMGA), staff has determined that a new Airport Entrance Monument Sign, that properly reflects the modern character of the Airport, needs to be designed and constructed. The new airport entrance design will include proper signage, lighting and landscaping and the current monument will be removed as part of this effort.

The current Airport Entrance Monument, which is located at the intersection of Sossaman Road and Ray Road, is hard to keep clean and inviting. Deliverables will include concepts, renderings, design services, development of required submittals and specifications and possible construction administration services.

The Request for Qualifications (RFQ), Solicitation 2024-007-RFQ was issued on August 15, 2023, and advertised in the Arizona Business Gazette on 8/17, 8/24, 8/31 and 9/07/23; it was also posted on the AzAA, ACC, ACI-NA, and Phoenix-Mesa Gateway Airport Authority Websites. In addition, the RFQ was emailed to a list of 42 prospective firms. PMGAA received one (1) Statement of Qualifications on September 14, 2023, from the following firm:

EPS Group, Inc.

EPS met all requirements of the RFQ. In addition, the Evaluation Panel believes their qualifications, project team experience, project understanding and approach to performing the required services will benefit the project.

Fiscal Impact
This project is included in the FY24 Capital Budget, utilizing PMGAA non-grant funding under CIP 1268.

Attachment: Professional Services Agreement

RESOLUTION NO. 23-58

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an agreement with EPS Group, Inc. (EPS), for Design Services for the Airport Entrance Monument Signage Project, in an amount not to exceed $69,844.20, under CIP 1268;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an agreement with EPS Group, Inc. (EPS), for Design Services for the Airport Entrance Monument Signage Project, in an amount not to exceed $69,844.20, under CIP 1268. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of November, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

EPS Group, Inc.

FOR

AIRPORT ENTRY MONUMENT DESIGN SERVICES

CONTRACT NUMBER 20240032

CIP NUMBER 1268

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20240032** ("Contract") and the attached exhibits. EPS Group, Inc., an Arizona corporation ("Consultant"), with its principal offices located at 1130 N. Alma School Road, #120, Mesa, Arizona, 85201, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under this Contract shall generally include, but not be limited to, the following: Design Services, as more specifically described in the detailed scope of services attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Director of Engineering and Facilities, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract.

This Contract is effective as of the date signed by PMGAA and ends upon final completion and acceptance by PMGAA of the project, as defined by the Scope of Services ("Base Term"), unless terminated, canceled or extended as provided in this Contract.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant itself shall provide all services to be performed under this Contract. If Sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with PMGAA's Procurement Policy. Payments will be made in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate contracts or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all contracts with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all contracts with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX INSURANCE REQUIREMENTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage ($5,000,000 if operating in the Air Operations Area of the Airport).
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions. The insurance policies shall provide, or be endorsed to include, the following provisions:

   i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.
   ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract, except *Workers Compensation* and *Professional Liability,* for claims arising out of the Consultant's work or service.
   iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.
   iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
   v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating

of no less than A, VII, unless otherwise acceptable to PMGAA.

vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX NOTICES

Any notice, report or information which may be or is required to be given under this Contract will be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn: Director of Engineering and Facilities
5835 South Sossaman Road
Mesa, Arizona 85212

TO CONSULTANT: EPS Group, Inc.
Attn: Tom Snyder
1130 N. Alma School Road, #12
Mesa, AZ 85201

or to such other person(s) or address(es) as any such Party may designate from time to time by notice to the other Parties in accordance with this Section.

Executed as of the Effective Date.

CONSULTANT
EPS GROUP, INC., an Arizona Corporation

By: _____

Name: Daniel Auxier

Title: Principal

Date: 11/06/2023

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A – SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

For the services provided herein, PMGAA agrees to pay Consultant the not to exceed amount of $69,844.20

1130 N. Alma School Road, Suite 120, Mesa, AZ 85201 | T: 480.503.2250 | F: 480.503.2258 | **www.epsgroupinc.com**

October 31st, 2023

Mr. John Burgmeier, ACE
Phoenix-Mesa Gateway Airport Authority
5835 South Sossaman Road
Mesa, AZ 85212

RE: Phoenix-Mesa Gateway Airport Authority (PMGAA) Entry Monument

Dear Mr. Burgmeier,

EPS Group is pleased to provide you with our scope and fee proposal for professional design services for the Phoenix-Mesa Gateway Airport Entry Monument improvement project. Our proposed scope of work will be for New Entry Monument Design, Landscape and Hardscape improvements, Civil Grading and Drainage, Survey Base Mapping, along with Irrigation Layout and Design, Site Electrical and Structural Design/Calculations from our subconsultants (HINES, Wright Engineering, and PH Structural) is included in this proposal.

The total hourly not-to-exceed fee is $69,844.20.

We appreciate the opportunity to assist PMGAA with this project. Please contact me at (480) 503-2250 or valeria.bravo@epsgroupinc.com should you have any questions.

Sincerely,

Valeria Bravo, RLA
Project Manager/Landscape Architect

Phoenix-Mesa Gateway Airport Authority (PMGAA)

Entry Monument
Scope of Services

Project Description:

EPS Group will complete the PMGAA new entry monument design that reflects the new character of the Airport with proper signage, lighting, and landscape. The scope will include demolition and re-design of the entry monument signs located on Sossaman Road and Ray Road. Additional Electrical Engineering scope will be completed by Wright Engineering Corporation (subconsultant), Structural scope will be completed by PH Structural (subconsultant) and Irrigation design and layout will be completed by HINES (subconsultant).

TASK 1 – PROJECT START-UP

A. Site Verification Survey
    1. EPS Group will establish both horizontal and vertical control in order to prepare topographic base mapping for the project. Topographic data provided will consist of an AutoCAD drawing with a digital surface model (DSM) showing the location of substantial features observed in the process of conducting the fieldwork, such as pavement, curbing, concrete pads, parking lots, signs, landscaped areas, drainage areas, ditches and headwalls, and roads. Top of wall elevations and ground elevations on each side of the walls will be collected for surrounding properties along the perimeter of the site. Locations at which wall heights change will be indicated. Existing above grade utilities will be located. Sewer manhole inverts will be collected for those manholes being utilized as part of the design. Inverts for storm drain manholes, catch basins and other drainage features needed for design will be collected. Trees will not be located. Elevations will be per City of Mesa requirements, Datum (NAVD88). The topography will be utilized for the development of improvement plans. No formal topographic survey drawing will be prepared.
B. Utility Mapping
    1. EPS Group will order record drawings for existing utilities in the vicinity of the Project from the appropriate agencies. This information, in combination with field obtained data obtained while performing the Topographic Survey will be added to the topographic base map. Preparation of a separate existing utility exhibit/plan is not included with this scope of work.
C. Landscape Inventory
    1. EPS Group will create a Landscape Inventory Plan notating the existing cacti and native tree species on site.

TASK 2 – SCHEMATIC DOCUMENTS

A. Illustrative Design Concepts
    1. Prepare three (3) design concepts for the project.

i. Using the base mapping prepared during the site verification, the Schematic Design Drawings will show three (3) proposed design options for the entry monument. Designs will include monumentation and landscape theming.
ii. Prepare Preliminary Cost Estimate for Construction Budgeting.

2. Submit electronic full-size copy of the intermediate plans to PMGAA for distribution and review.
3. Meet with PMGAA Staff to review comments and resolve potential conflicts. Meetings may be virtual or in-person, as determined by PMGAA.

Deliverables:

- (3) Illustrative Concept Plans & Elevations
- 3D Renderings
- Materials and Precedent Imagery Board

TASK 3 – CONSTRUCTION DOCUMENTS

A. Intermediate l Design (90%)
   1. Submit electronic full-size copy of the intermediate plans to PMGAA for distribution and review.
   2. It is anticipated that written specifications and general conditions will be prepared by EPS and subconsultants. Preparation of written special provisions and special conditions related to special detail items, that are unique to this project will be provided by EPS Group.
   3. Meet with PMGAA Staff to review comments and resolve potential conflicts. Meetings may be virtual or in-person, as determined by PMGAA.
B. Landscape Improvement Plans
   1. Prepare Landscape Improvement Plans for the project to include landscape and hardscape improvements plans along with specific details for each monument feature.
C. Civil Improvement Plans
   1. EPS Group will prepare Onsite Improvement Plans in accordance with the criteria of the AHJ and the Client for the purpose of permitting, bidding and constructing site improvements. The following plan sets will be prepared and submitted to the Architect, Client or Client's Representative for inclusion in the project construction documents and for submittal to the AHJ:
      Grading & Drainage Plan: EPS Group will provide grades for new concrete and paved surfaces. The plans will be created for a single phase of construction. EPS Group will base its design and plans on the site layout. EPS Group will design required drainage structures and/or a drainage system as required. An earthwork analysis, or modifications to the design to achieve a balanced site is not included.
      Paving Plan: Not included.
      Water & Sewer Plan: Not included.
      Storm Water Pollution Prevention Plan (SWPPP): Not included.
      Signing and striping plans are not anticipated to be required and are not included in this proposal. Cost estimates are not included. The plans will be submitted to applicable utility companies for their review of any conflicts with their existing facilities. Any site plan

changes after CD's have been initiated will be billed on a time and material basis at EPS Groups current billing rates.

D. Irrigation Plans

1. EPS Group will subconsult with an irrigation designer to prepare irrigation demand calculations and coordinate with the Municipality and client for sizing system features for irrigation system from a potable water meter(s). Prepare specific plans and details for irrigation system including final points of connection, mainline routing and pipe sleeves, head and valve layout, lateral piping and sleeves, controller location, valve wiring and other key irrigation components. Work will be coordinated as required with other engineers and consultants. Reclaimed Irrigation Design and booster pump are excluded.

E. Structural Engineering

1. EPS Group will subconsult with a Structural Engineer for structural review of all monumentation including footings, structural rebar and supports. Structural Calculations will be provided. Structural review of architectural features and pre-fabricated structures is excluded.

F. Electrical Plans

1. EPS Group will subconsult with an Electrical Engineer to provide Site Electrical Plans for the project. The Site Electrical Plans will follow the city and local requirements. A single bid set will be prepared. The plans will include sealed photometric calculation drawings, lighting levels and locations to meet City requirements.

Deliverables:

- Landscape Construction Documents Cover Sheet
- General Notes and Legends
- Sheet Key Map
- Grading and Drainage Plan
- Grading and Drainage Details
- Material Plans
- Material Enlargement Plans
- Material Details
- Landscape Planting Plans
- Landscape Planting Details
- Irrigation Plans
- Irrigation Details
- Electrical Plans
- Electrical Details
- Landscape Construction Specifications

TASK 4 – BID DOCUMENTS

A. Final Design (100%)
    1. Modify Final Plans and Special Provisions, as required, to incorporate final review comments.
    2. Provide one (1) presubmittal electronic copy of the 100% documents including the 90% redline review set to the PMGAA Project Manager prior to submitting the reproducible documents.
    3. Submit an electronic set of reproducible sealed plans to PMGAA upon authorization to do by the PMGAA Project Manager. Reproduction and distribution of Bid Documents will be done by the PMGAA.
    4. Provide final drawings in electronic format to PMGAA. Drawing files will be in AutoCAD format and pdf. Files will be provided electronically.
B. Landscape Improvement Plans
    1. Prepare Landscape Improvement Plans for the project to include landscape and hardscape improvements plans along with specific details for each monument feature.
C. Civil Improvement Plans
    1. EPS Group will prepare Onsite Improvement Plans in accordance with the criteria of the AHJ and the Client for the purpose of permitting, bidding and constructing site improvements. The following plan sets will be prepared and submitted to the Architect, Client or Client's Representative for inclusion in the project construction documents and for submittal to the AHJ:

        Grading & Drainage Plan: EPS Group will provide grades for new concrete and paved surfaces. The plans will be created for a single phase of construction. EPS Group will base its design and plans on the site layout. EPS Group will design required drainage structures and/or a drainage system as required. An earthwork analysis, or modifications to the design to achieve a balanced site is not included.

        Paving Plan: Not included.

        Water & Sewer Plan: Not included.

        Storm Water Pollution Prevention Plan (SWPPP): Not included.

        Signing and striping plans are not anticipated to be required and are not included in this proposal. Cost estimates are not included. The plans will be submitted to applicable utility companies for their review of any conflicts with their existing facilities. Any site plan changes after CD's have been initiated will be billed on a time and material basis at EPS Groups current billing rates.
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- Landscape Construction Documents Cover Sheet
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- Sheet Key Map
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- Grading and Drainage Details
- Material Plans
- Material Enlargement Plans
- Material Details
- Landscape Planting Plans
- Landscape Planting Details
- Irrigation Plans
- Irrigation Details
- Electrical Plans
- Electrical Details
- Landscape Construction Specifications

TASK 5 – COST ESTIMATES

1. Quantities and Cost Estimates will be provided for the project at the Schematic Phase, 90% and 100% plan stages.

TASK 6 – ADMINISTRATION AND COORDINATION

A. Project Direction: Direct the activities of the Consultant's project team and resolve technical, staffing, schedule, and cost issues.
B. Project Control: Develop and implement a project control system to document, monitor, evaluate, and resolve issues related to project schedule and budget related deliverables and milestones.
C. Client Coordination: Coordinate project progress with the PMGAA staff as described in Tasks 1 through 5 above.
D. Attend coordination and/or plan review meetings with the PMGAA Staff. This project scope includes an estimate of four (4) project coordination meetings. This task includes meeting with

the PMGAA to coordinate the progression of the project. EPS Group will prepare meeting agendas and meeting minutes for these meetings.

CONDITIONS AND EXCLUSIONS

A. This scope and fees does not include any work associated with the following: Storm Water Pollution Prevention Plan, Public Street Improvements, Map of Dedication, Legal Descriptions not otherwise indicated, Agricultural irrigation facilities relocations, Offsite or Public sewer or water lines, Construction related certifications, Preparation of As-Builts, Geotechnical Investigations / Reports, Environmental Investigations / Reports, Electrical or Mechanical Engineering or Calculations or any other items not specifically indicated in the scope of work.
B. No design or documentation for any landscaping or paving outside the areas described as the scope of work within this proposal.
C. No engineering of construction documentation for water feature(s), sculptures, fencing or railings, shade structures, and ramadas.
D. No design, engineering or construction documents for hardscape elements such as curbs, gutters, curb cuts, curb ramps, parking fields, roads, service yards or corridors, trash enclosure areas, parking structure paving, over structure paving, interior paving, paved medians, driveways / drive apons, drive isles, utility pads, building entries / thresholds and sidewalks in public right-of-way.
E. No review of certificates for payment for accuracy and completeness.
F. Attending and/or preparing materials for a neighborhood meeting are not included.
G. All irrigation systems are assumed as a potable irrigation system with no booster pump. If a booster pump and/or the irrigation is utilized as reclaimed water, those services will be provided under a separate contract.
H. Geotechnical reports, percolation tests, laboratory testing, Phase I and II Evaluations, Environmental Assessments, archeological and biological investigations and reports will not be provided. At the Architects and/or Client's request, EPS Group will solicit proposals from qualified firms on their behalf.
I. Traffic signal plans are not included.
J. No plant field survey for the property that identifies all trees and major plantings by name, size, character, and health.
K. Dry utility coordination (including gas, telecommunications, fiber optics, etc.) is not included.
L. Construction staking, construction management, inspection and/or certifications are not included.
M. Revisions to the improvement plans during the construction phase, to correct errors or oversights made by EPS Group are included. Revisions to the improvement plans for any other reasons are not included and will be billed on a time and materials basis. Additionally, redesign of previously approved work, major revisions to the site and/or expansion of scope of work are not included.
N. Preliminary Jurisdiction Delineations, Construction Notifications or 404 permitting with the Corps of Engineers are not included.
O. No Construction Administration, Record Drawings and Asbuilt documentation is included. Construction Administration will be under a separate contract.

Fee Estimation Worksheet

Date: 10-31-2023 PROJECT: Phoenix-Mesa Gateway Airport Authority Entry Monument

Job No.: 23-0552

	Principal	Project Director	Project Engineer	Sr. Engineer	Engineer	CAD Technician	Clerical	Landscape Architect	Landscape Project Manager	Landscape Designer	Survey 2-man	Senior Project Surveyor	Project Surveyor	Survey Tech	Geospatial Technician	Task Cost
Standard Billing Rates	$220.00	$190.00	$165.00	$155.00	$110.00	$105.00	$60.00	$145.00	$120.00	$90.00	$145.00	$170.00	$130.00	$110.00	$85.00	
Adjusted Billing Rate (With 10% Profit)	**$198.00**	**$171.00**	**$148.50**	**$139.50**	**$99.00**	**$94.50**	**$54.00**	**$130.50**	**$108.00**	**$81.00**	**$130.50**	**$153.00**	**$117.00**	**$99.00**	**$76.50**	
Base Rate	$176.00	$152.00	$132.00	$124.00	$88.00	$84.00	$48.00	$116.00	$96.00	$72.00	$116.00	$136.00	$104.00	$88.00	$68.00	
DESCRIPTION																
Project Start-Up																
Site Verification Survey												7	17	35		$5,800.00
Utility Mapping				1	5	6										$1,068.00
Landscape Inventory									6	8						$1,152.00
Schematic Documents																
Illustrative Design Concepts		12						22	30	62						$11,720.00
3D Renderings										70						$5,040.00
Construction Documents																
90% Landscape Improvement Plans		6						12	30	52						$8,928.00
90% Civil Improvements Plans	1		3	6	20											$3,076.00
Bid Documents																
100% Landscape Improvement Plans		1						2	14	17						$2,952.00
100% Civil Improvements Plans			2	4	13											$1,904.00
Cost Estimates																
Schematic Plans								3	6							$924.00
90% Plans								2	4							$616.00
100% Plans								1	2							$308.00
Special Provisions								5	5							$1,060.00
Administration and Coordination																
Site Visit and Kickoff Meeting								3	3							$636.00
Coordintaion Meetings		3	2	4				6	6							$2,488.00
Project Management-Direction, Schedule, & Project Controls								10	15							$2,600.00
TOTAL HOURS	1	22	7	15	38	6	0	66	121	209	0	7	17	35	0	544
DIRECT LABOR + OVERHEAD	$176.00	$3,344.00	$924.00	$1,860.00	$3,344.00	$504.00	$0.00	$7,656.00	$11,616.00	$15,048.00	$0.00	$952.00	$1,768.00	$3,080.00	$0.00	
PROFIT = 10%	$17.60	$334.40	$92.40	$186.00	$334.40	$50.40	$0.00	$765.60	$1,161.60	$1,504.80	$0.00	$95.20	$176.80	$308.00	$0.00	
TOTAL FEES	$193.60	$3,678.40	$1,016.40	$2,046.00	$3,678.40	$554.40	$0.00	$8,421.60	$12,777.60	$16,552.80	$0.00	$1,047.20	$1,944.80	$3,388.00	$0.00	$55,299.20

Reimburseables	$0.00
Subconsultants	
Wright Engineering	$6,895.00
Hines Irrigation	$4,150.00
PH Structural	$3,500.00
TOTAL NOT TO EXCEED FEE	$69,844.20

WRIGHT engineering corporation
ELECTRICAL ENGINEERING & LIGHTING DESIGN

October 30, 2023

EPS Group, Inc.
1130 N. Alma School Rd., Ste. 120
Mesa, AZ 85201

Re: **Phoenix-Mesa Gateway Airport Entry Monument Signage**

Attn: Alex Buckley

Dear Alex,

Wright Engineering appreciates this opportunity to submit a proposal for electrical engineering services on the above referenced project. The following services will be performed in a professional manner to meet Phoenix-Mesa Gateway Airport (PMGA) requirements:

Electrical Design Scope of Services:

1. Coordinate design with owner, power company, and landscape architect as required.
    a. Project coordination will be performed via email, telephone calls, and virtual meetings, in-person meetings are not included in this scope.
2. Visit the site to determine existing electrical conditions and configuration. Please note, this task will require extensive onsite discovery of the existing conditions, electrical equipment, and loads being served and/or removed. Up to (1) one visit.
3. Review existing electrical drawings and load calculations for site.
4. Determine existing peak demand loads and coordinate proposed electrical loads.
5. Design the electrical power system to meet local codes and requirements.
6. Prepare 24” X 36” demolition electrical plans to show the following existing equipment to be removed, including:
    a. Existing monument flood lights
    b. Existing conduits & wire
7. Prepare 24” X 36” electrical construction drawings showing all new equipment to include the following:
    a. Electrical service entrance pedestal modifications as necessary
    b. Lighting for all new monuments, external or internal for 2-4 Locations
8. Prepare photometric calculations showing all lighting averages, uniformities and any spill light at adjacent property lines.
9. All lighting on/off control will be designed per client’s requirements. All necessary equipment will be shown on the plans.
10. Prepare necessary elevation view and installation details of the equipment listed above.

11. Prepare load calculations and single line diagram.
12. Prepare panel schedule and other electrical installation details as required.
13. Prepare a conduit and wire table showing all power conduits and wire for equipment listed above.
14. Prepare system fault current and voltage drop calculations as required.
15. Prepare an engineer's opinion of probable electrical construction costs and project specific electrical specifications document upon request.
16. Perform in-house QAQC review and modifications.
17. The above plans will be provided to client at 90% and 100% levels for submittal review and comment. Submittals will be made via email in digital PDF format. Client will print, copy and submit to the City and owner as needed.
18. Client review comments will be responded to and addressed.

Responsibilities of Others:

1. Provide Wright Engineering Corp. electronic base files in an AutoCAD format which includes all proposed and existing utilities, all proposed improvements, and any existing conditions that affect this scope.
2. Wright Engineering will submit plans to the landscape architect for submittal to the local government agencies for approval and permits.
3. It is anticipated that the electrical service for this project is existing, in the case that it must be replaced, designation of location of electrical service will be determined by the local utility company. The owner is responsible for coordination of the design of all electrical utility power services during the design process.

Final Deliverables:

1. Upon completion of the design, we will provide final sealed documents bearing the signature of a registered electrical engineer in the State of Arizona.

Engineering Fees:

Electrical Design Services: **$6,895.00** (Lump Sum)

Additional Services:

Any services not specifically included in the Scope of Services section or listed as billed hourly shall be services payable at an hourly fee at the following rates:

Principal	$180/hour	Designer	$115/hour
Senior Engineer	$160/hour	Drafter	$105/hour
Engineer	$135/hour	Admin	$65/hour

Printing Charges:

Although not anticipated, any printing and delivery requested will be charged as follows:

Blacklines	$ 2.00 each
Mylar Sepia	$18.00 each
Delivery Cost	cost

Billing:

We will bill you on a monthly basis for these services. Payment terms are Net 30 days. This proposal will be valid for the next 90 days. Any engineering or services fees requested to be paid by credit card will be charged an additional 4.25% for processing. If you have any questions, please contact us at your earliest convenience.

I look forward to working with you on this project. Please show your acceptance of this proposal by signing below and returning one copy for my records.

Sincerely,

R. Scott Wright, P.E., LC
Wright Engineering Corporation

I have received and read Appendix ‘A’ and agree to all terms and conditions as outlined in Appendix ‘A’ and this proposal. By signing, the proposal becomes the agreement and is executed.

Accepted this_____day of_____2023

_____
(Company Name)

_____
(Signature)

_____
(Print or Type Name)

_____
(Title)

The Client agrees that the technical methods, techniques, and pricing information contained in any proposal submitted by Wright Engineering pertaining to this project or in this Agreement or any addendum thereto, are to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of Wright Engineering.

Client Billing Information:

Contract/AP Contact Name: _____

Address: _____

Business Phone: _____ Mobile Phone: _____

Email:_____

It is our desire to keep communication flowing freely. To contact us for contract information or accounts payable information, please email Cami Penrod at cpenrod@wrightengineering.us or call us at 480-497-5829.

Appendix ‘A’
Terms and Conditions

Certifications
Wright Engineering Corp. shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence Wright Engineering Corp. cannot ascertain.

Termination of Services
This agreement may be terminated by the Client or Wright Engineering Corp. should the other fail to perform its obligations hereunder. In the event of termination, the Client shall pay Wright Engineering Corp. for all service rendered to the date of termination and all reimbursable expenses.

Ownership of Documents
All documents produced by Wright Engineering Corp. under this agreement shall remain the property of Wright Engineering Corp. and may not be used by the Client for any other endeavor without the written consent of Wright Engineering Corp.

Billings/Payments
Invoices for Wright Engineering Corporation services shall be submitted, at Wright Engineering Corporation’s option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, Wright Engineering Corporation may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate or suspend the performance of the service. Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of one-and-one-half percent (1.5%) (or the maximum rate allowed by law, whichever is less) on the then unpaid balance. In the event any portion, or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection including reasonable attorney’s fees.

Unauthorized Changes
In the event the Client, the Client’s contractors or subcontractors, or anyone for whom the Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents prepared by Wright Engineering Corp. without obtaining Wright Engineering Corporation’s prior written consent, the Client shall assume full responsibility for the results of such changes. Therefore, the Client agrees to waive any claim against Wright Engineering Corp. and to release Wright Engineering Corp. from any liability arising directly or indirectly from such changes. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Wright Engineering Corp. from any damages, liabilities or costs, including reasonable attorneys’ fees and costs of defense, arising from such changes. In addition, the Client agrees to include in any contracts for construction appropriate language that prohibits the Contractor or any subcontractors of any tier from making any changes or modifications to Wright Engineering Corporation’s construction documents without the prior written approval of Wright Engineering Corp. and that further requires the Contractor to indemnify both Wright Engineering Corp. and the Client from any liability or cost arising from such changes made without such proper authorization.

Permits and Approvals
It is the responsibility of the Client to obtain all permits and approvals normally required by law for projects similar to the one for which Wright Engineering Corporation’s services are being engaged. Wright Engineering Corp. may assist the Client as requested in applying for those permits and approvals for an additional fee. This service is not included in the Basic Services of this Agreement.

Construction Supervision
The Consultant shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with this Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents. The Consultant shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Consultant does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

Changed Conditions
If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the Consultant are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the Consultant may call for renegotiation of appropriate portions of this Agreement. The Consultant shall notify the Client of the changed conditions necessitating renegotiation, and the Consultant and the Client shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement, in accordance with the Termination provision hereof.

Attorneys' Fees
In the event of any litigation arising from or related to this Agreement or the services provided under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation.

Mediation
In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to non-binding mediation unless parties mutually agree otherwise.

Proprietary Information
The Client agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by Wright Engineering Corp pertaining to this Project or this Agreement shall be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of Wright Engineering Corp.

Indemnification
The Consultant and the Subconsultant mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from their own negligent acts in the performance of their services under this Agreement, to the extent that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

Limitation of Liability
Neither the engineer, the engineer's consultants, nor their agents or employees shall be jointly or individually liable to the owner in an amount in excess of our fees.

Hines Inc

2023-10-17

Ms. Alex Buckley
EPS Group, Inc
1130 North Alma School Road, Suite 120
Mesa, Arizona 85201

Dear Alex,

Hines Inc is honored to partner with EPS Group, Inc to provide Irrigation System Design for PMGA Entry Monument Signage, located in Mesa Arizona. It is assumed that the 4-acre project site will contain point source drip irrigated plant materials. It is further assumed that the irrigation system will utilize a potable water supply with adequate municipal pressure & flow rate to efficiently operate the irrigation system. Our detailed scope of work & general conditions are attached for your review & approval.

Scope & Fee Summary		Fee
Construction Documents:		
Task 1: Irrigation Plan Design		$4,150
	Total	**$4,150**

We strive to be as specific as possible in all aspects of our work to ensure complete understanding of scope & our ability to meet the proposed schedule. Should anything require further clarification, please do not hesitate to contact me.

Kind Regards,
James N Hines

CONSTRUCTION DOCUMENT SCOPE-OF-WORK

Task 1 - Irrigation Plan Design

- Site irrigation water balance will be developed to estimate future annual water usage.
- Obtain and review information regarding the existing irrigation water supply for renovation and reuse.
- Irrigation controller location, electrical power source location and water tap information (available pressure, meter requirements, etc.) will be documented.
- Design will comply with applicable City or local equipment specification and design standards.
- Detailed irrigation design will include; sprinkler layout, mainline and lateral pipe routing and sizing, remote-control valve locations, and diagrammatic routing of drip laterals.
- Prepare irrigation details in required format.
  Prepare irrigation specifications in CSI format.
- **Deliverables:**
  - One (1) 24 x 36 drawing sheet at 20 scale, details & specifications.
  - This proposal assumes a total of three (3) drawing submittals: (50% CD, 75% CD, 100% CD)

Client-Provided Information

This proposal assumes that the Client will provide the information necessary to complete the scope of work. Examples of client-provided information include but are not limited to: Project base files in the required format, key design team contact information, project milestone definition, and coordinated reasonable advanced notice of submittal deadlines.

Additional Services

If additional services or reimbursable expenses are requested beyond what is outlined in the tasks listed above, Hines would be pleased to provide a written proposal that will outline new scope, tasks, fee, & reimbursable expenses associated with the work.

Notes:

- Major base changes made after 90% Construction Document submittal, resulting in major irrigation design revisions, will require additional fees.
- If a booster pump is required, an additional fee will be necessary for the design and specification of pump equipment.
- All final construction documentation, including specifications, shall be approved by the Owner's Representative prior to issuance for bidding.
- Construction service tasks & fees proposed are an estimate of required activities and associated costs at the time of project proposal. Construction service activities will be completed on Client request and invoiced Hourly Not-to-Exceed assuming there is remaining approved fee available. Should scope and fee be exhausted prior to completion of the tasks outlined above, or should the Client request additional items not listed above, Hines will request approval of additional scope and fees.
- Not included in this scope-of-work:
    - Construction Services (Equipment Submittal Reviews, RFI Responses, On-site Observation, As-built Creation)

We request written approval to proceed with this project. Signature indicates agreement with our scope, fee, and General Conditions. Refer to Attachment A for a detailed list of our General Conditions. Please call with any questions or comments; we look forward to working with you on this project!

Kind Regards,
Hines Inc.

AGREED TO BY:
EPS Group, Inc Representative

James N Hines

Authorized Signature Date

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT A**, "Scope of Services and Fee Schedule".

2. Method of Payment

Subject to the terms of this Contract, PMGAA shall pay Consultant the appropriate rate or fixed price amount for services rendered as described in the Contract only after Consultant has submitted an invoice for services performed and PMGAA has certified and approved each invoice.

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice depicting tasks performed and/or hours spent for services performed. Invoices must be based on the actual hours and/or expenses incurred for the services completed during the billing period. Consultant's invoices must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and/or progress reports in accordance with terms specified in the Contract. Progress reports will clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C - SPECIAL PROVISIONS

1. Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2. Civil Rights Act of 1964, Title VI – Assurance

Title VI List of Pertinent Nondiscrimination Acts and Authorities:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English

proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Title VI Compliance With Nondiscrimination Requirements:
During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

3. <u>Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</u>
Consultant, by accepting this Contract, certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any government department or agency.

4. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA all Consultant and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

5. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict.

6. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

7. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

8. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. **Certification.** Consultant certifies:
   a. The award of this Contract did not involve collusion or other anti-competitive practices.
   b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
   c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. **Termination of Contract.**

   a. Termination for cause. PMGAA reserves the right to cancel this Contract in whole or in part due to failure of Consultant to carry out any term, promise, or condition of the Contract. At least ten (10) business days before terminating the Contract, PMGAA will issue a written notice of default specifying one of the following reasons. PMGAA shall, at all times during the term of the Contract or any extension term thereto, have the sole authority to determine if the default has been cured to its satisfaction. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Contract.

      (1) Consultant has provided personnel that do not meet the requirements of the Contract.

      (2) Consultant has failed to perform adequately the stipulations, conditions or services/specifications required in this Contract.

      (3) Consultant has attempted to impose on PMGAA personnel or materials, products, or workmanship of unacceptable quality.

      (4) Consultant has failed to furnish the required service(s) and/or product(s) within the time stipulated in the Contract or associated Authorization of Services.

      (5) Consultant has failed to make progress in the performance of the requirements of the Contract or Authorization of Services, or Consultant fails to give PMGAA adequate assurance the Consultant will perform the Contract in full and on time.

      (6) Each payment obligation of PMGAA created hereby is conditioned on the availability of PMGAA, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by PMGAA for continuance of service under this Contract, then PMGAA may terminate the Contract. PMGAA shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to PMGAA if this provision is exercised, and PMGAA shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

   b. Termination for convenience. This Contract may be terminated at any time by mutual written consent or by PMGAA - with or without cause - provided the terminating party gives fourteen (14) calendar days' advance written notice to the other party. PMGAA may terminate this Contract, in whole or in part, for PMGAA's convenience and with fourteen (14) days' written notice. If this Contract is terminated, then PMGAA is liable only for services rendered and material received, certified, and approved by PMGAA under the Contract before the termination effective date.

   c. Upon termination of the Contract, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

3. **Dispute Resolution**.

   a. **Negotiations**. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.

b. **Mediation**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.

c. **Binding Dispute Resolution**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

4. **Independent Contractor.** At all times, each party acts in its individual capacity not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days. PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

5. **Affirmative Action.** Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

6. **Human Relations**. Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

7. **Non-Exclusive Contract**. This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

8. **Americans with Disabilities Act.** Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

9. **Confidentiality of Records**. Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

10. **Gratuities.** PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled

by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

11. **Applicable Law.** This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

12. **Contract**. This Contract is based on and the result of a negotiated Scope of Work and Proposal, Bid or Statement of Qualifications submitted by Consultant under an RFP, IFB or RFQ. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

13. **Contract Amendments**. This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

14. **Provisions Required by Law**. Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

15. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

16. **Protection of Government Property.** Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

17. **Interpretation – Parol Evidence.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

18. **Subcontracts.** Consultant shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Consultant of its acceptance or rejection within forty-five (45) days or written request by Consultant. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Consultant referred to herein. Consultant is responsible for Contract performance whether subcontractors are used.

19. **No Waiver.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

20. **Warranties.** Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights

of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

21. **Indemnification.** To the fullest extent permitted by law, Consultant shall save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

22. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

23. **Advertising.** Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

24. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Consultant's or any of Consultant's subcontractor's business, which is related to the performance of this Contract or related subcontract.

25. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

26. **Inspection.** All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

27. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

28. **Title and Risk of Loss.** The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

29. **Liens.** All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

30. **Licenses.** Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

31. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

32. **Clean Up.** Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

33. **Patents.** Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

34. **Records and Audit Rights.** Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

35. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

EXHIBIT E – CONSULTANT'S RFQ SUBMITTAL

Consultant's Statement of Qualifications in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2024-007-RFQ dated September 14, 2023, is hereby incorporated herein and made part of this Contract.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-59

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Fire Pump Skids and Installation Services – Cross Fire Protection LLC – CIP1259**
Date:	**November 21, 2023**

Proposed Motion

To authorize the purchase and installation of two (2) 2500GPM Fire Pump Skids with new tanks and stands, from Cross Fire Protection LLC (Cross Fire) in an amount not to exceed $260,589.27 under CIP1259.

Narrative

Two of the current Fire Protection Pump Units located at South Central (Fire Tanks), have reached the end of their useful life cycle and are in need of replacement. The current costs to repair and maintain these units is increasing significantly, many parts are no longer available, and downtime would cause a safety issue due to having no fire protection to the buildings supported by these Pumps.

The Request for Proposal (RFP), Solicitation 2024-010-RFP - Fire Pump Skids & Installation Services, was issued on September 6, 2023, and advertised in the Arizona Business Gazette on 9/14, 9/21, and 9/28/23. It was also posted on the AzAA, ACC, and ACI-NA Websites as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFP was emailed to a list of 22 prospective firms.

PMGAA staff received one bid, from Cross Fire. Following PMGAA's Procurement Policy 22-01 when only one submittal is received, PMGAA staff confirmed that the specifications contained in the RFP were not overly restrictive and performed a price analysis to ensure the pricing received was in line with the equipment requested. PMGAA staff are recommending to award the purchase of the fire pumps and tanks to Cross Fire.

Fiscal Impact

This purchase was included in the FY24 Capital Budget and is funded with PMGAA non-grant funds under CIP1259.

Attachment(s): Proposal

RESOLUTION NO. 23-59

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase and installation of two (2) 2500GPM Fire Pump Skids with new tanks and stands, from Cross Fire Protection LLC (Cross Fire) in an amount not to exceed $260,589.27 under CIP1259;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

The Board of Directors of the Authority hereby authorizes the purchase and installation of two (2) 2500GPM Fire Pump Skids with new tanks and stands, from Cross Fire Protection LLC (Cross Fire) in an amount not to exceed $260,589.27 under CIP1259. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.

Passed and adopted by the Authority this 21st day of November, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport

Attachment B
Price Proposal

BASE PROPOSAL Item	Price
Two (2) New 2500GPM Fire Pump Skid, To Meet Minimum Specifications per Attachment A	$ 217,349.28
New Firetrol Pump Controllers	$ Included
Installation of all Equipment and Testing per RFP Requirements	$ 25,200.00
Manuals on Maintenance, Operations, and Parts – Hard Copy & Digital	$ 0.00
Sales Tax, 8.3% PMGAA is NOT tax exempt. If Offeror does not collect sales tax on behalf of the State of Arizona when invoicing, Offeror should still include tax at a rate of 7.6% for Use Tax.	$ 18,039.99
Shipping (for all Equipment)	$ Included
Total	$ 260,589.27

ADD PROPOSAL No. 1 Item	Price
~~Three (3)~~ Two (2) New steel, double wall tanks and stand, installation of tanks, sales tax, and shipping.	(2) Tanks included $ Included

Labor Rate for Service: $82.50 lead technician and $75.00 helper technician

Offeror's Payment Terms: Equipment: Net 30

Parts: Net 30

Discounts:

Prompt Payment: Equipment: Discounted 2 % if payment is made within 10 days.
Parts: Discounted _____ % if payment is made within _____ days.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-60

To:	**Board of Directors**
From:	**Lori Collins, Director of Business and Economic Development**
Through:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Car Rental Concession Agreements**
Date:	**November 21, 2023**

Proposed Motion

Authorize Phoenix-Mesa Gateway Airport Authority (PMGAA) staff to negotiate and execute final Concession Agreements for Rental Car Concessions with Enterprise Leasing Company of Phoenix LLC, Avis Budget Car Rental LLC, and The Hertz Corporation for non-exclusive on-airport rental car concessions at PMGAA.

Narrative

The Airport's existing car rental concessions program (Program) consists of counter, office, and support space in the Terminal, parking spaces and facilities in the Ready Lot, parking space and facilities in the Return Lot, parking spaces and facilities in the Quick Turn Around Lot, and parking spaces near the General Aviation Center. The current Program is operated by Enterprise Leasing Company of Phoenix, LLC, and The Hertz Corporation; and these existing Car Rental Concession Agreements will expire on December 31, 2023.

To support the rental car operations, the Airport is constructing new, modern facilities that will add capacity, increase efficiency, improve security, and heighten the customer experience. These improvements include a redesigned Return Lot and a complete renovation of the Quick Turn Around (QTA) Lot that includes a new carwash building, office buildings, maintenance bays, reconfigured queuing and staging lanes, new lights, access controls, and an additional paved lot for overflow parking.

Agreement Term and Rate

Airport staff divided the rental car concessions into three distinct opportunities, referred to as Package 1, Package 2, and Package 3 (collectively "Packages") and an additional opportunity at the Airport's Fixed Base Operator's location. Each Package has been allocated a set number or percentage of resources that are used to determine the rents and fees, excluding Customer Facility Charges (CFC) which are set per transaction. Initial Package market share is as follows:

Package 1: 55%
Package 2: 30%
Package 3: 15%

Rents and Fees to be paid by the concessionaires are a Concession Fee which includes both Percentage Rent and Minimum Annual Guarantee Rent, Premises Rent, Operational and Maintenance Fees, and CFC's.

The start date of the agreements is January 1, 2024, with an initial term of seven (7) years with one (1) 2-year extension option, to be exercised at the sole discretion of PMGAA.

The Request for Qualifications (RFQ), Solicitation 2024-002-RFQ, was issued on July 27, 2023, and advertised in the Arizona Business Gazette on 8/03, 8/10, 8/17 and 8/24/23; it was also posted on the AzAA, ACC, ACI-NA, and Phoenix-Mesa Gateway Airport Authority Websites. In addition, the RFQ was emailed to a list of six (6) prospective firms. PMGAA received three (3) Statements of Qualifications (SOQ) on September 19, 2023, from the following firms:

Avis Budget Car Rental, LLC
Enterprise Leasing Company of Phoenix, LLC
The Hertz Corporation

The evaluation panel reviewed the submitted SOQ's and, based on the evaluation criteria, determined award recommendation as follows:

Package 1:	**Enterprise Leasing Company of Phoenix LLC**
Package 2:	**Avis Budget Car Rental LLC**
Package 3:	**The Hertz Corporation**
FBO Option:	**Enterprise Leasing Company of Phoenix LLC**

Attachment(s)
N/A

RESOLUTION NO. 23-60

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize staff to negotiate and execute final Concession Agreements for Rental Car Concessions with Enterprise Leasing Company of Phoenix LLC, Avis Budget Car Rental LLC, and The Hertz Corporation for non-exclusive on-airport rental car concessions at PMGAA;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes staff to negotiate and execute final Concession Agreements for Rental Car Concessions with Enterprise Leasing Company of Phoenix LLC, Avis Budget Car Rental LLC, and The Hertz Corporation for non-exclusive on-airport rental car concessions at PMGAA. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of November, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-61

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**FY24 Capital Budget Amendment - Rental Car Care Facility Improvements - CIP1242**
Date:	**November 21, 2023**

Proposed Motion

To authorize an Amendment of the FY24 Capital Budget to add $200,000 to the Rental Car Care Facility Improvements Project, for the purchase and site preparation of a Kiosk for the Car Rental Return Lot under CIP 1242. This will be funded with CFC funds.

Narrative

The growth of commercial service at the Airport benefits the car rental companies and generates revenue for the Airport through Customer Facility Charges (CFC). CFC's are daily transaction fees imposed upon a customer renting a vehicle from an on-airport car rental company. CFC revenues are used to pay for costs associated with the design and construction of facilities or improvements used for the car rental companies located at the Airport.

Our current Car Care Facility is outdated, inadequate, and lacks the capacity and efficiency needed to service our customers effectively. This facility is currently being upgraded and expanded to accommodate the increased number of rental cars presently in service. An additional Kiosk in the Car Rental Return Lot is needed since a new rental car company will be operating at the Airport in addition to the existing rental car companies.

Fiscal Impact

Requesting to have $200,000 in additional funds, added to the Rental Car Care Facility Improvements Project, for the purchase and site preparation of a Kiosk for the Car Rental Return Lot, utilizing CFC funds under CIP 1242.

Attachment(s)

N/A

RESOLUTION NO. 23-61

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an amendment of the FY24 Capital Budget to add $200,000 to the Rental Car Care Facility Improvements Project, for the purchase and site preparation of a Kiosk for the Car Rental Return Lot under CIP 1242. This will be funded with CFC funds;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an amendment of the FY24 Capital Budget to add $200,000 to the Rental Car Care Facility Improvements Project, for the purchase and site preparation of a Kiosk for the Car Rental Return Lot under CIP 1242. This will be funded with CFC funds. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 21st day of November, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-62

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Customer Service Booth - Rental Car Care Facility Improvements – CIP 1242**
Date:	**November 21, 2023**

Proposed Motion
To authorize the purchase of one (1) Customer Service Booth (Kiosk), for the Rental Car Return Lot, from Madison Industries (Madison) in an amount not to exceed $94,783 under CIP 1242.

Narrative
The growth of commercial service at the Airport benefits the car rental companies and generates revenue for the Airport through Customer Facility Charges (CFC). CFC's are daily transaction fees imposed upon a customer renting a vehicle from an on-airport car rental company. CFC revenues are used to pay for costs associated with the design and construction of facilities or improvements used for the car rental companies located at the Airport.

Our current Car Care Facility is outdated, inadequate, and lacks the capacity and efficiency needed to service our customers effectively. This facility is currently being upgraded and expanded to accommodate the increased number of rental cars presently in service. With the addition of a new rental car company to begin operating at the Airport, we need to provide a Kiosk for them at the Rental Car Return Lot.

Due to the urgent need for the kiosk, Airport staff is unable to issue a formal solicitation for the procurement, as required by the Airport's Procurement Policy. Staff secured a price quote from Madison, the company that provided the existing kiosks, in order to obtain a similar kiosk in materials, look, and size. Staff contacted 7 different companies and received an estimate to ensure the pricing received from Madison was in line with the product requested.

Fiscal Impact
This purchase was included in the FY24 Capital Budget utilizing $94,783 in CFC Funding under CIP 1242.

Attachment(s)
Proposal

RESOLUTION NO. 23-62

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the purchase of one (1) Customer Service Booth (Kiosk), for the Rental Car Return Lot, from Madison Industries (Madison) in an amount not to exceed $94,783 under CIP 1242;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the purchase of one (1) Customer Service Booth (Kiosk), for the Rental Car Return Lot, from Madison Industries (Madison) in an amount not to exceed $94,783 under CIP 1242. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of November, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

MADISON

www.madisonind.com

"ENGINEERED PRODUCTS FOR THE WORLD"

The Symbol of Quality

November 8, 2023

Mesa Gateway Airport
6010 S Sossaman Rd
Mesa, AZ 85212
Attn: Mr. Brent White

Jobsite Information:
Mesa Gateway Airport
6010 S Sossaman Rd
Mesa, AZ 85212

Proposal # MCA-23-JF068
Estimate ID # N/A

In accordance with your request, we are pleased to quote the following:

Budgetary price to engineer, fabricate, deliver and install booths per the scope of work and terms in Exhibit "B"

Contract Price $94,783.00

Payment Terms: Per Payment Terms in Exhibit "B"

Notes: Terms subject to verification of a completed credit application.
Price does not Include costs of special union or code requirements that may be incurred in certain areas. These costs will be billed at cost + 15% on the final invoice.

PROPOSAL IS SUBJECT TO ACCEPTANCE WITHIN 30 DAYS, DELIVERY WITHIN 160 DAYS FROM ACCEPTANCE. IF MADISON INDUSTRIES, INC. or any assignee thereof is required to employ counsel, or to bring legal action to collect the above price of any part thereof you will pay in addition, reasonable attorney's fees, court costs and cost of any investigation necessary. All engineering drawings and calculations are the property of MADISON INDUSTRIES, INC. unless otherwise stipulated hereon; this proposal is submitted contingent upon strikes, fires, accidents, acts of God and war, and other causes beyond our control: terms of sale, as above. Buyer shall, in addition to the payments required under the terms of the proposal, pay all sales, use and transfer taxes, whether national, state or local, however designated, which are levied or imposed by reason of the project contemplated. Buyer shall reimburse Madison Industries, Inc. for the amount of any such taxes paid or accrued by Madison Industries, Inc. as a result of the project.

APPROVED AND ACCEPTED:

By_____

Print Name_____

Date_____

MADISON INDUSTRIES

_____
Justin R. Frank, National Accounts Manager

CALIFORNIA
2961 W. MacArthur Blvd. Suite 211
Santa Ana, CA 92704
(562) 484-5099
Fax (562) 402-6699

GEORGIA
1035 Iris Drive Conyers,
GA 30094
(770) 483-4401 Fax
(770) 785-7967

ARCHITECTURAL PRODUCTS, BUILDINGS, CANOPIES and CARWASHES

Exhibit B

Proposal #MCA-23-JF068

Budgetary Price and Terms:

Budgetary Cost to Fabricate and Deliver the following structures:

I.	Engineering drawings and state certification	$4,500.00
II.	One (1) 8'-0" x 12'-0" Customer Service Booth	$67,640.00
III.	Delivery	$4,800.00
IV.	Installation	$9,620.00
V.	Sales Tax	$8,223.00
		$94,783.00

Payment Terms:

1. 45% to initiate fabrication
2. 45% prior to delivery
3. 100% upon completion.

Notes:

1. Pricing excludes prevailing wage rates for Meas, AZ
2. Price does not include cost of special Union and Code requirements that may be incurred in certain areas. These costs will be added to the final billing plus 15%.
3. If any discrepancies are found between scope of work provided and Madison drawings, the drawings shall take precedence.
4. Pricing is budgetary and will be confirmed upon completion of state approved drawings and when booth is ready to release for fabrication.

Scope of work for One (1) 8'-0" x 12'-0" Customer Service Booth

Items Furnished and Installed by Madison

1. Primed Rigid structural framing.
2. Pre-finished white interior wall panels
3. Exterior wall construction:
   a. Pre-finished ACM wall panels with "route and return" installation method. Stock color to be selected by customer.
   b. Insulation per code requirements.
4. Roof construction to consist of steel panels with polyisocyanurate rigid insulation covered with a fully adhered roofing membrane.
5. Pre-finished white ceiling panels.
4. Johnsonite Inertia Black rubber flooring and 4" rubber cove base over cement subfloor attached to structural frame.
6. One (1) 3068 hollow metal exit door with view window, frame and hardware.
7. All glazing to be insulated tempered clear glass in an anodized aluminum sash, to also include three (3) manual customer service sliding windows with insulated glass.
8. Exterior customer service counter to be stainless steel.
9. Stainless steel interior work counter laminated to ¾" plywood.
10. Onsite installation and equipment rental.

Electrical

1. All lighting per specifications and drawings.

2. 100 amp single phase service panel.
3. All switches, isolated receptacles, receptacles, j-boxes and conduits.
4. All electrical and mechanical work to comply with national electrical codes (NEC).
5. Furnishing and installation of main service disconnect, CT Cabinet and meter shall be by others.
6. Final hook up to the electrical service and testing shall be by others.

HVAC

1. Furnish and install one (1) Mitsubishi ductless system.
2. Madison to run condensate drain line to exterior of booth. Final connection to terminating point by EHI's General Contractor.
3. Final hook up of condenser, start up and testing to be performed onsite by customers General Contractor.

Items Not By Madison

1. Permits, licenses, inspection.
2. Signage.
3. All concrete work.
4. All concrete scanning
5. Wall coverings, if applicable.
6. Fire sprinkler system if required.
7. Fire alarm devices and smoke detectors.
8. Telephone, computers and data equipment.
9. Final hook up to electrical service, main disconnect, power mast, meter and testing.
10. Any items not listed in the scope of work.
11. Any items listed as being by others in the scope of work.

Warranty

A one (1) year parts and labor warranty is provided for items manufactured by Madison Industries, Inc. The manufacturer's warranty will be passed on for any parts not manufactured by Madison Industries, Inc. This warranty is effective as of the completion date of field installation. The warranty is only effective when the building is reviewed and a punch list is signed by the Customers' Project engineer and a Madison Industries Representative within thirty (30) days of completion in the field.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-63

To:	**Board of Directors**
From:	**Lori Collins, Director of Business and Economic Development**
Through:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Sun Country, Inc. Operating Agreement**
Date:	**November 21, 2023**

Proposed Motion
Authorizing the Executive Director to execute an Air Carrier Operating Agreement with Sun Country, Inc. for commercial air service at the Airport.

Narrative
Sun Country, Inc. ("Sun Country") is a privately held company based in the Twin Cities of Minneapolis-St. Paul. The award-winning airline is a leader in leisure travel flying to popular destinations across North America, Central America, and the Caribbean, having earned a reputation for offering world-class service at an affordable price.

Sun Country recently notified the Phoenix-Mesa Gateway Airport Authority ("Authority") that it intends to resume seasonal, non-stop service from the Phoenix-Mesa Gateway Airport to Minneapolis-St. Paul International Airport returning in October 2023.

The Air Carrier Operating Agreement between the Authority and Sun Country outlines the requirements for offering commercial passenger service at the Airport, identifies the applicable changes for facilities and services at the Airport, and contractually obligates Sun Country to adhere to the Airport's Rules and Regulations and Minimum Standards.

Fiscal Impact
Variable revenues are difficult to forecast because they are based on passenger activity. However, the Airport anticipates increases in concessionaire revenue, rental car fees, Car Rental Facility Charges (CFC's), parking fees, Passenger Facility Charges (PFC's) and fuel service charges.

Attachment(s)
Air Carrier Operating Agreement

RESOLUTION NO. 23-63

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the Executive Director to execute an Air Carrier Operating Agreement with Sun Country, Inc. for commercial air service at the Airport;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the Executive Director to execute an Air Carrier Operating Agreement with Sun Country, Inc. for commercial air service at the Airport. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 21st day of November, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

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Phoenix-Mesa Gateway Airport Authority

Air Carrier Operating Agreement

with

Sun Country, Inc.

Effective Date: November 1, 2023

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Phoenix-Mesa Gateway Airport Authority
AIR CARRIER OPERATING AGREEMENT

This Air Carrier Operating Agreement (the "Agreement") is executed to be effective the 1st day of November 2023 (the "Effective Date") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY ("PMGAA")**, a joint powers airport authority authorized under the laws of the State of Arizona ("PMGAA"), and **Sun Country, Inc.** ("CARRIER"). PMGAA and CARRIER may be referred to collectively as "Parties," and each separately may be referred to as a "Party."

WITNESSETH:

WHEREAS, PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "Airport"); and

WHEREAS, PMGAA has the right to enter into Agreement, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, CARRIER provides commercial airline services, charters, flight crews, aircraft and desires to use the Airport facilities for commercial operations; and

WHEREAS, CARRIER desires to obtain certain non-exclusive rights to use the common use areas of the passenger terminal, services and privileges in connection with the use of the Airport and its facilities, and PMGAA is willing to grant the same to CARRIER upon the terms and conditions hereinafter stated; and

WHEREAS, the Parties agree to enter into this Agreement, specifying the rights and obligations of the Parties with respect to the operation of the Airport by PMGAA and the use and/or occupancy of the Airport by CARRIER;

NOW, THEREFORE, for good and valuable consideration, the mutual covenants and conditions herein set forth and the sufficiency of which is agreed to by the Parties, the Parties hereby agree as follows:

1. PERMITTED ACTIVITIES AND CONDITIONS OF AIRPORT USE.

1.1 CARRIER shall have the right to use, in common with others, the passenger terminal, taxiways, runways and air navigational aids of the Airport for the purpose of conducting its Federal Aviation Regulation (FAR) Part 121 scheduled domestic operations, public charter, private charter and the landing and taking off of aircraft incidental thereto, and provided, however, such activities and services are performed in strict accordance with applicable PMGAA Minimum Standards, upon terms and conditions as herein provided.

1.2 RESERVED.

1.3 CARRIER shall not engage in any other commercial or revenue producing activity at the Airport (excluding charter activities by CARRIER, and charter activities requested by PMGAA) without first applying for and receiving written approval for such activity from PMGAA. In the event any other commercial or revenue producing activity is engaged in by CARRIER prior to obtaining such approval, without waiver or limitation of any other remedies available to PMGAA at law or equity, CARRIER hereby agrees to remit to PMGAA the sum equal to TEN PERCENT (10%) of gross billings for such unauthorized activity, plus any expenses incurred by PMGAA in the course of any audit conducted for all of CARRIER's activities.

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1.4 CARRIER shall at all times comply with all Federal, State and local laws, ordinances, rules and regulations which are applicable to its operations or the Premises itself (including but not limited to the Americans with Disabilities Act), including all laws, ordinances, rules and regulations adopted after the Effective Date. Carrier shall at all times comply with the PMGAA Rules and Regulations, as the same may be amended from time to time in the Authority's sole and absolute discretion.

2. TERM.

2.1 Initial Term. Subject to earlier termination as provided herein, the term of this Agreement shall be one (1) year, commencing on the Effective Date (the "Term").

2.2 Renewal Term. Provided CARRIER is not then in default of this Agreement, the Term may be extended for one (1) year, without action by the Parties, unless otherwise terminated as provided herein.

2.3 Either Party may terminate this Agreement by providing the notified Party ninety (90) calendar days advance written notice of the terminating Party's intent to do so.

3. NONEXCLUSIVE RIGHTS.

CARRIER shall have the non-exclusive right to occupy and use the designated areas of the Airport while in compliance with the terms and conditions of this Agreement. All rights granted to CARRIER under this Agreement are nonexclusive, except by express written agreement herein. PMGAA may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport that PMGAA deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with CARRIER's use of the Airport.

3.1 CARRIER shall not schedule or advertise flight schedules originating from or destined for Phoenix-Mesa Gateway Airport without prior coordination with PMGAA and confirmation from PMGAA of terminal availability.

3.2 Pursuant to PMGAA's Common Use Facilities Operating Procedures (attached as **EXHIBIT C**), CARRIER shall submit a copy of CARRIER's proposed schedule to PMGAA no less than 60 days prior to the schedule effective date. Along with the schedule submission, CARRIER shall include the name and contact information of the individual responsible for setting CARRIER's schedule at the Airport.

3.3 PMGAA shall provide CARRIER with common use of one (1) boarding gate and four (4) ticketing positions. In addition, CARRIER shall have common use access to additional ticket counters, gate hold rooms, and the baggage claim area for scheduled flight operations, the scheduling of such use is subject to the guidelines outlined in PMGAA's Common Use Facilities Operating Procedures. Common use requirements shall be scheduled with PMGAA's Operations & Maintenance department prior to any planned use.

3.4 PMGAA has implemented Common Use Facilities Operating Procedures. PMGAA reserves the right to modify said procedures from time-to-time, as it deems necessary in its sole and absolute discretion and authority to accomplish its purposes. CARRIER shall at all times comply with these operating procedures.

3.5 PMGAA has implemented an Airport Security Program in a form acceptable to the Transportation Security Administration (TSA). PMGAA reserves the right to modify said program from time-to-time, as it deems necessary to accomplish its purposes. CARRIER shall at all times comply with the Airport Security Program and indemnify, defend, hold and save PMGAA, its board members, member governments, officers, officials, employees, and agents free and harmless for, from, and against any violations of said Security Program caused, or alleged to be caused, by the acts, errors or omissions of CARRIER, its employees, agents, invitees or contractors.

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4. RENTALS, FEES AND CHARGES.

4.1 General. Rent for use of any exclusive use space due and payable at the beginning of each month. All other fees are assessed at the time of each use, flight, or service, as applicable, and are due and payable no later than the twentieth (20th) day of the following month in which the use or activity occurred ("Fee Due Date"). The CARRIER shall self- report its flight activity monthly to PMGAA pursuant to Section 5. Delinquent rents and fees shall be assessed a finance charge in accordance with Section 4.11.2. Any ground handling services requested of PMGAA or other authorized service provider by Carrier shall be governed by a separate agreement. In any event, CARRIER shall be the responsible party for the purposes of this Air Carrier Operating Agreement, and therefore CARRIER shall pay, or cause to be paid, to PMGAA, the fees and charges as outlined below:

4.2 Landing Fees. CARRIER shall pay a landing fee at a rate equal to the amount reflected on the most current Airport Rates & Charges Schedule at the time of the aircraft operation, for each flight operated by or in conjunction with CARRIER that is subject to a landing fee. The weight used to determine the landing fee for any particular aircraft shall be its maximum certificated gross landing weight (MGLW), as certified by the Federal Aviation Administration.

4.3 Terminal Use Fees. Terminal Use includes ticket counter(s) and lobby area, secure hold room and boarding area podium, aircraft parking position, baggage claim area, and common use computer equipment per flight. CARRIER shall pay PMGAA a Terminal Use Fee in the amount reflected on the most current Airport Rates & Charges Schedule.

4.4 Common Use Set-up and Operating Fees. CARRIER shall pay PMGAA for common use terminal equipment, internet connection, and dark fiber per the most current Airport Rates & Charges Schedule.

4.5 Aircraft Parking Fees. CARRIER shall pay PMGAA a fee per the most recent Airport Rates & Charges Schedule for any aircraft occupying an aircraft parking position, including terminal gates and remote parking positions, for more than three hours; and for any portion of each 24-hour parking period. This fee shall be waived if the aircraft performed a revenue service operation the day prior or will perform a revenue service operation the day after being parked for more than three hours.

4.6 Passenger Facility Charges. CARRIER shall pay monthly to PMGAA, on or before the Twentieth (20th) day of each month (the "Due Date"), a PFC in the amount of Four and 50/100 Dollars ($4.50) for each Enplaned Passenger departing the Airport on an CARRIER Revenue Flight during the previous calendar month. The collection of said fees by CARRIER shall be subject to the terms, conditions and methods of collection set forth in the Aviation Safety and Capacity Expansion Act of 1990, Section 9110, at it now exists or is modified hereafter (the "PFC Act") and 14 CFR 158.53.

4.7 Monthly Tie Down Fees. CARRIER shall pay Monthly Tie Down Fees per Rates and Charges.

4.8 Fueling Fees. CARRIER shall execute a Fuel Service Agreement with PMGAA.

4.9 Aircraft Ramp Space and Services. CARRIER shall pay PMGAA monthly for any aircraft line services, out-of-station Aircraft Rescue and Firefighting (ARFF) services, operations safety officers, ground service equipment use, fuel spill response teams and any other space or service requirements as specified in the Airport Rates & Charges Schedule or, if not so specified in that Schedule, as determined by PMGAA (collectively, "Additional Services").

4.10 Other Fees. Unless specified otherwise herein, CARRIER shall pay PMGAA for its usage or rental of PMGAA equipment and the performance of services by PMGAA within TEN (10) business days of CARRIER's receipt of an invoice (the "Due Date") for same from PMGAA. The amount of such fees shall be as provided by separate agreement between CARRIER and PMGAA, or, in the absence of such agreement, as specified in the most current Airport Rates and Charges Schedule or Airport Fees, Services & Rental Rates in effect when the charge or fee was incurred. Failure to remit payment by the Due Date may result in the suspension of further equipment rentals or services until payment is made to PMGAA in full.

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4.11 With regard to the fees and charges specified in this SECTION 4, the following conditions and considerations shall apply:

4.11.1 Airport Rates & Charges Schedule. The Airport Rates & Charges Schedule and Airport Fees, Services and Rental Rates referred to in this Agreement may be revised from time to time. CARRIER shall pay the most current fee(s) at the time of the event or service, as applicable, unless specifically outlined in this Agreement. The current Airport Rates & Charges Schedule and the Airport Fees, Services and Rental Rates are attached as **EXHIBIT A** and is subject to change without prior notice or approval of CARRIER.

4.11.2 Finance Charges and Late Fees. If CARRIER fails to pay any charge due and owing to PMGAA in full on or before the applicable due date, CARRIER shall be responsible for interest on the unpaid fee or charge at the rate of EIGHTEEN PERCENT (18%) per annum from the due date until payment in full is made. In addition, in the event any payment is received more than TEN (10) days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent amount shall be due and payable in addition thereto.

4.11.3 Books and Records. CARRIER shall maintain permanent books, records and ledgers accurately reflecting the total passengers, and total number of monthly aircraft landings for all aircraft subject to a landing fee indicating the make, type (including model designation), registration number, maximum certificated gross landing weight, and arrival and departure time of each aircraft involved. These records shall be made available to PMGAA upon request. PMGAA may audit the books, records and ledgers maintained by CARRIER in accordance with this SECTION 4. In the event an audit reveals a deficiency of TWO PERCENT (2%) or greater in the amount of payment made pursuant to this SECTION 4, CARRIER shall not only pay such deficiency but also the cost of any audit performed by PMGAA.

5. REPORTING REQUIREMENTS.

5.1 CARRIER shall file with PMGAA written reports for the items specified below no later than the TENTH (10th) day of the calendar month following the month in which the specified activities occurred (the "Due Date"). Such reports shall cover all of CARRIER's Airport activities during said month, and include activity handled by CARRIER for other Air Transportation Companies not having an agreement with PMGAA providing for its own submission of activity data to PMGAA.

5.1.1 A complete listing of all of CARRIERS's actual aircraft landings at the Airport, including aircraft type and MGLW; and a listing, by destinations, of the number of flights that qualify under applicable waiver agreements for any landing fee waivers;

5.1.2 A complete listing of CARRIER's Enplaned Passengers and Deplaned Passengers, specified by and including the type of aircraft;

5.1.3 A complete listing, by date and flight number, of CARRIER's commercial cargo loaded and off loaded.

5.2 PMGAA shall have the right to rely on said activity reports in determining rentals and other charges due hereunder; provided, however, CARRIER shall have full responsibility for the accuracy of said reports. Payment deficiencies due to incomplete or inaccurate activity reports shall be subject to interest charges as set forth in SECTION 4.11.2 herein.

5.3 CARRIER shall at all times maintain and keep books, ledgers, accounts or other records wherein are accurately kept all entries reflecting the activity statistics to be reported pursuant to SECTION 5. Such records shall be retained by CARRIER for a period of THREE (3) years subsequent to the activities reported therein, or such other retention period as set forth in 14 CFR Part 249.7, and made available at Mesa, Arizona for audit and/or examination by PMGAA or its duly

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authorized representative during all normal business hours. CARRIER shall produce such books and records at Mesa, Arizona within THIRTY (30) calendar days of PMGAA's notice to do so or pay all reasonable expenses, including but not limited to, transportation, food, lodging and other related expenses, necessary for an auditor selected by PMGAA to audit said books and records.

5.4 The cost of audit, with the exception of the aforementioned expenses, shall be borne by PMGAA; provided, however, the total cost of said audit shall be borne by CARRIER if either or both of the following conditions exist:

5.4.1 The audit reveals an underpayment of more than TWO PERCENT (2%) of rentals, fees and charges due hereunder, as determined by said audit; and/or

5.4.2 CARRIER has failed to maintain true and complete books, records, accounts and supportive source documents in accordance with SECTION 5.

5.5 Payments. All payments due and payable hereunder shall be paid in lawful money of the United States of America, without set off, by check made payable to the Phoenix-Mesa Gateway Airport Authority and delivered to:

Phoenix-Mesa Gateway Airport Authority
Attn.: Accounts Receivable
5835 S. Sossaman Road
Mesa, Arizona 85212-0614

6. INSURANCE.

6.1 General. Carrier shall procure and maintain the following types and amounts of insurance for its operations at the Airport throughout the Term of this Agreement and any extension thereto:

Aircraft Liability insurance covering third party bodily injury and property damage, and passenger and contractual liabilities which shall protect and indemnify PMGAA from any and all claims arising in connection with aircraft movement on the Airport in amounts as are customarily carried by a carrier of like kind and size, but in no event less than $250,000,000.00 per occurrence. Such insurance shall also insure against third party liabilities arising from War Risk perils.

Airport Premises Liability insurance third party bodily injury and property damage, including coverage for "premises/operations," "products and completed operations," "host liquor" and "blanket contractual" liabilities in an amount not less than $250,000,000.00 per occurrence.

Comprehensive Automobile Liability insurance for all owned, non-owned and hired vehicles operated airside on the Airport that are assigned to or used in the performance of commercial activities in the amount of $25,000,000.00 per occurrence or combined single limit. If any hazardous materials are transported in conjunction with Carrier's business operations at or on the Airport, an MSC 90 endorsement shall be required in addition thereto.

Workers' Compensation insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000.

6.2 Additional Insurance. At any time during the Term of this Agreement, including any extension thereto, PMGAA may, in its reasonable determination decide that the insurance coverage required by this SECTION 6 is no longer adequate, require CARRIER to increase its coverage to commercially reasonable amounts.

6.3 Blanket Insurance. CARRIER's insurance obligations under this Agreement may be satisfied by means of the general corporate "blanket" policies carried by it and evidenced by the insurance carrier's standard certificates thereof.

6.3.1 Use of Proceeds. Proceeds of any liability and property damage insurance required under this SECTION 6 shall be applied toward extinguishing, satisfying or remedying the liability, loss or damage with respect to which such proceeds may be paid.

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6.4 Indemnity. To the fullest extent permitted by law CARRIER (as "indemnitor") shall indemnify, defend, hold and save PMGAA, its board members, and its member governments, officers, officials, employees, and agents (as "indemnitee") free and harmless of, for, from and against any and all Losses caused in whole or in part by (a) any act or omission of CARRIER (including indemnitor's officers, officials, agents, employees, contractors or invitees), (b) CARRIER's operations at the Airport, (c) CARRIER's violations of said Security Program caused, or alleged to be caused, by the acts, errors or omissions of CARRIER, its employees, agents, invitees or contractors, or (d) any default by CARRIER hereunder. This indemnification shall exclude responsibility for any consequential damages and for claims arising by reason of the negligent or wrongful act of PMGAA or its employees, contractors or agents. For purposes hereof "Losses" shall mean any and all losses, liabilities, judgments, suits, claims, damages, fines, penalties, costs and expenses (including reasonable attorneys and consultant fees, investigation costs, monitoring costs, remediation costs, and court costs), of any kind or nature." In carrying out the defense of any claim subject to its indemnification obligations hereunder, CARRIER shall use counsel reasonably acceptable to PMGAA.

6.5 Insurance Form. Each insurance policy obtained pursuant to this SECTION 6, except for Workers' Compensation and Employer Liability policies, shall: (i) name PMGAA as a certificate holder or an additional insured to the extent of Operator's contractual indemnity obligations; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to PMGAA not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in the case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of PMGAA. Operator shall not permit any insurance policy to be canceled or modified without PMGAA's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A - VII or higher from the A.M. Best Company, or an equivalent rating approved by PMGAA.

7. DISABLED OR ABANDONED AIRCRAFT.

7.1 Should any aircraft owned or operated by CARRIER, through accident or for any other reason, become disabled or be abandoned in any area which could interfere with the continuous, normal operations of any of the runways, taxiways and airfield facilities at the Airport, CARRIER shall, at CARRIER'S sole cost and expense:

7.1.1 Immediately remove said aircraft to such location as may be designated by PMGAA, unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agency or agencies of the federal government; and

7.1.2 In the event of any accident where federal investigation in place is required, immediately upon receiving clearance to do so from the appropriate federal agency, remove said aircraft and any wreckage or debris resulting therefrom to the area(s) designated by said federal agency authorizing such removal; otherwise, such aircraft wreckage and debris shall be immediately removed from the Airport or stored at a location approved by PMGAA.

7.2 Should CARRIER fail to proceed immediately to remove disabled aircraft, or should aircraft owned or operated by CARRIER be abandoned on the Airport, PMGAA shall have the right to remove such aircraft by any means PMGAA deems necessary under the circumstances, and CARRIER shall, to the fullest extent permitted by law, indemnify, defend, keep and hold PMGAA, its members, board of directors, officers, agents, officials, servants, employees and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense (including costs of suit and attorneys' fees and expenses) incurred by PMGAA or claimed by anyone by reason of removal of said aircraft, injury to persons or property or damages to such aircraft caused by such removal, as well as storage costs therefor. CARRIER shall reimburse PMGAA for any costs incurred by PMGAA in removing and storing any aircraft, at PMGAA's sole discretion, and as provided herein in performing authorized maintenance on its aircraft on the Airport.

7.3 Sound and Noise Suppression. CARRIER shall comply fully with Airport Rules & Regulations and

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Minimum Standards when performing high-speed engine test operations at the Airport, if any, and SECTION 10.3 to mitigate excessive ambient sound and/or noise that may be generated incident thereto and that have or may have an adverse effect on other Airport tenant operations and the surrounding community. CARRIER acknowledges and agrees that the Airport Rules & Regulation for such test operations may change from time to time at PMGAA's sole and absolute discretion. CARRIER also agrees that any costs associated with compliance with Airport Rules & Regulations for sound or noise suppression or mitigation shall be borne solely by CARRIER.

8. ENVIRONMENTAL COMPLIANCE.

CARRIER shall at all times during the existence of this Agreement promptly observe and comply with applicable Federal, State, and local laws, regulations, rules and standards concerning the environment (collectively, the "Environmental Laws"). CARRIER shall be responsible for collecting, storing, recycling and/or disposing of its hazardous or toxic waste, if any, in compliance with the Environmental Laws governing the storage and disposal of hazardous or toxic waste. CARRIER shall ensure its employees and agents are aware that domestic drains, storm drains, or industrial waste drains shall not be used to dispose of gasoline, hydraulic fluid, solvents, concentrated cleaning agents or any other hazardous or toxic materials. Where so required, PMGAA may act on behalf of CARRIER, as and if appropriate, to dispose of CARRIER's waste, sign manifests on behalf of CARRIER and assign such disposal to CARRIER's EPA identification (ID) number. CARRIER shall repay PMGAA the costs and fees for doing so within TEN (10) days of demand therefor. CARRIER shall, to the fullest extent permitted by law, indemnify, defend and hold PMGAA, its members, board of directors, officers, agents, officials, employees, and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense including, but not limited to, the costs of suit and reasonable attorneys' fees and expenses of any nature whatsoever arising out of or related to CARRIER's failure to comply with the Environmental Laws.

9. TAXES AND RELATED IMPOSITIONS.

In the event any governmental authority shall impose a tax or imposition based upon this Agreement, upon CARRIER or its aircraft, or upon payments to be made hereunder, CARRIER shall pay such amounts either to PMGAA or the appropriate governmental authority on or before any delinquency date. Specifically, CARRIER shall be responsible for any transaction privilege, sales, excise or other similar tax except income taxes as a result of this Agreement. CARRIER shall also pay all licensing or permitting fees necessary or required by law for the conduct of its aeronautical operations hereunder, or any other matters hereunder. CARRIER shall be responsible for any property interests created hereunder, which may constitute or be deemed to be a possessory interest for purposes of taxation.

10. RULES, REGULATIONS AND MINIMUM STANDARDS.

10.1 CARRIER shall at all times comply with all federal, State and local laws and ordinances, rules and regulations, which are applicable to its operations, or the operation, management, maintenance, or administration of the Airport, including but not limited to the Americans with Disabilities Act, and all laws, ordinances, rules and regulations adopted after the Effective Date. CARRIER shall at all times comply with all Airport Rules and Regulations, and Minimum Standards established by PMGAA regarding operation and maintenance of the Airport, copies of which are attached as **EXHIBIT B** and are incorporated herein. CARRIER will be responsible for controlling and preventing disruptive pedestrian and vehicle traffic, if any, associated with its activities on the Airport. CARRIER also shall display or provide copies to PMGAA of any permits, licenses, or other evidence of compliance with laws upon request.

10.2 PMGAA shall operate the Airport in compliance with all applicable Federal state and local laws, ordinances, rules and regulations, and shall enforce the Airport Rules and Regulations established by it to ensure the effective and orderly operation of the Airport, and to prevent any disruption caused by CARRIER's operations at and on the Airport.

10.3 CARRIER acknowledges receipt of and agrees to abide by PMGAA's *Fly Friendly* noise abatement procedures and will provide such information to flight crews and/or students, post

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the information in CARRIER's flight planning area, and use the procedures to the extent possible when consistent with safety and air traffic control directives.

11. DEFAULT: TERMINATION BY PMGAA.

11.1 General Grounds. PMGAA may terminate this Agreement upon the occurrence of any of the following events:

11.1.1 Failure of CARRIER to perform any of its obligations under this Agreement, or any other contract, license or agreement between the Parties, which failure shall not be cured within FIVE (5) business days after delivery by PMGAA **to** CARRIER of a written notice of such failure.

11.1.2 The filing of any lien against the Airport because of any act or omission of CARRIER which is not discharged within FIVE (5) business days of receipt of actual notice of such lien by CARRIER.

CARRIER may terminate this Agreement upon the occurrence of any of the following events:

11.1.3 Failure of PMGAA to perform any of its obligations under this Agreement, or any other contract, license or agreement between the Parties, which failure shall not be cured within FIVE (5) business days after delivery by CARRIER **to** PMGAA of a written notice of such failure.

11.1.4 The filing of any lien against the CARRIER because of any act or omission of PMGAA which is not discharged within FIVE (5) business days of receipt of actual notice of such lien by PMGAA.

11.2 Failure to Pay Fees. PMGAA may declare CARRIER in default of this Agreement by giving CARRIER FIVE (5) business day's written notice of CARRIER's failure to timely pay any fees or payments due pursuant to this Agreement. If CARRIER fails to cure such payment default within said FIVE (5) business day period, PMGAA may, in its sole discretion, elect to do any one or more than one of the following:

11.2.1 Institute action(s) to enforce this Agreement; or

11.2.2 Terminate this Agreement automatically without further notice to CARRIER; or

11.2.3 Exercise any other remedy allowed by law or equity.

11.3 Failure to Provide Insurance. In the event CARRIER at any time fails to maintain all insurance coverage required by this Agreement, PMGAA shall have the right, upon written notice to CARRIER, **to** immediately terminate this Agreement or secure the required insurance at CARRIER's expense.

11.4 No Waiver by PMGAA. No waiver by PMGAA of any default by CARRIER in the performance of its obligations under this Agreement shall be deemed to be a waiver of any subsequent default by CARRIER in the performance of any such obligations.

12. GOVERNING LAW; ATTORNEY'S FEES.

The laws of the State of Arizona shall govern this Agreement and the matters set forth therein, without regard to its conflict of law principles. Venue of any action brought under this Agreement shall, at the option of PMGAA, lie in Maricopa County, Arizona. In the event of any litigation or arbitration between PMGAA and CARRIER arising under this Agreement, the successful party shall be entitled to recover its attorney's fees, expert witness fees and other costs incurred in connection with such litigation or arbitration.

13. NONWAIVER.

PMGAA's right to revoke this Agreement shall be absolute. Any election by PMGAA to not enforce any

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provision of this Agreement, or any failure by PMGAA to exercise any of the remedies allowed PMGAA under this Agreement, shall not operate as a waiver by PMGAA of any of its right hereunder.

14. ASSIGNMENT.

CARRIER shall not assign or transfer any right or interest in this Agreement.

15. OTHER RESTRICTIONS.

CARRIER shall comply with all rules, laws, ordinances, and statues of any governmental authority having jurisdiction over the Airport or the matters provided in this Agreement.

16. AIRPORT SECURITY.

PMGAA maintains an approved Airport Security Plan (the "Security Plan") pursuant to 49 CFR Parts 1540 and 1542. CARRIER shall at all times comply with the Security Plan and the written and verbal directives issued by PMGAA supporting the Security Plan.

16.1 The CARRIER shall immediately correct physical or procedural deficiencies which are contrary to the Security Plan, security directives, security bulletins, or verbal notifications existing now or in the future. CARRIER is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards of the Security Plan.

16.2 CARRIER shall, to the fullest extent permitted by law, indemnify, defend, and hold PMGAA harmless for, from, and against any violations of the Security Plan committed by any agents, employees, invitees, subcontractors, or independent contractors of the CARRIER.

16.3 CARRIER shall conduct and document all self-audits and self-inspections as required by the TSA or PMGAA and make such audits available for inspection.

16.4 CARRIER shall designate a primary security coordinator to receive security -related briefings, bulletins, and sensitive security information ("SSI").

16.5 PMGAA reserves the right to modify the Security Plan from time-to-time, as necessary, or as directed by the TSA.

17. AIRPORT SECURITY BADGE.

17.1 Carrier employees/contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by PMGAA, TSA, or other entities having jurisdiction at PMGAA.

17.2 CARRIER and employees/contractors shall comply with all security-related audits, inspection, and screenings conducted by PMGAA.

17.3 CARRIER will immediately notify PMGAA and promptly return badges to the Airport Badging Office when badge holders terminate employment, the badge is no longer needed, or the employee/contractor is on extended leave.

17.4 Misuse of a badge or security procedures will bring about punitive action including suspension or revocation of one or all badges.

18. NOTICE.

18.1 All notices required or permitted under this Agreement shall not be deemed effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses:

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TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn.: Business Development Department
5835 S. Sossaman Road
Mesa, Arizona 85212-0614

TO CARRIER: Sun Country, Inc.
Attn: Senior Director of Airport Affairs
2005 Cargo Road
Minneapolis, MN 55450
With copy to: General Counsel
legal@suncountry.com

18.2 Notices shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service. Any Party may designate in writing a different address for notice purposes pursuant to this SECTION.

19. PRIOR AGREEMENTS AND PERMITS.

Upon execution hereof, this Agreement shall supersede and cancel any prior agreements between PMGAA and CARRIER with respect to the business activities governed hereby. CARRIER shall not construe PMGAA's execution of this Agreement as a waiver of any prior indebtedness or obligation to PMGAA under any prior agreement or license, nor does PMGAA waive any claim or cause of action arising therefrom.

20. CORPORATE AUTHORIZATION.

In executing this Agreement, CARRIER represents and warrants to PMGAA that if CARRIER is a corporation, CARRIER has obtained and been granted the full right, power and authority to enter into this Agreement.

21. MISCELLANEOUS.

21.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

21.2 No Waiver. No provision of this Agreement may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

21.3 Non-Waiver of Rights. No waiver or default by PMGAA of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by CARRIER shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by CARRIER, and PMGAA shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

21.4 Amendment. Only a written instrument executed by the Parties may amend this Agreement.

21.5 Invalid Provisions. Should any provision of this Agreement or any application thereof be held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

21.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

21.7 Entire Agreement. This Agreement, including **EXHIBITS** attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

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22. INCORPORATION OF RECITALS.

The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective on the Effective Date specified above.

FOR PMGAA:

_____

By: J. Brian O'Neill, A.A.E

Its: Executive Director/CEO

Date Signed: _____

FOR CARRIER:

DocuSigned by:
Joe Taney
CAD2BEEEDA5D48F...

By: Joe Taney

Its: Vice President Ground Operations

Date Signed: 10/9/2023

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EXHIBIT A

Airport Rates and Charges

https://www.gatewayairport.com/documents/documentlibrary/airportratesandcharges/airport_rates_charges_22-74_eff_01_01_2023%20.pdf?Uniqueifier=eWfvmOvMe3

Airport Fees, Services and Rental Rates

https://www.gatewayairport.com/documents/documentlibrary/execdirsect/executive_approved_airport_fees_services_rental_rates.pdf?Uniqueifier=InMUgdRs7Y

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EXHIBIT B

Minimum Standards

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_minimum_standards.pdf

Rules & Regulations

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rules_regulations.pdf

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EXHIBIT C

CUSE Procedures

https://www.gatewayairport.com/documents/documentlibrary/regulatory%20documents/pmgaa_cuse%20procedures%2022-01%2020220420.pdf?Uniqueifier=Ly6hs22lAP

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: September 2023 Financials
Date: November 21, 2023

Attached is the monthly Financials Report for September 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
September, 2023

	Month of September 2023				Y-T-D as of September 2023			
	September FY23 Actual	September FY24 Actual	YOY Variance	B/(W)	YTD FY23 Actual	YTD FY24 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	25,578	35,506	9,928	39%	79,513	87,423	7,910	10%
Fuel Flowage Fees	56,914	49,628	(7,286)	-13%	153,403	172,853	19,450	13%
Landing Fees	97,327	107,739	10,412	11%	287,431	386,066	98,635	34%
Lease Income Aero	232,139	315,960	83,821	36%	869,228	1,071,010	201,782	23%
Fuel Sales	698,135	736,639	38,504	6%	1,862,961	1,739,246	(123,715)	-7%
Services Sold - Aero	404,942	392,653	(12,289)	-3%	1,086,779	1,509,942	423,163	39%
Sub-total Aero Operating Revenues	1,515,035	1,638,125	123,090	8%	4,339,315	4,966,540	627,225	14%
Non-Aeronautical Operating Revenues								
Concessions	63,912	88,824	24,912	39%	270,783	287,486	16,703	6%
Lease Income Non-Aero	107,663	107,919	256	0%	327,692	340,141	12,449	4%
Parking	336,226	349,869	13,643	4%	1,275,612	1,406,092	130,480	10%
Rental Car Fees	104,592	109,918	5,326	5%	364,072	362,110	(1,962)	-1%
Svcs Sold - Non Aero	2,239	1,686	(553)	-25%	6,426	24,562	18,136	282%
Sub-total Non-Aero Operating Revenues	614,632	658,216	43,584	7%	2,244,585	2,420,391	175,806	8%
Total Operating Revenues	**2,129,667**	**2,296,341**	**166,674**	**8%**	**6,583,900**	**7,386,931**	**803,031**	**12%**
Operating Expenses								
Cost of Goods Sold	497,824	479,092	18,732	4%	1,367,329	1,133,072	234,257	17%
Personnel	861,799	803,671	58,128	7%	2,267,963	2,404,448	(136,485)	-6%
Comm & Utilities	97,649	96,329	1,320	1%	310,278	332,414	(22,136)	-7%
Contractual Services	430,712	583,172	(152,460)	-35%	1,421,570	1,695,663	(274,093)	-19%
Insurance	50,629	52,215	(1,586)	-3%	152,167	148,688	3,479	2%
Other	13,542	29,515	(15,973)	-118%	55,084	78,406	(23,322)	-42%
Repair & Maintenance	63,705	37,901	25,804	41%	228,290	129,233	99,057	43%
Supplies & Materials	62,891	64,595	(1,704)	-3%	193,918	199,812	(5,894)	-3%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,812,142]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**2,078,751**	**2,146,490**	**(67,739)**	-3%	**5,996,599**	**6,121,736**	**(125,137)**	-2%
Operating Income (Loss) Before Depreciation	**50,916**	**149,851**	**98,935**	194.3%	**587,301**	**1,265,195**	**677,894**	115%
	2.4%	6.5%			8.9%	17.1%		
Depreciation		1,150,079				3,493,766		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **November 21, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Request for Qualifications	2024-002-RFQ	Car Rental Concessions	November 2023
Request for Qualifications	2024-007-RFQ	Airport Entry Monument Design Services	November 2023
Request for Proposals	2024-010-RFP	Fire Pumps & Installation Services	November 2023
Request for Proposals	2024-008-RFP	Access Control & Alarm Monitoring System Services	December 2023
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	December 2023

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Invitation for Bid	2024-011-IFB	Refuel Defuel Cart	November 2023	December 2023
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Airport Facilities	November 2023	January 2024
Invitation for Bid	2024-012-IFB	Taxiway Whiskey Rehabilitation	December 2023	February 2024
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	December 2023	March 2024
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage Improvements	January 2024	April 2024
Request for Qualifications	2024-013-RFQ	Primary Legal Services	January 2024	April 2024

Request for Proposals	2024-014-RFP	Website Redesign	January 2024	April 2024

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $12,550.00

If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

NOTICE AND AGENDA OF MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Phoenix-Mesa Gateway Airport Authority and to the public that the Phoenix-Mesa Gateway Airport Authority will hold a telephonic meeting open to the public on **Tuesday, December 19, 2023 beginning at 9:00 a.m.** in the Board Room (Saguaro A & B) of the Gateway Administration Building, 5835 South Sossaman Road, Mesa, Arizona. The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03 (A)(3)&(4).

The agenda for the meeting is as follows:

1. **Call to Order** (Mayor Chip Wilson, Chair)
   Members of the Phoenix-Mesa Gateway Airport Authority will attend either in person or via videoconference.

2. **Roll Call** (Mayor Chip Wilson, Chair)

3. **Call to the Public**
   Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. Maximum of three minutes per speaker.

4. **Executive Director's Report** - J. Brian O'Neill, A.A.E., Executive Director/CEO

5. **Presentation: Gateway Tomorrow Planning Study** – Tony Bianchi, Planning Project Manager

6. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **November 21, 2023**.

   b) **Resolution No. 23-64 –** Adopting the revised **Airport Rates and Charges** schedule with an effective date of January 1, 2024.

   c) **Resolution No. 23-65 –** Authorizing Professional Service Agreements for On-Call Engineering Services with **Kimley-Horn and Associates, Inc**. and **Olsson, Inc**. for various grant and non-grant projects.

   d) **Resolution No. 23-66 –** Authorizing the Executive Director to execute an Air Carrier Operating Agreement with **Allegiant Air, LLC** for commercial air service at the Airport.

   e) **Resolution No. 23-67 –** Authorizing a contract with **Premise One, LLC** to provide preventative maintenance for Access Control and Alarm Monitoring System Services (ACAMS) at a fixed fee, in an amount not to exceed $243,237.98, for the length of the base term of three years, with two optional one-year extensions not to exceed $85,992.01 and $88,571.77 respectively. This amount does not include variable costs for projects or Ad Hoc repairs.

   f) **Resolution No. 23-68 –** Authorizing an **Amendment of the FY24 Capital Budget** to add $428,639.07 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242)

CMAR Contract, with Willmeng Construction, Inc., due to owner-driven changes that are necessary to meet the actual needs of the car rental companies..

g) **Resolution No. 23-69 –** Authorizing a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with **Willmeng Construction, Inc.,** due to requests from the rental car companies and SRP for changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $428,639.07 under CIP 1242.

h) **Resolution No. 23-70 –** Authorize an **Amendment of the FY24 Capital Budget** to provide an additional $1,400,000 to the existing $800,000 budget due to a 100% ADOT Grant for Taxiway W PCCP Repairs under CIP 744. The new project total will be $2,200,000.

Consideration and Possible Approval of:

7. **Resolution No. 23-71 –** Authorizing a Land Lease Agreement with **VTWV GATEWAY INDUSTRIAL I, LLC** for Lots 101, 102, and 103, consisting of approximately 7.5 acres (327,252.46 SF). The lease term is sixty (60) years, with no renewal options. The annual Base Rent is $202,896.60 annually, payable in equal monthly installments of $16,908.05 plus applicable taxes.

8. **Board Member Comments/Announcements**

9. **Next Meeting: Tuesday, January 16, 2024 at 9:00 a.m.**

10. **Adjournment**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Misty Johnson at 480-988-7607 or mrjohnson@gatewayairport.com. Requests should be made as early as possible to allow time to arrange the accommodation.

Phoenix-Mesa Gateway Airport

- **Record-Setting Passenger Activity in October 2023**
- **Airport Owners Tour New Five-Gate, 30,000 Sq. Ft. Terminal Addition**
- **Private Development Construction Update**
- **Gateway Tomorrow Planning Study Selects Preferred Terminal Alternative**
- **Allegiant Begins Twice-Weekly Nonstop Service to Portland, OR**
- **Terminal's Enclosed Pedestrian Walkway Taking Shape**

Executive Director's Report
December 2023

HAPPY HOLIDAYS!

Financial Snapshot

OPERATING INCOME	October		Month Variance	FYTD Comparison		FYTD Variance
	2022	2023		FY23	FY24	
Revenues	$2,584,735	$2,472,269	**($112,466)**	$9,168,477	$9,860,770	**$692,293**
Less Expenses	$2,344,244	$2,220,453	**($123,791)**	$8,340,843	$8,342,186	**$1,343**
Operating Income *(Before Depreciation)*	**$240,491**	**$251,816**	**$11,325**	**$827,634**	**$1,518,584**	**$690,950**

Investment Fund Balances: As of October, the Local Governmental Investment Pool (LGIP) 700 = $6,237,003; Wells Fargo; Collateralized Money Market = $5,774,203 and Brokered CD's = $53,538,087; Total $65,549,293. PMGAA invests in fixed rate instruments.

Finance and Accounting

Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) reported a net operating income of $251,816 for October 2023, approximately the same positive operating result as October last year ($240,491). Fiscal year-to-date 2024 (FYTD24), PMGAA has a net operating income of $1,518,584, an 83% increase over the same time period last fiscal year. October aeronautical revenues decreased by 9% on a year-over-year monthly comparison due to decreased Jet A fuel sales. Non-aeronautical revenue this October improved by 5%, compared to October 2022 due to a 26% increase in vehicle parking revenue during the month.

Operating expenditures for October 2023 decreased by 5% due to maintenance expenses incurred last year. FYTD24 operating expenditures are the same as FYTD23 and remain 7% under budget.

Active/Pending Solicitations

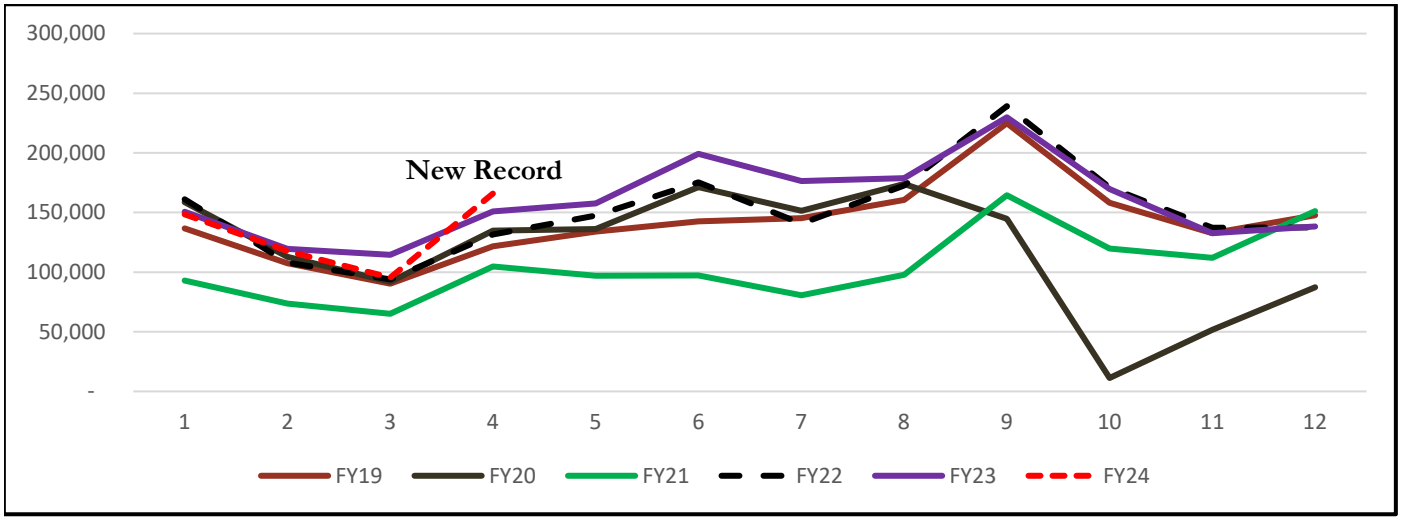
TYPE OF SOLICITATION	Number	Title	Anticipated Contract Award
Request for Proposals	2024-008-RFP	Access Control & Alarm Monitoring System Services	December 2023
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	December 2023
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Airport Facilities	January 2024

Future Solicitations

TYPE OF SOLICITATION	Number	Title	Scheduled for Release
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	December 2023
Request for Qualifications	2024-013-RFQ	Primary Legal Services	January 2024
Invitation for Bid	2024-011-IFB	Defuel/Refuel Cart	November 2023
Invitation for Bid	2024-012-IFB	Taxiway Whiskey Rehabilitation	December 2023
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage System Improvements	January 2024

Airport Operations

Record-Setting Passenger Activity in October 2023



Airports across the country are setting new passenger activity records, as more and more air travelers take to the skies for important business trips, visits with family and friends, or much-needed vacations. Phoenix-Mesa Gateway Airport (Airport, Gateway Airport) is experiencing the same growth in passenger activity, setting a new yearly record in FY23, and more recently, a new October record in 2023. For FY23, the Airport welcomed 1,917,911 total passengers, beating FY22 by more than 100,000 passengers. This October, Gateway Airport welcomed 165,886 total passengers, a 10% increase over the previous high-water mark for October.

Allegiant Begins Twice-Weekly Nonstop Service to Portland, OR

ATTENTION FOODIES, OUTDOOR ENTHUSIASTS, AND CRAFT BEER LOVERS!

On November 17th, Allegiant began nonstop service to **Portland, Or** from Gateway Airport. Portland is well-known as a bike-friendly, hike-friendly, walkable city with world-renowned chefs, a thriving arts scene, and a high concentration of craft breweries.

Planning a trip or looking for a quick getaway this winter? Visit www.allegiantair.com and check out the deals on flights to Portland!

Portland was one of the Airport's most requested cities and represents Allegiant's 45th nonstop destination at Gateway Airport. Other popular nonstop destinations on Allegiant include, **Provo, Idaho Falls, Pasco, Bismarck, Billings, Eugene, Sioux Falls, Fargo, Boise, Las Vegas, Houston, Bellingham/Vancouver, Minneapolis, Appleton/Green Bay, Bozeman, Memphis, Traverse City, Toledo, Cincinnati, Northern Kentucky, Omaha, South Bend, Des Moines, Wichita, Spokane, Rockford/Chicago, Memphis, Bentonville, Kalispell, AND MORE!**

PASSENGER COUNTS		October		% Change	FYTD		% Change
		2022	2023		FY23	FY24	
Passengers	TOTAL	150,848	165,886	10%	535,424	527,300	-2%
	Deplaned	78,538	86,287	10%	272,677	268,406	-2%
	Enplaned	72,310	79,599	10%	262,747	258,894	-1%
Allegiant	Scheduled	144,562	162,712	13%	528,146	523,665	-1%
Swoop	Scheduled	1,997	0	-100%	2,597	0	-100%
Sun Country	Scheduled	3,693	3,174	-14%	3,693	3,635	-2%
WestJet	Scheduled	255	0	-100%	255	0	-100%
Flair	Scheduled	339	0	-100%	339	0	-100%
Swift	Charter	2	0	-100%	394	0	-100%

OPERATIONS	October		% Change	FYTD		% Change
	2022	2023		FY23	FY24	
Air Carrier	948	1,193	26%	3,642	3,643	0%
Military	385	304	-21%	1,288	810	-37%
General Aviation	23,080	27,812	21%	83,953	88,241	5%
TOTAL	**24,413**	**29,309**	**20%**	**88,883**	**92,694**	**4%**

Engineering and Planning

Terminal's Enclosed Pedestrian Walkway Taking Shape

Air travelers using Gateway Airport currently must exit the Ticketing Terminal and travel up an outdoor walkway to access the Transportation Security Administration (TSA) Security Screening Checkpoint (Checkpoint). During much of the year, it's an experience that most passengers don't really seem to mind. However, at 4:30 a.m. in January when it's 35 degrees, or 4:30 p.m. in August when it's 115 degrees, that short walk can be rather unpleasant. And if the Checkpoint is busy, standing outside for a prolonged period of time waiting to get into the cue is additionally challenging.

Ticketing Terminal Improvements

In February 2024, PMGAA will open a new Enclosed Pedestrian Walkway connecting the Ticketing Terminal to the Checkpoint. This new facility addition, paid for with a $4.4MM Bipartisan Infrastructure Law (BIL) Grant, is a major customer experience enhancement that will allow customers to remain inside from the airline ticket counter to their gate.

Airport Owners Tour New Five-Gate, 30,000 Sq. Ft. Terminal Addition

Apache Junction Mayor Chip Wilson and Mesa Councilmember Scott Somers Tour the Project

Great progress is being made on construction of the Airport's new five-gate, 30,000 sq. ft. terminal addition. Exterior windows are in, concourse hold room flooring installed, and bathroom tile grouted. The contractor is on schedule to open the new South Concourse on February 21, 2024.

Several representatives from the PMGAA Board of Directors and the Authority's Member Communities have recently toured the project to see the impressive new facility first-hand. PMGAA Chairman Chip Wilson, Mayor of Apache Junction, and Mesa District 6 Councilmember Scott Somers joined PMGAA staff for a tour after the November PMGAA Board meeting. Other Airport owners have been onsite during various phases of construction to check on the progress and share their thoughts.

A Ribbon-Cutting Ceremony is being held on February 20, 2024.

Community Noise Report

CALLERS	October		FYTD	
	2022	2023	FY23	FY24
Total	18	13	48	35

AIRCRAFT TYPE	October		FYTD	
	2022	2023	FY23	FY24
	Callers	Callers	Callers	Callers
Commercial	9	5	28	23
GA Total	4	5	8	9
Helicopter	0	3	0	3
Military	5	0	12	0
Total	18	13	48	35

LOCATION	October		FYTD	
	2022	2023	FY23	FY24
Mesa	6	3	24	11
Gilbert	10	6	20	14
Gold Canyon	0	0	0	0
Queen Creek	1	4	2	9
Queen Valley	0	0	1	1
Apache Junction	1	0	1	0
Fountain Hills	0	0	0	0
TOTAL	18	13	48	35

PMGAA received communications from 13 individuals regarding aircraft noise issues during the month of October 2023, compared to 18 received last October.

Gateway Aviation Services

PMGAA pumped approximately 1.6MM gallons of aviation fuel during the month of October 2023, an 8% increase compared to the approximately 1.5MM gallons dispensed last October. Commercial fuel was up 24% compared to last year.

FUEL (Gallons)	October			FYTD		
	2022	2023	% Change	FY22	FY23	% Change
AvGas	48,272	41,586	-14%	173,602	137,022	-21%
Retail Jet A	94,846	50,001	-47%	255,168	212,934	-17%
Contract	307,557	259,276	-16%	1,251,991	1,359,510	9%
Commercial	971,823	1,209,071	24%	3,447,590	3,564,393	3%
Cargo	49,981	27,769	-44%	59,829	38,241	-36%
TOTAL	**1,472,479**	**1,587,703**	**8%**	**5,188,180**	**5,312,100**	**2%**

Business Development

Private Development Construction Update

SkyBridge Arizona Industrial Buildings

Virgin Galactic Hangar/Manufacturing Facility

Gulfstream West Coast Service Center

Gateway Airport has more than one million square feet of private development projects currently under construction. These future aeronautical and non-aeronautical tenants represent a significant number of high-wage jobs, increased local taxes, and long-term economic stability for the Phoenix East Valley.

Gulfstream Aerospace is constructing a 225,000 sq. ft. West Coast Service Center on the east side of the airfield adjacent to Ellsworth Road. This state-of-the art facility is scheduled to be operational in Q2 2024.

Virgin Galactic is constructing a 40,000 sq. ft. hangar and a 125,000 sq. ft. manufacturing facility on the north end of the airfield adjacent to Cessna, Embraer, and Boeing. The hangar will house the "mothership" and the manufacturing facility will produce up to six completed spaceships each year. The mothership will transport the spaceships to New Mexico for horizontal launch. The Virgin Galactic complex is scheduled to be completed in Q2 2024.

SkyBridge Arizona is constructing two 250,000 sq. ft. flex industrial building designed to accommodate both single and multi-tenant users. The two buildings are scheduled to be completed in Q2 2024.

The Boyer Company has begun clearing and prepping a 17-acre site within the Gateway East Master Development for a 275,000 sq. ft. manufacturing facility for XNRGY Climate Systems, a leader in the design and manufacturing of advanced energy-efficient commercial climate control systems. This will be XNRGY's U.S. headquarters. XNRGY also has options to build future phases totaling an additional 750,000 sq. ft adjacent to their Phase I facility.

PMGAA Team Member Spotlight

Employee Name: **Jacob Fleming**
Employee Title: **Customer Service Representative**
PMGAA Department: **Gateway Aviation Services**
Years with PMGAA: **5+**

What are your job responsibilities for PMGAA I provide the best customer service possible to all customers who fly into the FBO. I'm responsible for taking reservations for general aviation and corporate aircraft that want to fly into Gateway Airport. I also help set up rental car reservations and hotel reservations for the passengers and/or crew. I make sure that we receive payment for fuel and any other services provided to based or transient aircraft. Another big responsibility that I have is to dispatch out fuel trucks to any aircraft requesting fuel.

What is your most memorable Gateway Airport moment? It is hard to choose just one because I have had so many. The two times the Blue Angels have flow in has to be at the top of my most memorable moments here at Gateway Airport.

What is something people may not know about you? I love good "dad" jokes. For example, why do fish always sing off key? Because you can't Tuna fish.

Community and Government Relations

Gateway Tomorrow Planning Study Selects Preferred Terminal Alternative

At some point in the future, Gateway Airport will outgrow its commercial passenger terminal. In preparation for that day, PMGAA has embarked upon a new planning study to identify facility and infrastructure requirements for a new, demand-driven commercial passenger terminal campus on the west side of the Airport. Roadways, vehicle parking, fuel storage, terminal size, ground transportation, and international capabilities are just a few of the campus components being discussed.

Reasonable Facsimile of New Terminal Design

The Gateway Tomorrow East Side Terminal Planning Study Advisory Committee (SAC) is comprised of representatives from the six Member Communities, key stakeholder groups, and various government agencies. The SAC has identified a preferred terminal alternative and broad project cost estimates. It's now identifying all available local/state/federal funding sources for consideration in an eventual project funding plan.

MINUTES OF THE PUBLIC MEETING OF THE
PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
BOARD OF DIRECTORS - TELEPHONIC | November 21, 2023

A public meeting of the Phoenix-Mesa Gateway Airport Authority (PMGAA, Authority) was convened on Tuesday, November 21, 2023, beginning at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona.

Members Present

Mayor Chip Wilson, Apache Junction
Lt. Governor Monica Antone, Gila River Indian Community *(via telephone)*
Mayor Julia Wheatley, Queen Creek *
Mayor John Giles, Mesa *(via telephone)*
Mayor Brigette Peterson, Gilbert *(via telephone)*
Councilmember Jim Waring, Phoenix *
** Neither present nor represented*

Airport Staff Present

J. Brian O'Neill, Executive Director/CEO
Scott Brownlee, Deputy Director/COO
Chuck Odom, CFO
Misty Johnson, Clerk of the Board
Jill Casson Owen, Attorney *(via telephone)*

Former City of Phoenix Councilwoman Thelda Williams served as a member of the PMGAA Board of Directors from February 2009, until March 2021. She sadly passed away on November 14, 2023. Mayor Wilson asked for a moment of silence to honor the memory and legacy of the Honorable Thelda Williams.

1. **Call to Order** at 9:09 a.m. (Mayor Wilson, Chair)

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Call to the Public**
   There were no public comments.

5. **Consent Agenda**

   a) **Minutes** of the Board Meeting held on **October 17, 2023**.

   b) **Resolution No. 23-58 –** Authorizing an agreement with **EPS Group, Inc. (EPS)**, for Design Services for the Airport Entrance Monument Signage Project, in an amount not to exceed $69,844.20, under CIP 1268.

   c) **Resolution No. 23-59 –** Authorizing the purchase and installation of two (2) 2500GPM Fire Pump Skids with new tanks and stands, from **Cross Fire Protection LLC (Cross Fire)** in an amount not to exceed $260,589.27 under CIP1259.

   d) **Resolution No. 23-60 –** Authorizing Phoenix-Mesa Gateway Airport Authority (PMGAA) staff to negotiate and execute final Concession Agreements for Rental Car Concessions with **Enterprise Leasing Company of Phoenix LLC, Avis Budget Car Rental LLC, and The Hertz Corporation** for non-exclusive on-airport rental car concessions at PMGAA.

DRAFT

e) **Resolution No. 23-61 –** Authorizing an amendment of the **FY24 Capital Budget** to add $200,000 to the Rental Car Care Facility Improvements Project, for the purchase and site preparation of a Kiosk for the Car Rental Return Lot under CIP 1242. This will be funded with CFC funds.

f) **Resolution No. 23-62 –** Authorizing the purchase of one (1) Customer Service Booth (Kiosk), for the Rental Car Return Lot, from **Madison Industries (Madison)** in an amount not to exceed $94,783 under CIP 1242.

g) **Resolution No. 23-63 –** Authorizing the Executive Director to execute an Air Carrier Operating Agreement with **Sun Country, Inc.** for commercial air service at the Airport.

Mayor Brigette Peterson moved to approve the Consent Agenda.
Mayor John Giles seconded the motion.
The motion was carried unanimously.

8. **Board Member Comments/Announcements.**
Lt. Governor Monica Antone announced December 19, 2023, will be her final meeting as a member of the PMGAA Board of Directors. Her successor as Lt. Governor of the Gila River Indian Community will be Regina Antone.

Mayor Wilson thanked Lt. Governor Antone for her service and wished everyone a happy Thanksgiving.

9. **Next Meeting: Tuesday, December 19, 2023,** at 9:00 a.m. in the Board Room (Saguaro A&B) of the Gateway Administration Building, 5835 S Sossaman Road, Mesa, Arizona. Members of the Phoenix-Mesa Gateway Airport Authority may attend either in person or by audioconference.

10. **Adjournment.**
The meeting adjourned at 9:12 a.m.

Dated this _____ day of _____ 20___.

_____
Misty Johnson, Clerk of the Board

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-64

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject: **Airport Rates and Charges- Recommended Revision Effective January 1, 2024**
Date: **December 19, 2023**

Proposed Motion
To adopt the revised PMGAA Board Approved Airport Rates and Charges schedule with an effective date of January 1, 2024.

Narrative
Airport staff is recommending the below changes to the current PMGAA Board Approved Airport Rates & Charges schedule.

1) **Aircraft Landing Fee -** Signatory Commercial Carriers – a 3% rate increase from $1.36 to $1.40 per 1,000 lbs. maximum gross landing weight (MGLW).
2) **Aircraft Landing Fee -** Non-Signatory Commercial Carriers, Scheduled Cargo, General Aviation, and other eligible aircraft - a 3% rate increase from $2.04 to $2.10 per 1,000 lbs. MGLW.

As current standard, landing fee exemptions will continue to be the following:

- U.S. government owned aircraft
- Non-revenue and flight training aircraft up to 12,500 MGLW
- All based flight training aircraft.

Fiscal Impact:

Six months of increased Landing Fees in FY24 will generate an additional $29,157 of revenue.

Attachment(s)
Proposed changes to PMGAA Board Approved Airport Rates & Charges

RESOLUTION NO. 23-64

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to adopt the revised Airport Rates and Charges schedule with an effective date of January 1, 2024;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby adopts the revised Airport Rates and Charges schedule with an effective date of January 1, 2024. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PMGAA Board Approved
Airport Rates and Charges

Effective January 1, 2024

This schedule of Airport Rates and Charges is subject to frequent updates. For the latest schedule, please visit the Phoenix-Mesa Gateway Airport website at: http://www.gatewayairport.com/PoliciesDocumentsandForms#BoardPolicies

Signatory Commercial Carriers	Scheduled FAR Part 121 and 129 operators, with a 90-day rolling average of 90 or more departures per month.		
Non-Signatory Commercial Carriers	Scheduled FAR Part 121 and 129 operators, with a 90-day rolling average of less than 90 departures per month.		
Scheduled Cargo Carriers	Scheduled FAR Part 121 and 129 cargo operators, with a 90-day rolling average of less than 90 departures per month.		
Aircraft Landing Fees	Signatory Commercial Carriers, ~~$1.36~~ $1.40 per 1,000 lbs. maximum gross landing weight (MGLW) Non-Signatory Commercial & Scheduled Cargo Carriers, General Aviation and other eligible aircraft ~~$2.04~~ $2.10 per 1,000 lbs. MGLW. Exemptions: 1. U.S. Government owned aircarft 2. Non-revenue and flight training aircraft up to 12,500 MGLW 3. All based flight training school aircraft		
Aircraft Terminal Use Fee	Signatory Commercial Carriers - $50 per Turn Non-Signatory Commercial Carriers - $75 per Turn		
	Commercial Carriers with no operating agreement, see page 2 Non-Operating Agreement Passenger Terminal – Common Use Areas and Equipment		
Aircraft Parking Fee	**Aircraft Passenger Capacity**	**Signatory**	**Non-Signatory**
	1-69	$35	$53
	70-250	$70	$105
	251 or greater	$100	$150
	Any operator without an active Airport operating agreement will be assessed for the occupancy of an aircraft parking position for more than 3 hours, including terminal gates and remote parking positions, and for each additional 24 hour period.		
Airport Car Rental Customer Facility Charge (CFC)	$3.50 per vehicle rental day		
Aviation Fuel Flowage Fees	Fuel Flowage Fees are paid to PMGAA by any entity or person dispensing or receiving fuel on the Airport in accordance with PMGAA Aviation Fuel Storage, Dispensing & Handling Guidelines.		
	Signatory Commercial Carriers by agreement		
	Non-Signatory Commercial Carriers & Scheduled Cargo Carriers - $.05 per gallon		
	All Others - $0.12 per gallon		
Parking Rates	**Fee by Location**	**Rate**	**Daily Maximum Charge**
	Hourly Parking Lot	$1.00 / 30 minutes*	$48
	Daily Parking Lot	$1.00 / 30 minutes*	$13
	Ray Rd Economy Parking Lot Uncovered	$1.00 / 30 minutes*	$9
	Ray Rd Economy Parking Lot Covered	$1.00 / 30 minutes*	$11
	Lost Ticket Fee with itinerary = Days of Stay x Parking Lot Rate + $20 Lost Ticket & Admin Fee Lost Ticket Fee without itinerary (may be adjusted later with proof of itinerary)		$250
Passenger Facility Charge (PFC)	$4.50 per enplaned commercial passenger, Per FAA Approved PFC Application; reference Federal Register: (Vol. 79, Number 3)		

All Airport Rates and Charges may vary due to terms defined in specific agreements. Late payments are subject to a 1.5% finance charge. Payment terms are net 30 days unless otherwise specified.

Common Use Terminal Equipment		Signatory Commercial Carriers	$1,250 per month	
		Non-Signatory Commercial Carriers	$ 500 per month	
Common Use Area - Operational Surcharges				
Item	Description	Area	Operation	Surcharge
Operational Surcharges	Charges for exceeding allocated time slots on common use areas	Ticket counter or gate	Occupying a gate after the scheduled allocation time, resulting in aircraft holding or gate change	$200 per hour
		Use of ticket counter or gate without prior permission.		$200 plus regular fees
		Failure to use allocated time slot without 48-hour cancellation notice	Negatively impacting another scheduled carrier or causing Airport to shift resources to accommodate.	$200 plus regular fees
Transient Air Carrier Passenger Terminal - Common Use Areas and Equipment Rates				
Item	Description	Aircraft Passenger Capacity	Resources Included	Rate
Full Service	Includes ticket counter(s) and lobby area, secure hold room and boarding area podium, aircraft parking position (2 hours), baggage claim area, and common use computer equipment per flight, as scheduled by Airport Operations.	1-69	1 ticket counter, 1 gate podium, 1 shared use hold room, 1 baggage belt, 1 aircraft parking spot	$ 260 per flight
		70-250	2 ticket counters, 1 gate podium, 1 shared use hold room, 1 baggage belt, 1 aircraft parking spot	$ 495 per flight
		251 or greater	3 ticket counters, 2 gate podiums, 2 shared use hold rooms, 1 baggage belt, 1 aircraft parking spot	$ 915 per flight
Ticket Counter and Lobby	Use of 1 ticket counter and shared use of the lobby area for up to 2.5 hours. Includes common use equipment.	1-69	1 ticket counter and lobby	$ 75 per flight
		70-250	2 ticket counters and lobby	$ 150 per flight
		251 or greater	3 ticket counters and lobby	$ 225 per flight
Boarding Gates – Secured Hold Room	Shared use of secured boarding gate area for up to 2 hours and one aircraft parking position. Includes use of gate podium, common use equipment, and one passenger boarding ramp.	1-69	1 gate podium and 1 hold room	$ 110 per flight
		70-250	1 gate podium and 1 hold room	$ 220 per flight
		251 or greater	2 gate podiums and 2 hold rooms	$ 440 per flight

All Airport Rates and Charges may vary due to terms defined in specific agreements. Late payments are subject to a 1.5% finance charge. Payment terms are net 30 days unless otherwise specified.

Transient Air Carrier Passenger Terminal - Common Use Areas and Equipment Rates				
Item	**Description**	**Aircraft Passenger Capacity**	**Resources Included**	**Rate**
Baggage Claim	Use of baggage claim area and baggage delivery belt/slide. Includes aircraft parking position*. * if associated with a live departure within 3 hours of arrival. Otherwise standard aircraft parking fee applies.	1-69	1 belt, oversize slide, aircraft parking*	$ 75 per flight
		70-250	1 belt, oversize slide, aircraft parking*	$ 125 per flight
		251 or greater	2 belts, oversize slide, aircraft parking*	$ 250 per flight

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-65

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**On-Call Engineering Services – Kimley-Horn and Associates, Inc. and Olsson, Inc.**
Date:	**December 19, 2023**

Proposed Motion
To authorize Professional Service Agreements for On-Call Engineering Services with Kimley-Horn and Associates, Inc. and Olsson, Inc. for various grant and non-grant projects.

Narrative
In support of the Capital Improvement Program, the Phoenix-Mesa Gateway Airport Authority (PMGAA) requires periodic engineering services for various grant and non-grant projects. The type of projects includes engineering services related to runways, taxiways, aprons, parking lots, drainage, roadways, building projects and other improvements.

The Request for Qualifications, 2024-005-RFQ, On-Call Engineering Services, was issued on 9/7/2023 and advertised in the Arizona Business Gazette on 9/7, 9/14, 9/21, and 9/28/23, it was also posted on the AzAA, ACC, ACI-NA, SWAAAE, and FAA Matchmaker websites, as well as the Phoenix-Mesa Gateway Airport Authority Website. In addition, the RFQ was emailed to 68 prospective firms and sub-consultants and included DBE/SBC outreach. Statement of Qualifications (SOQ's) were received, on October 12, 2023, from six (6) Firms.

Kimley-Horn and Associates, Inc.
RS&H, Inc.
Martin, White & Griffis Structural Engineers, Inc.
Stantec Consulting Services Inc.
Olsson, Inc.
Dibble & Associates Consulting Engineers, Inc.

The Evaluation Panel reviewed all submitted SOQ's and selected three (3) firms for further consideration to present/interview (Kimley-Horn and Associates, Inc., Dibble & Associates Consulting Engineers, Inc. and Olsson, Inc.). Based on the Statement of Qualifications, the firm's presentation, responses to interview questions, and the overall ranking, the Evaluation Panel recommends placing the two top ranked firms, Kimley-Horn and Associates, Inc. and Olsson, Inc., under contract for On-Call Airport Engineering Services.

Fiscal Impact

The Authorization of Services (AOS) for individual projects under these Professional Service Agreements may be funded with Federal, State, Local Matching or Non-grant dollars depending on the project and will be subject to Board approval as required.

Attachment(s): Professional Service Agreements

RESOLUTION NO. 23-65

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize Professional Service Agreements for On-Call Engineering Services with Kimley-Horn and Associates, Inc. and Olsson, Inc. for various grant and non-grant projects;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes Professional Service Agreements for On-Call Engineering Services with Kimley-Horn and Associates, Inc. and Olsson, Inc. for various grant and non-grant projects. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

KIMLEY-HORN AND ASSOCIATES, INC.

FOR

ON-CALL ENGINEERING SERVICES

CONTRACT NUMBER 20240076

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20240076** ("Contract") and the attached exhibits. Kimley-Horn and Associates, Inc., a North Carolina Corporation ("Consultant"), with its principal offices located at 7740 North 16th Street, Suite 300, Phoenix, Arizona, 85020, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under to this Contract shall generally include, but not be limited to, the following: On-Call Engineering Services, as more specifically described in Consultant's detailed scope of work attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Director of Engineering and Facilities or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must have an Authorization of Services issued against this Contract and fully executed, by both parties, on or before the expiration date of the Contract.

This Contract shall commence on December 20, 2023 and ends on December 19, 2026 ("Base Term"), unless terminated, canceled or extended as provided in this Contract. This Contract has two (2) optional one-year extensions that PMGAA may exercise at its sole discretion. Prior to the expiration of the Contract Base Term, PMGAA may elect to extend the Contract. If PMGAA exercises such right, all terms, conditions and provisions of the original Contract shall remain the same and apply during the extended period, with the possible exception of fees, as provided for in Exhibit A. Any extension of this Contract shall require an Amendment signed by both parties.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant itself shall provide all services to be performed under this Contract. If Sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with the Phoenix-Mesa Gateway Airport Authority Procurement Policy. Payments will be made for the actual hours worked and/or other costs incurred or provided for in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate agreements or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any Subcontractors employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all agreements with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all agreements with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by negligence, recklessness or intentional misconduct of Consultant or other persons employed or used by Consultant in the performance of this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written

out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX – INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage ($5,000,000 if operating in the Air Operations Area of the Airport).
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions.

   The insurance policies shall provide, or be endorsed to include:

   i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.

   ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract.

   iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

   iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

   v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

   vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted.

For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX – NOTICES

Any notice, report or information which may be or is required to be given under this Contract will be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn: Director of Engineering and Facilities
5835 South Sossaman Road
Mesa, Arizona 85212

TO CONSULTANT: Kimley-Horn and Associates, Inc.
Attn: Steve Reeder
7740 North 16th Street, Suite 300
Phoenix, AZ 85020

or to such other person(s) or address(es) as any such Party may designate from time to time by notice to the other Parties in accordance with this Section.

SECTION XXI – DISADVANTAGED BUSINESS ENTERPRISE

A. The requirements of 49 CFR Part 26, regulations of the U.S. Department of Transportation, applies to this Contract for all federally funded projects/work. It is the policy of the Phoenix-Mesa Gateway Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract.

B. PMGAA encourages the use of DBEs and other small businesses in the performance of this opportunity. While only DBE certified firms will count towards PMGAA's overall program goal, utilization of small

business is encouraged. In order to be counted toward PMGAA's overall DBE program goal, a business must be certified as a DBE by a certifying agency within the Arizona UCP.

C. Consultant's DBE Performance Plan (DBEPP)
Consultant shall utilize its DBEPP as submitted under solicitation 2024-005-RFQ, throughout the duration of the federally funded project(s)/Contract. Failure to fulfill the plan's terms and the plan's intent, shall be a material breach of the contract.

D. Subcontracts for Federally Funded Projects

i. Consultant is required to include the required clauses and obtain the required certifications, as provided for in Exhibit E, Federal Contract Provisions, in all subcontracts or agreements it enters into, and all lower tier subcontracts and agreements, as a result of this contract, regardless of whether or not the subcontractor is a DBE.
ii. Consultant is required to make available to PMGAA, a copy of all subcontracts, regardless of whether or not the subcontractors are DBEs, prior to any commencement of work by any of Consultant's subcontractors. The Consultant shall ensure that all subcontracts or agreements to supply labor or materials be performed in accordance with this part's provisions.

E. Required Outreach Documentation
The following documentation is required, prior to the execution of each Authorization of Services (AOS) that is federally funded under this Contract, to demonstrate that sufficient outreach efforts have been made to engage DBE subcontractors in the performance of this contract:

i. Detailed evidence that the Consultant's DBE Performance Plan (DBEPP), as submitted under solicitation 2024-005-RFQ, was and will continue to be utilized in obtaining DBE participation for the scope of work under the AOS. This should include such things as the following, depending on the Consultant's DBEPP:
   a) Copy of notifications sent to DBE firms of subcontracting opportunities
   b) Documentation of each DBE firms contacted and their response or other action taken as a result of the contact.
   c) Documentation of bid responses and/or quotes from all subcontractors who bid to perform work on the project in the areas that DBE firms were also bidding on, including information regarding the reasons why DBE bids were not considered or chosen if applicable).
   d) Dates and times of outreach events held and a list of attendees.

The following are examples of factors that are illustrative of whether or not the Consultant implemented its DBEPP in good faith:
   a) The number of contacts attempted or made with DBE firms that perform in trade areas where subcontracting work was identified.
   b) The timeliness of contacts made with DBE firms so as to allow the firms a reasonable amount of time to respond
   c) Attempts made to break down portions of the project into economically feasible units to facilitate DBE participation.
   d) Whether the bidder negotiated in good faith with interested DBEs and did not reject a bid as unqualified without sound reason.

ii. **Attachment A**: Subcontracting and Outreach Efforts Summary.

The Consultants' proposed subcontracting and summary of outreach efforts form (Attachment A) must reflect the scope of work that was identified to be potentially subcontracted and the result of the outreach efforts conducted by the Consultant for each scope of work. The Consultant shall clearly list the scope of work to be subcontracted. Consultant must complete one Attachment A for each scope of work (NAICS or group of NAICS codes) that has been identified to potentially be subcontracted.
Note: It is the responsibility of the Consultant to ensure that the scope of work to be performed by the subcontractor(s) is consistent with the area in which the firm is qualified, and in the case of a DBE subcontractor, that the firm has been granted DBE certification. The Consultant can confirm what

NAICS code(s) a DBE is certified for by visiting: https://utracs.azdot.gov/ **DBE scopes of work listed on the form that fall outside the trade or performance area in which a DBE has been granted certification shall not be counted as work subcontracted to a DBE firm.** If there are questions, the Consultant should contact the Phoenix-Mesa Gateway Airport Authority Procurement Department for verification. Owner reserves the right to validate information on the form with the DBE subcontractor and/or other certifying entities or licensing agents as part of the verification process.

iii. **Attachment B**: Letter of Intent to Perform as a Subcontractor/Supplier.

a) The dollar value and the scope of work **every** subcontractor, regardless of DBE/SBE status, is bidding to perform must be completed in full on the form.

b) For scopes of work where a total contract amount cannot be determined, the Letter of Intent to Perform as a Subcontractor/Supplier should reflect the minimum amount agreed upon between the Consultant and the subcontractor that will be paid to the subcontractor. When the form contains scopes of work where all of the dollars that will be paid to a DBE cannot be counted towards achieving the DBE program goal, the form should reflect the amount that is applicable to the program goal.

F. DBE Participation Calculation

i. **Subcontracts with DBE Firms:** DBE participation on the contract will be calculated based on that portion (dollar value) of the contract that DBEs actually perform with their own forces. This includes the cost of supplies and materials obtained by the DBE for the work on the contract, ***except*** when supplies and/or equipment is purchased or leased from the prime Consultant or its affiliate. Special emphasis and care should be taken to ensure that the following types of participation are handled properly when preparing your bid packet.

ii. **Fees & Commissions*:*** DBE firms that supply a bona fide service for a fee or commission may be counted only to the extent of the fees or commissions charged by the DBE. This includes, but is not limited to, providing professional, technical, consultant, or managerial services, and bonds or insurance specifically required for the performance of a contract. The fees must be reasonable and not excessive as compared with fees customarily allowed for similar services. ***Example:*** *A DBE firm that supplies uniformed officers for security or traffic control may count only the amounts shared as a commission. The hourly amount paid to the officers may not be counted. If the "per hour" bid amount to the prime Consultant is $30, and $21 per hour will be paid to the officers, only $9 per hour can be counted towards achieving the DBE program goal. If the firm estimates that there will be 200 hours of work, only $2,700 of the total $6,000 bid could be counted.*

iii. **Trucking & Hauling*:*** The amount of a trucking/hauling subcontract that may be counted towards the DBE utilization may be limited. A DBE must itself own and operate at least one fully licensed, insured, and operational truck that will be used on the contract. The DBE subcontractor may lease trucks from another DBE firm and receive full credit for the services of those leased vehicles. Non-DBE trucks may also be leased to perform work on the contract, but non-DBE leased trucks can be counted fully **only up to the value of transportation services provided by all DBE-owned trucks on the contract**. Any additional non-DBE leased trucks may only be credited for the fees or commissions the DBE subcontractor retains over and above the cost of the lease arrangement. ***Example:*** *A DBE trucking firm uses seven trucks on a job. Two are owned by the DBE and one is leased from another certified DBE firm. Four trucks are leased from a non-DBE. The amounts paid to the DBE for the services of three of the non-DBE trucks can be counted in full towards meeting the DBE requirement. Only the amount that the DBE subcontractor receives that is over and above the cost of leasing the fourth truck may be counted as DBE utilization.*

iv. **DBE Prime Consultant:** A DBE prime Consultant will be credited with DBE participation for that portion of the contract that they themselves perform, in addition to any portion of the contract that is subcontracted and performed by an eligible DBE subcontractor.

v. **DBE/Non-DBE Joint Ventures:** A DBE/non-DBE joint venture, functioning as the prime Consultant or as a subcontractor on a Phoenix-Mesa Gateway Airport Authority project, will be credited with DBE participation on the basis of the percentage of profit accruing to the DBE firm. **E*xample:*** *A joint venture made up of one DBE and one non-DBE proposes to perform 60 percent of a project quoted at $400,000. A total of 50 percent of the profits for performing the work will go to the DBE partner in the joint venture. DBE participation will be credited at 30 percent, or $120,000.*

vi. **Lower Tier Non-DBE Participation:** Subcontract dollars paid by DBE primes and/or qualifying joint ventures to non-DBE subcontractors will not be considered when determining the percentage of DBE participation on this contract. Amounts subcontracted to a non-DBE by a DBE subcontractor (2nd tier or lower) may not be counted.

vii. **Lower Tier DBE Participation:** Consultant is obligated and must report all utilization of DBEs of lower tier subcontracts and ensure subcontractors comply with all applicable DBE reporting requirements.

viii. **DBE Suppliers:** Purchases from DBE suppliers may be counted towards the program goal as follows:

ix. **Manufacturers:** Amounts paid to a DBE supplier that manufactures or substantially alters the material or product it supplies will be credited at 100% of the expenditure when determining the percentage of DBE participation.

x. **Regular Dealer:** Purchases from a DBE firm that is an established, regular business that engages, as its principal business, in the purchase, sale, or lease of the products being supplied **may be credited towards the DBE program goal at sixty percent (60%) of the sale price** when determining the percentage of DBE participation.

xi. **Packagers, Brokers, Manufacturers' Representatives:** Purchases from a DBE firm who arranges or expedites transactions not as regular dealers, **may not be counted in full** when determining DBE participation. Only the fees or commissions charged in the procurement of the materials or supplies, or fees or transportation charges for the delivery of the materials or supplies may be credited towards achievement of the DBE program goal.

G. Definitions

i. **Disadvantaged Business Enterprise (DBE)** means a small business concern that has successfully completed a DBE certification process and been granted DBE status by a certifying agency within the Arizona Unified Certification Program

ii. **Small Business Enterprise** (SBE) means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. A small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual(s) that has annual average gross receipts in excess of the cap established by federal regulation. The Secretary shall adjust this figure from time to time for inflation.

iii. **Socially and Economically Disadvantaged Individuals** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Membership in one of the above-mentioned groups does not qualify the firm to be considered a DBE for purposes of this contract. Only firms that have completed a DBE certification process and been granted DBE status shall be considered socially and economically disadvantaged individuals for purposes of this contract.

iv. **DBE Joint Venture** is an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. One participant in the joint venture arrangement must hold DBE status from a recognized certifying entity. The joint venture is limited in scope and duration to this contract, and resources, assets and labor of the participants must be combined in an effort to accrue profit.

v. **Sole Proprietorship** is a DBE for purposes of this contract, if it is 100 percent owned, operated, and controlled by a socially and economically disadvantaged individual.

vi. **Corporation** is a DBE, for purposes of this contract, if the ownership, operation, and control of the business is conditioned upon the control of its shares of stock or other equitable securities, at least 51 percent of which (of all shares) is legally and equitably owned by socially and economically disadvantaged individuals.

vii. **Partnership** is a DBE, for purposes of this contract, if one or more socially and economically disadvantaged individuals own more than 51 percent of the assets or interest in the partnership's property.

viii. **Purchaser** for purposes of this contract, means the Phoenix-Mesa Gateway Airport Authority.

ix. **Bidder** is an individual, partnership, joint venture, corporation or firm submitting a proposal or bid to the Phoenix-Mesa Gateway Airport Authority to perform services required by the contract. The submittal may be direct or through an authorized representative.

x. **Contract** is a written agreement obligating the seller or business enterprise to furnish goods or services as proposed and the Purchaser or Buyer to pay for such goods or services.

xi. **Subcontract** is any contract at any tier below the prime contract, including purchase orders.

xii. **Supplier** is a business enterprise that manufactures the goods or materials it sells.

xiii. **Wholesaler, Distributor, Broker, or Jobber** is a business enterprise that does not manufacture the goods or materials it sells or does not perform the essential work of the contract. ***Example:*** *1) A trucking company who does not own or operate the trucks necessary to perform the work, but brokers the work to another trucking firm; 2) A distributor who supplies goods or materials as a pass through from the manufacturer, without substantial alteration of the goods or materials; and, 3) A sub-tier bidder who purchases and supplies the goods and materials on behalf of the prime bidder, and delivers the goods and materials to the prime bidder without substantial alteration of the goods and materials.*

H. Enforcement

i. This contract and all subsequent subcontracts entered into as a result of this contract, are subject to the requirements, provisions, and enforcement actions of 49 CFR Part 26, Subpart F, *Compliance and Enforcement*, § 26.107. Further, Consultant is required to insert the below clause from § 26.107 in all subcontracts entered into with a DBE as a result of this Contract.

ii. § 26.107 Enforcement Actions for firms participating as a DBE:

a) If you are a firm that does not meet the eligibility criteria of 49 CFR Part 26,Subpart D, Certification Standards, and that attempts to participate in a Department of Transportation (DOT)-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the DOT may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of 49 CFR Part 26, Subpart D, the DOT may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the DOT from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

d) The DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

The DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

Executed as of the Commencement Date.

CONSULTANT
KIMLEY-HORN AND ASSOCIATES, INC.
a North Carolina Corporation

By: _____

Name: Brian Smalkoski

Title: Vice President

Date: December 11, 2023

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A - SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

SCOPE OF SERVICES

The Scope of Services to be performed by Consultant for each task under this Contract will be specified in one or more written "Authorization of Services" to be issued and agreed to by the parties during the term of the Contract. The services that are anticipated to be performed under this Contract generally consist of labor, equipment, supplies and materials to produce and deliver documents and specifications related to necessary Airport Engineering Services for various local, state and federally funded projects for PMGAA.

Any and all services to be performed as part of the Contract require an approved Authorization of Services. The Authorization of Services for each individual project under this Contract shall be used to describe in detail the scope of work to be performed, the amount of time required for performance, fees associated with that performance, and any other applicable terms or conditions for that project. Fees for individual Authorization of Services will be based on the Fees included in this section unless modified in writing by PMGAA. Either party may elect not to perform any services before mutual execution of such an Authorization of Services.

In connection with FAA Advisory Circular 150/1500-14E, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects, as updated and amended, the Airport Engineering basic services include, but are not limited to, the four distinct and sequential phases summarized below:

1. **Preliminary Phase**
   This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Some examples of activities within this phase of a project include, but are not limited to:
   a. Coordinating with PMGAA on project scope requirements, finances, schedules, operational safety and phasing considerations, site access and other pertinent matters.
   b. As applicable, coordinating project with local FAA personnel and other interested stakeholders to identify potential impacts to their operations.
   c. Planning, procuring, and/or preparing necessary surveys, geotechnical engineering investigations, field investigations, and engineering studies required for design considerations.
   d. Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations, and preliminary layouts and cost estimates.
   e. Preparing project design criteria and other bridging documents commonly used for alternative project delivery methods such as design-build, JOC or CMAR contracting.

2. **Design Phase**
   This phase includes all activities required to undertake and accomplish a full and complete project design. Examples include, but are not limited to, those below:
   a. Conducting and attending meetings and design conferences to obtain information and to coordinate or resolve design matters.
   b. Collecting engineering or other data and undertaking field investigations; performing geotechnical engineering studies; and performing engineering, and special environmental studies.
   c. Preparing necessary engineering or architectural reports and recommendations.
   d. Preparing detailed plans, specifications, cost estimates, and design/construction schedules.
   e. Preparing Construction Safety and Phasing Plan (CSPP).
   f. Printing and providing necessary copies of engineering drawings and contract specifications.

3. **Bidding and Negotiation Phase**
   These activities are also sometimes considered part of the design phase and sometimes the construction phase. They involve assisting PMGAA in advertising and securing bids, negotiating for services, analyzing bid results, furnishing recommendations on the award of contracts and preparing contract documents.

4. **Construction Phase**

This phase may include all basic services rendered after the award of a construction contract, including, but not limited to, the following activities:

a. Providing consultation and advice to PMGAA during all phases of construction.
b. Representing the PMGAA at preconstruction conferences.
c. Inspecting work in progress periodically and providing appropriate reports to PMGAA.
d. Reviewing and approving shop and erection drawings submitted by contractors for compliance with design concept/drawings.
e. Reviewing, analyzing, and accepting laboratory and mill test reports of materials and equipment.
f. Assisting in the negotiation of change orders and supplemental agreements.
g. Observing or reviewing performance tests required by specifications.
h. Assisting in the negotiation of change orders and supplemental agreements.
i. Observing or reviewing performance tests required by specifications.
j. Determining amounts owned to contractors and assisting sponsors in the preparation of payment requests for amounts reimbursable from grant projects.
k. Making final inspections and submitting punch-lists and a report of the completed project to the PMGAA.
l. Reviewing operations and maintenance manuals.

5. **Project Closeout Phase**

This phase includes all basic services rendered after the completion of a construction contract, including, but not limited to, the following activities:

a. Making final inspections and submitting punch-lists and a report of the completed project to PMGAA.
b. Providing record drawings.
c. Preparing summary of material testing report.
d. Preparing summary of project change orders.
e. Preparing grant amendment request and associated justification, if applicable.
f. Preparing final project reports including financial summary.
g. Obtaining release of liens from all contractors.

All work will be required to meet FAA Standards, the ADOT Multimodal Planning Department, Aeronautics Group Standards and/or City of Mesa requirements. All work shall be accomplished in accordance with all Federal, State, Airport and local guidelines and regulations including FAA Advisory Circulars, the National Environmental Policy Act (NEPA) and Arizona Environmental Statutes. Federal, State, Airport and local requirements will apply to each of the listed projects in the event projects are reimbursed through FAA's Airport Improvement Program or an approved Passenger Facility Charge at a later date.

The scope of work includes the pre-design, design and deliverables necessary to complete projects anticipated over the term of the Contract. It is anticipated that individual projects may be assigned to Consultant periodically, on an as-needed basis, over the contracted period. PMGAA reserves the right to stop assigning projects to Consultant at any time and to perform a new consultant selection or engage the services of other consultants for specific projects on a case-by-case basis.

The projects identified below may be assigned over the term of the Contract and may or may not be included in PMGAA's Capital Improvement Program. The projects listed below include federally funded AIP, State-funded grant projects and non-grant projects, and are not listed in order of priority:

Facilities:

Fuel Farm Capacity Analysis Study
Fuel Farm Improvements, Tanks etc.
Replace Terminal Seats Ph1, 2 Gates
Replace Carpeting at the Terminal Gates

Baggage Claim 2 Canopy
Replace Terminal Seats Ph 2, 2 gates
TSA Checked Baggage System Construction
Baggage Claim Improvements
Replace Terminal Seats Ph 3, 2 gates
Airport Buildings Roof Recoating
GAS, Building 46, Remodel
Demolish Existing Structures on Airport

Airfield Projects:

Repackage and Re-Bid Reconstruction of Runway 12R/30L
Repackage and Re-Bid Taxiway H Between B and 12R Reconstruction
Repackage and Re-Bid Taxiway W Reconstruction
Runway 12C/30C Asphalt Mill & RDR Signs and Runway Edge Lights Replacement
Replace TWY C Sign Panels C2-C3
Taxilane S Construction Administration
Taxiway Golf Realignment Design & Construction
Compass Rose Design and Relocation
Midfield Connectors Design & Construction
Parallel Taxiway West of Rwy 12C/30C Design & Construction
Lighting Vaults, Generators, LED upgrade 12L/30R
Westside Apron Design and Construction
General Aviation and Maintenance /run-up Areas with Blast Fence
Runway 12L/30R Extension 200-foot Extension
Eastside Taxiway/Taxilane Improvements
Eastside Apron Design and Construction
Safety Management System (SMS) Update

Landside Projects:

Construction of Rental Car Care Facility
Taxiway Circle Access Rd Reconstruction
Mill & Replace Asphalt Parking Lots
Gateway Blvd Design and Reconstruction
Landside Roadways Design and Construction
Access Roads Construction and/or Asphalt Overlay

FEE SCHEDULE

The fees stated herein shall remain in effect for the first year of the Contract. Consultant may increase fees effective on each annual anniversary date of the Contract, up to 5%, with the prior written approval of PMGAA. Such increases, if any, shall not apply to projects that PMGAA has issued and executed an Authorization of Services to the Consultant.

Kimley-Horn and Associates, Inc.
2024 Hourly Rates

1. Direct Salary Costs (Category)	Direct Hourly Labor Rate	Hourly Billable Rate
Title		
Project Manager	$ 70.56	$ 226.05
Senior Project Manager	82.28	263.60
Principal Engineer	93.24	298.71
Senior Professional/Engineer	62.37	199.81
Electrical/Comm Engineer	67.99	217.82
Professional Engineer II	57.54	184.34
Professional Engineer I	54.80	175.56
Senior Designer	52.86	169.34
Senior Analyst	51.03	163.48
Analyst	43.63	139.77
Designer	39.06	125.13
Finance/Project Accountant	43.47	139.26
Grant Adminstration	34.39	110.17
Admin/Clerical	28.35	90.82
Resident Engineer	66.57	213.27
Senior Inspector	49.93	159.96
Inspector	43.26	138.59

2. Labor and General & Administrative Overhead

Percentage of Direct Salary Costs By 191.24%

3. Fixed Payment

10% of Item No. 1 and 2:

Notes:
Calculation Formula: [Direct Hourly Labor Rate + (Direct Hourly Labor Rate x Labor Overhead Percentage)] + 10% Profit = Hourly Billable Rate

We anticipate these rates will remain in effect for a period of 1 year from the contract date. For purposes of contract renewal, we anticipate rates may escalate up to 5% per year (per contract).

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below and in accordance with each Authorization of Services initiated under this Contract. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the amount of time required for performance, the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT B**, "Scope of Services and Fee Schedule".

2. Method of Payment

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice or payment application depicting tasks performed, hours spent, utilized and expenses incurred for services performed. Invoices or payment applications must be based on the actual hours required and expenses incurred for the services completed during the billing period. Consultant's invoices or payment applications must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice or application as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and progress reports in accordance with terms specified in the Contract, which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices/requisitions for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices/requisitions for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C – SPECIAL PROVISIONS

1. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA all Consultant's and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* listing available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

2. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict. Wherever Standard Terms & Conditions are in conflict with conditions stated in this Special Provisions Section, the conditions stated in this Section shall take precedence.

3. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

4. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

5. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. Certification

By signature of this Contract, Consultant certifies:

a. The award of this Contract did not involve collusion or other anti-competitive practices.
b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. Dispute Resolution

a. Negotiations. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.
b. Mediation. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.
c. Binding Dispute Resolution. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

3. Independent Contractor

At all times, each party acts in its individual capacity and not as agent, employee, partner, joint venturer, or associate the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days.

PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

4. Affirmative Action

Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

5. Human Relations

Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

6. Non-Exclusive Contract

This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

7. Americans with Disabilities Act

Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

8. Confidentiality of Records

Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

9. Gratuities

PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

10. Applicable Law

This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

11. Contract

This Contract is based on and the result of a negotiated Scope of Services and Fee Schedule submitted by Consultant. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

12. Contract Amendments

This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

13. Provisions Required by Law

Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

14. Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

15. Protection of Government Property

Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

16. Interpretation – Parol Evidence

This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade

shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

17. Subcontracts

Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days or written request by Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Offeror referred to herein. Offeror is responsible for Contract performance whether or not subcontractors are used.

18. No Waiver

No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

19. Warranties

Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

20. Indemnification

To the fullest extent permitted by law, Consultant shall indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of Consultant or other persons employed or used by Consultant in the performance of this Contract.

21. Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

22. Advertising

Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

23. Right to Inspect

PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of a Consultant's or subcontractor's business, which is related to the performance of this Contract or related subcontract.

24. Force Majeure

In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required

Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

25. Inspection

All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

26. Exclusive Possession

All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

27. Title and Risk of Loss

The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

28. Liens

All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

29. Licenses

Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

30. Subsequent Employment

PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

31. Clean Up

Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

32. Patents

Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly

authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

33. Records and Audit Rights

Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

34. E-Verify Requirements

To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

35. Availability of Project Funding

This Contract's approval and continuation is conditioned on the availability of funds appropriated by PMGAA for this purpose. If funds are not available or appropriated for the Contract's requirements, PMGAA may terminate the Contract. Possible sources of funding for this Contract include FAA and ADOT, and this Contract is contingent on the availability of those funds to PMGAA.

EXHIBIT E – FEDERAL PROVISIONS

For this Exhibit: Contractor shall mean the same as "Consultant", "Offeror", "Bidder", "Proposer" or "Firm"
Owner and Sponsor shall mean Phoenix Mesa Gateway Airport Authority

The provisions in this Exhibit E apply to all federally funded Projects/Authorization of Services, unless stated otherwise herein.

A1 ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

A2 AFFIRMATIVE ACTION REQUIREMENT

This provision is applicable if the Scope of Work to be performed in the Authorization of Services (AOS) includes tasks that meet the definition of construction work (as defined by the U.S. Department of Labor). Owner shall include the goals for minority participation for each trade in the AOS.

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for minority participation for each trade:	**TBD**
Goals for female participation in each trade:	**6.9%**

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is the State of Arizona, Maricopa County, in the city of Mesa.

A3 BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Consultant or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Consultant until such time the Consultant corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

A4 BUY AMERICAN PREFERENCE

This provision is applicable if the Scope of Work to be performed in the AOS includes a deliverable of a manufactured product. The Contractor will be required to complete the Buy American Preference Certification prior to execution of the AOS.

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

[1] Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

Certification of Compliance with FAA Buy American Preference – Equipment/Building Projects
As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101, and other Made in America Laws, U.S. statutes, guidance, and FAA policies by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:

a) Only installing steel and manufactured products produced in the United States;
b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
b) To faithfully comply with providing U.S. domestic product.
c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.

d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more that 60 percent of the cost of all components and subcomponents of the "item". The required documentation for a Type 3 waiver is:

a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
d) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver (Unreasonable Costs) - Applying this provision for iron, steel, manufactured goods or construction materials, would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

a) Completed Content Percentage Worksheet and Final Assembly Questionnaire from
b) At minimum two comparable equal bidders and/or offerors;
c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

A5 CIVIL RIGHTS - GENERAL

This provision is applicable to **all** projects/AOS, regardless of funding source.

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

A6 CIVIL RIGHTS

This provision is applicable to all projects/AOS, regardless of funding source.

The Phoenix Mesa Gateway Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

Title VI List of Pertinent Nondiscrimination Acts and Authorities
During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited

English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Nondiscrimination Requirements/Title VI Clauses for Compliance

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
    a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
    b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

A7 CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Contractor must include this requirement in all subcontracts that exceed $150,000.

A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

This provision is applicable if the Scope of Work to be performed in the AOS includes the Consultant to employ laborers, mechanics, guards, survey crews and drilling.

1. Overtime Requirements.
No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.
In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.
The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.
The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

A9 COPELAND "ANTI-KICKBACK" ACT

This provision is applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction, alternation, or repair.

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation

to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

A10 DAVIS-BACON REQUIREMENTS

Davis Bacon Requirements are applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5).
Owner shall include the applicable Wage Determination in the AOS if this provision is required.

1. Minimum Wages.
(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt

and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.
(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.,* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at *https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an

investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).
(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;
(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.
(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.
(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor

will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.
The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.
The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment.
A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.
All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.
Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.
(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

A11 DEBARMENT AND SUSPENSION

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.
   If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

A12 DISADVANTAGED BUSINESS ENTERPRISE

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Phoenix Mesa Gateway Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

Contract Assurance
The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment
The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Phoenix Mesa Gateway Airport Authority. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Phoenix Mesa Gateway Airport Authority. This clause applies to both DBE and non-DBE subcontractors.

See Section XXI of this Contract for additional information and requirements regarding DBE. Consultant agrees to all rules, policies, and requirements a set forth in these Contract documents and Exhibits.

A13 DISTRACTED DRIVING

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.
In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

A14 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

A15 DRUG FREE WORKPLACE REQUIREMENTS

Not Applicable.

A16 EQUAL EMPLOYEMENT OPPORTUNITY (EEO)

This provision is applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction.

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or

charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:
   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
   b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
   c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
   d. "Minority" includes:
      (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
      (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
      (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
      (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf

of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

A19 PROHIBITION of SEGREGATED FACILITIES

This provision is applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction work as defined by 41 CFR part 60-1.

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

A21 PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

a) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or
b) The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.
Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
b) Fails to meet reasonable contract performance requirements; or
c) Is only available at an unreasonable price.

A22 RIGHT TO INVENTIONS

This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of *experimental, developmental, or research work only*.

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

A23 SEISMIC SAFETY

This provision is applicable if the Scope of Work to be performed in the AOS involves the design and/or construction of a new building(s) or structural addition to an existing building(s).

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

A24 TAX DELINQUENCY AND FELONY CONVICTIONS

Consultant has completed and submitted the following certification statements under the Owners solicitation and has indicated its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from the solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

The clause is stated again below for inclusion in this section.

Certifications

a) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
b) The applicant represents that it is ( ) is not ( ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

A25 TERMINATION OF CONTRACT

Termination for Cause

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party at least 7 days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner**: The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:
   1. Perform the services within the time specified in this contract or by Owner approved extension;
   2. Make adequate progress so as to endanger satisfactory performance of the Project; or
   3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

   Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

   Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant**: The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:
   1. Defaults on its obligations under this Agreement;
   2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
   3. Suspends the project for more than 180 days due to reasons beyond the control of the Consultant.

   Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

   In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified, and approved by Owner, reimbursable expenses incurred by the Consultant through the effective date of termination action.

Termination for Convenience

This Contract may be terminated at any time by mutual written consent or by Owner - with or without cause - provided the terminating party gives fourteen (14) calendar days' advance written notice to the other party. Owner may terminate this Contract, in whole or in part, for Owner's convenience and with fourteen (14) days' written notice. If this Contract is terminated, then Owner is liable only for services rendered and material received, certified, and approved by Owner under the Contract before the termination effective date.

Each payment obligation of Owner created hereby is conditioned on the availability of Owner, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by Owner for continuance of service under this Contract, then Owner may terminate the Contract. Owner shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to Owner if this provision is exercised, and Owner shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

Upon termination of the Contract, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by Owner, its Engineer, Architect, or representative, under this contract, whether complete or partially complete.

A26 TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.
Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

A27 VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

A28 DOMESTIC PREFERENCES FOR PROCUREMENTS

CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

EXHIBIT F- SUBCONTRACTING AND DBE OUTREACH FORMS

Consultant shall submit the following Attachments at time Consultant submits it's fee proposal for **each** AOS that is federally funded:

Attachment(s) A – Subcontracting and Outreach Efforts Summary
Attachment(s) B – Letter of Intent to Perform as a Subcontractor

ATTACHMENT A
SUBCONTRACTING AND OUTREACH EFFORTS SUMMARY

Submit: **Prior to AOS award for each subcontracting opportunity identified** **(even if it did not result in a subcontract)**
Completed By: **Prime Consultant**

NAME OF CONSULTANT: _____ **PROJECT DESCRIPTION:** _____

Scope of Work That May Be Subcontracted	NAICS Code(s) for Scope

FIRMS CONTACTED	NOTES / OUTCOME	DBE (Y/N)	SBE (Y/N)	SELECTED (Y/N)

THIS FORM SHALL NOT RELEASE CONSULTANT FROM PROVIDING DETAILED DOCUMENTATION OF OUTREACH EFFORTS AS SPECIFIED IN THE CONTRACT

1. **CONSULTANT SHALL COMPLETE THIS FORM TO SUMMARIZE THEIR OUTREACH EFFORTS FOR EACH SCOPE OF WORK OPPORTUNITY IDENTIFIED TO SUBCONTRACT (A SEPARATE FORM IS REQUIRED FOR EACH TYPE/SCOPE OF WORK) MAKE COPIES OF THIS FORM AS NECESSARY. EXPAND TEXT BOXES OR ATTACH INFORMATION AS NEEDED.**

Consultant Hereby affirms that the above information, as well as the detailed documentation submitted regarding Consultant's outreach efforts, is true and complete to the best of Consultant's knowledge.

Further, Consultant hereby affirms that the Consultant will enter into a formal agreement with the identified selected subcontractors/suppliers listed herein conditioned upon the execution of a contract with the Phoenix-Mesa Gateway Airport Authority.

Signed By _____ Title _____

Date _____

ATTACHMENT B
LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR

Submit: **For each Subcontractor that is selected**
Completed By: **EACH Subcontractor (regardless of DBE status) selected to perform work**

PROJECT DESCRIPTION: _____ **Project No.:** _____

TO: _____, **FROM:** _____
(Insert name of Prime Consultant) (Insert name of Subcontractor)

SUBCONTRACTOR IS:

1. Prepared and licensed in Arizona to perform the following scope(s) of work on the above referenced project for the Prime Consultant:

   _____ _____ $_____
   Scope of Work/Description NAICS Code for Work Contract Amount

2. Certified as (must select one): ☐ Male Owned ☐ Woman Owned ☐ Neither

3. Certified as (must select one): ☐ Non-Minority ☐ Black American ☐ Hispanic American
   ☐ Native American ☐ Asian-Pacific American
   ☐ Subcontinent Asian American

4. Certified as a (must select one): ☐ Disadvantaged Business Enterprise ☐ Small Business Enterprise ☐ Neither

5. Subcontractor's Age of firm: ☐ Less than 1 year ☐ 1 – 3 years ☐ 4 – 7 years ☐ 8 – 10 years ☐ More than 10 years

6. Subcontractor's Annual Gross Receipts of Firm: ☐ Less than $500,000.00 ☐ $500,000.00 - $1,000,000.00
   ☐ $1,000,001.00 - $2,000,000.00 ☐ $2,000,001.00 - $5,000,000.00
   ☐ Greater than $5,000,000.00

7. Subcontractor's SAMS Unique Entity Identification Number _____

8. Subcontractor will sublet _____ , of their
   (Scope/Description of Work Subletting)

   work to a ☐ Certified DBE ☐ Certified SBE ☐ Neither a DBE nor SBE (must select one if subletting)

   for $_____. Name of firm you are subletting to _____.
   (amount of work subletting)

On the _____ day of _____, 202_, by signature below, the undersigned agrees to enter into a formal agreement/subcontract for the work cited herein should the prime contractor receive award of this contract from the Phoenix-Mesa Gateway Airport Authority.

_____ _____
(Authorized Signature of Subcontractor) (Print Subcontractor Firm Name)

_____ _____
(Print Name and Title) (Phone Number)

IF THE CONSULTANT DOES NOT RECEIVE AWARD OF THE AOS, ANY AND ALL REPRESENTATIONS IN THIS LETTER OF INTENT AND AFFIRMATION SHALL BE NULL AND VOID.

EXHIBIT G- SUBCONTRACTOR PAYMENT FORMS

Consultant shall submit the following forms when Subcontractors are paid for **each** AOS that is federally funded.

Attachment C – Statement of Subcontractor Utilization
Attachment D – Certification of Payment by a DBE Firm to a Lower Tier
Attachment E – Certification of Prompt Payment to Subcontractors

ATTACHMENT C
STATEMENT OF SUBCONTRACTOR UTILIZATION

Submit & Completed By: 1) Prime Consultant with every pay request involving any Subcontractor AND
2) Any Subcontractor when paying any lower tier Subcontractor as a reporting mechanism only (check box below)

SHEET ____ OF _____

☐ **CHECK IF FORM IS FOR SUB-TIER REPORTING** **PROJECT NAME:** _____ **PROJECT NUMBER:** _____

PRIME CONSULTANT PAY REQUEST NO: _____ **PAY REQUEST $**_____

PMGAA USE ONLY

SUBCONTRACTOR RECEIVING PAYMENT	CONTRACT AMOUNT	CONTRACT ADJUSTMENTS	REVISED CONTRACT AMOUNT	AMOUNT EARNED THIS PERIOD	AMOUNT EARNED TO DATE	AMOUNT RETAINED THIS PERIOD	AMOUNT RETAINED TO DATE	NET PAYMENT THIS PERIOD	PP RCVD	REVIEW DATE	NOTES

PRIME CONSULTANT/SUBCONTRACTOR _____ **AUTHORIZED SIGNATURE** _____ **DATE** _____

NOTE: Amount earned this period, less retention, (NET PAYMENT THIS PERIOD) MUST equate to amount on Prompt Payment certification. If not, attach explanation please.

ATTACHMENT D
CERTIFICATION OF PAYMENT BY A DBE FIRM TO LOWER TIER

Submit: **When a DBE Subcontractor/supplier makes a payment to a firm/individual they have sublet a portion of their contract to**

Completed By: **Subcontractor**

PROJECT DESCRIPTION: _____ **Project No.:** _____

DBE Subcontractor Name: _____ ☐ **Submitted with Attachment C**

The work listed below was sublet to: _____**, who is a**
(firm name)

1. ☐ DBE ☐ SBE ☐ NEITHER A DBE NOR SBE (must select at least one)

2. ☐ Contractor ☐ Trucker ☐ Broker (Fees/Commission) ☐ Supplier ☐ Manufacturer ☐ Other (must select one)

Start Date	End Date	Description / Scope of Work	Total Amount Sublet

TOTAL $ _____

I, _____ confirm that _____
(Authorized DBE firm officer, print name) (Name of firm work sublet to)

has performed the scope(s) as described above for $_____

_____
(Authorized DBE firm officer, signature)

_____ _____
(Title) (Date)

ATTACHMENT E
CERTIFICATION OF PROMPT PAYMENT TO SUBCONTRACTORS

Submit: **For each payment made to a Subcontractor or lower tier Subcontractor**
Completed By: **Prime Consultant and Subcontractor OR Subcontractor and Lower Tier Subcontractor**

PRIME CONSULTANT or SUBCONTRACTOR: _____ INVOICE/PAY REQUEST NO.: ____

PRIME CONSULTANT OR SUBCONTRACTOR AFFIDAVIT:
The undersigned, having contracted as the prime Consultant or Subcontractor (herein includes Suppliers) on Project #TBD (TBD), hereby certifies that a payment has been made to the Subcontractor cited below. The total value of this payment made to the Subcontractor for materials and/or work performed on this project contract is as follows:

Subcontractor: _____Total Amount Paid: $_____Date Sent _____

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years following final completion of the contract. In the event the Subcontractor was not paid in accordance with affidavits submitted by the Prime Consultant or Subcontractor, all documentation supporting the payee's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Prime Consultant or Subcontractor (Print Name and Title)

Date: _____

SUBCONTRACTOR AFFIDAVIT:
The undersigned Subcontractor hereby certifies that a contract was entered into with the above named prime Consultant or Subcontractor to perform work or provide materials on the project cited in this document. I further certify that the total amount of this payment received as provided herein by the Prime Consultant or Subcontractor is accurate and unchallenged.

Total Amount Received: $ _____ Date Received _____

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Subcontractor (Print Name and Title)

Date: _____

OVER FOR INSTRUCTIONS

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
CERTIFICATION OF PROMPT PAYMENT TO SUBCONTRACTORS

INSTRUCTIONS

Prime Consultant or Subcontractor will prepare a form for each Subcontractor being paid from each Airport payment for services when the Subcontractor is being paid. The amount paid to each Subcontractor should match the amount earned less any retention held on a pay application as shown on Attachment C.

The date documented by the Prime Consultant or Subcontractor must be the date a check is issued or that an Electronic Fund Transfer is completed as payment to the Subcontractor. This must be in conformance with State and Federal prompt payment regulations per the contract.

The authorized Prime Consultant or Subcontractor must sign and certify the accuracy of the information on this Attachment E and send it to the Subcontractor.

The Subcontractor must document the amount of payment received and the date payment from the Prime Consultant or Subcontractor was received. The authorized Subcontractor representative must sign and certify accuracy of the information.

The Subcontractor must email a scan of the record to the Airport within five (5) days of receipt of the Prime Consultant or Subcontractor payment. Airport contact information is as follows:

PromptPayment@gatewayairport.com

The Subcontractor should also copy the Prime Consultant or Subcontractor on the record.

The Prime Consultant and Subcontractor must retain the payment records and evidence of compliance for three years following completion of the contract.

FOR QUESTIONS ON COMPLETING THIS FORM, PLEASE CONTACT THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY AT (480) 988-7628.

Subcontractors may file complaints on alleged violations of the Prompt Payment standards by contacting the Airport Project Manager or Airport Staff at the number noted above.

EXHIBIT H – CONSULTANT'S DBE PERFORMANCE PLAN

PMGAA and Consultant acknowledge that certain projects may be funded with Federal funds and Consultant's approved DBE Performance Plan submitted under PMGAA's solicitation 2024-005-RFQ is hereby incorporated into the Contract and will be utilized by Consultant throughout the duration of each federally funded project.

EXHIBIT I – CONSULTANT'S RFQ SUBMITTAL

Consultant's Statement of Qualifications in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2024-005-RFQ dated October 12, 2023, is hereby incorporated into the Contract and made part of this Contract.

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

OLSSON, INC.

FOR

ON-CALL ENGINEERING SERVICES

CONTRACT NUMBER 20240077

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20240077** ("Contract") and the attached exhibits. Olsson, Inc., a Nebraska Corporation ("Consultant"), with its principal offices located at 6437 West Chandler Boulevard, Suite 1, Chandler, Arizona, 85226, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under to this Contract shall generally include, but not be limited to, the following: On-Call Engineering Services, as more specifically described in Consultant's detailed scope of work attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Director of Engineering and Facilities or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must have an Authorization of Services issued against this Contract and fully executed, by both parties, on or before the expiration date of the Contract.

This Contract shall commence on December 20, 2023 and ends on December 19, 2026 ("Base Term"), unless terminated, canceled or extended as provided in this Contract. This Contract has two (2) optional one-year extensions that PMGAA may exercise at its sole discretion. Prior to the expiration of the Contract Base Term, PMGAA may elect to extend the Contract. If PMGAA exercises such right, all terms, conditions and provisions of the original Contract shall remain the same and apply during the extended period, with the possible exception of fees, as provided for in Exhibit A. Any extension of this Contract shall require an Amendment signed by both parties.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant itself shall provide all services to be performed under this Contract. If Sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with the Phoenix-Mesa Gateway Airport Authority Procurement Policy. Payments will be made for the actual hours worked and/or other costs incurred or provided for in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate agreements or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any Subcontractors employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all agreements with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all agreements with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written

out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX – INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.
   ii. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $1,000,000 Combined Single limit per accident for bodily injury and property damage ($5,000,000 if operating in the Air Operations Area of the Airport).
   iv. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions.

   The insurance policies shall provide, or be endorsed to include:

   i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.

   ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract.

   iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

   iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

   v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

   vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted.

For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX – NOTICES

Any notice, report or information which may be or is required to be given under this Contract will be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn: Director of Engineering and Facilities
5835 South Sossaman Road
Mesa, Arizona 85212

TO CONSULTANT: Olsson, Inc.
Attn: Kim Wheeler
6437 W. Chandler Boulevard, Suite 1
Chandler, AZ 85226

or to such other person(s) or address(es) as any such Party may designate from time to time by notice to the other Parties in accordance with this Section.

SECTION XXI – DISADVANTAGED BUSINESS ENTERPRISE

A. The requirements of 49 CFR Part 26, regulations of the U.S. Department of Transportation, applies to this Contract for all federally funded projects/work. It is the policy of the Phoenix-Mesa Gateway Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract.

B. PMGAA encourages the use of DBEs and other small businesses in the performance of this opportunity. While only DBE certified firms will count towards PMGAA's overall program goal, utilization of small

business is encouraged. In order to be counted toward PMGAA's overall DBE program goal, a business must be certified as a DBE by a certifying agency within the Arizona UCP.

C. Consultant's DBE Performance Plan (DBEPP)
Consultant shall utilize its DBEPP as submitted under solicitation 2024-005-RFQ, throughout the duration of the federally funded project(s)/Contract. Failure to fulfill the plan's terms and the plan's intent, shall be a material breach of the contract.

D. Subcontracts for Federally Funded Projects

i. Consultant is required to include the required clauses and obtain the required certifications, as provided for in Exhibit E, Federal Contract Provisions, in all subcontracts or agreements it enters into, and all lower tier subcontracts and agreements, as a result of this contract, regardless of whether or not the subcontractor is a DBE.
ii. Consultant is required to make available to PMGAA, a copy of all subcontracts, regardless of whether or not the subcontractors are DBEs, prior to any commencement of work by any of Consultant's subcontractors. The Consultant shall ensure that all subcontracts or agreements to supply labor or materials be performed in accordance with this part's provisions.

E. Required Outreach Documentation
The following documentation is required, prior to the execution of each Authorization of Services (AOS) that is federally funded under this Contract, to demonstrate that sufficient outreach efforts have been made to engage DBE subcontractors in the performance of this contract:

i. Detailed evidence that the Consultant's DBE Performance Plan (DBEPP), as submitted under solicitation 2024-005-RFQ, was and will continue to be utilized in obtaining DBE participation for the scope of work under the AOS. This should include such things as the following, depending on the Consultant's DBEPP:
   a) Copy of notifications sent to DBE firms of subcontracting opportunities
   b) Documentation of each DBE firms contacted and their response or other action taken as a result of the contact.
   c) Documentation of bid responses and/or quotes from all subcontractors who bid to perform work on the project in the areas that DBE firms were also bidding on, including information regarding the reasons why DBE bids were not considered or chosen if applicable).
   d) Dates and times of outreach events held and a list of attendees.

The following are examples of factors that are illustrative of whether or not the Consultant implemented its DBEPP in good faith:
   a) The number of contacts attempted or made with DBE firms that perform in trade areas where subcontracting work was identified.
   b) The timeliness of contacts made with DBE firms so as to allow the firms a reasonable amount of time to respond
   c) Attempts made to break down portions of the project into economically feasible units to facilitate DBE participation.
   d) Whether the bidder negotiated in good faith with interested DBEs and did not reject a bid as unqualified without sound reason.

ii. **Attachment A**: Subcontracting and Outreach Efforts Summary.

The Consultants' proposed subcontracting and summary of outreach efforts form (Attachment A) must reflect the scope of work that was identified to be potentially subcontracted and the result of the outreach efforts conducted by the Consultant for each scope of work. The Consultant shall clearly list the scope of work to be subcontracted. Consultant must complete one Attachment A for each scope of work (NAICS or group of NAICS codes) that has been identified to potentially be subcontracted.
Note: It is the responsibility of the Consultant to ensure that the scope of work to be performed by the subcontractor(s) is consistent with the area in which the firm is qualified, and in the case of a DBE subcontractor, that the firm has been granted DBE certification. The Consultant can confirm what

NAICS code(s) a DBE is certified for by visiting: https://utracs.azdot.gov/ **DBE scopes of work listed on the form that fall outside the trade or performance area in which a DBE has been granted certification shall not be counted as work subcontracted to a DBE firm.** If there are questions, the Consultant should contact the Phoenix-Mesa Gateway Airport Authority Procurement Department for verification. Owner reserves the right to validate information on the form with the DBE subcontractor and/or other certifying entities or licensing agents as part of the verification process.

iii. **Attachment B**: Letter of Intent to Perform as a Subcontractor/Supplier.

a) The dollar value and the scope of work **every** subcontractor, regardless of DBE/SBE status, is bidding to perform must be completed in full on the form.

b) For scopes of work where a total contract amount cannot be determined, the Letter of Intent to Perform as a Subcontractor/Supplier should reflect the minimum amount agreed upon between the Consultant and the subcontractor that will be paid to the subcontractor. When the form contains scopes of work where all of the dollars that will be paid to a DBE cannot be counted towards achieving the DBE program goal, the form should reflect the amount that is applicable to the program goal.

F. DBE Participation Calculation

i. **Subcontracts with DBE Firms:** DBE participation on the contract will be calculated based on that portion (dollar value) of the contract that DBEs actually perform with their own forces. This includes the cost of supplies and materials obtained by the DBE for the work on the contract, ***except*** when supplies and/or equipment is purchased or leased from the prime Consultant or its affiliate. Special emphasis and care should be taken to ensure that the following types of participation are handled properly when preparing your bid packet.

ii. **Fees & Commissions*:*** DBE firms that supply a bona fide service for a fee or commission may be counted only to the extent of the fees or commissions charged by the DBE. This includes, but is not limited to, providing professional, technical, consultant, or managerial services, and bonds or insurance specifically required for the performance of a contract. The fees must be reasonable and not excessive as compared with fees customarily allowed for similar services. ***Example:*** *A DBE firm that supplies uniformed officers for security or traffic control may count only the amounts shared as a commission. The hourly amount paid to the officers may not be counted. If the "per hour" bid amount to the prime Consultant is $30, and $21 per hour will be paid to the officers, only $9 per hour can be counted towards achieving the DBE program goal. If the firm estimates that there will be 200 hours of work, only $2,700 of the total $6,000 bid could be counted.*

iii. **Trucking & Hauling*:*** The amount of a trucking/hauling subcontract that may be counted towards the DBE utilization may be limited. A DBE must itself own and operate at least one fully licensed, insured, and operational truck that will be used on the contract. The DBE subcontractor may lease trucks from another DBE firm and receive full credit for the services of those leased vehicles. Non-DBE trucks may also be leased to perform work on the contract, but non-DBE leased trucks can be counted fully **only up to the value of transportation services provided by all DBE-owned trucks on the contract**. Any additional non-DBE leased trucks may only be credited for the fees or commissions the DBE subcontractor retains over and above the cost of the lease arrangement. ***Example:*** *A DBE trucking firm uses seven trucks on a job. Two are owned by the DBE and one is leased from another certified DBE firm. Four trucks are leased from a non-DBE. The amounts paid to the DBE for the services of three of the non-DBE trucks can be counted in full towards meeting the DBE requirement. Only the amount that the DBE subcontractor receives that is over and above the cost of leasing the fourth truck may be counted as DBE utilization.*

iv. **DBE Prime Consultant:** A DBE prime Consultant will be credited with DBE participation for that portion of the contract that they themselves perform, in addition to any portion of the contract that is subcontracted and performed by an eligible DBE subcontractor.

v. **DBE/Non-DBE Joint Ventures:** A DBE/non-DBE joint venture, functioning as the prime Consultant or as a subcontractor on a Phoenix-Mesa Gateway Airport Authority project, will be credited with DBE participation on the basis of the percentage of profit accruing to the DBE firm. ***Example:*** *A joint venture made up of one DBE and one non-DBE proposes to perform 60 percent of a project quoted at $400,000. A total of 50 percent of the profits for performing the work will go to the DBE partner in the joint venture. DBE participation will be credited at 30 percent, or $120,000.*

vi. **Lower Tier Non-DBE Participation:** Subcontract dollars paid by DBE primes and/or qualifying joint ventures to non-DBE subcontractors will not be considered when determining the percentage of DBE participation on this contract. Amounts subcontracted to a non-DBE by a DBE subcontractor (2nd tier or lower) may not be counted.

vii. **Lower Tier DBE Participation:** Consultant is obligated and must report all utilization of DBEs of lower tier subcontracts and ensure subcontractors comply with all applicable DBE reporting requirements.

viii. **DBE Suppliers:** Purchases from DBE suppliers may be counted towards the program goal as follows:

ix. **Manufacturers:** Amounts paid to a DBE supplier that manufactures or substantially alters the material or product it supplies will be credited at 100% of the expenditure when determining the percentage of DBE participation.

x. **Regular Dealer:** Purchases from a DBE firm that is an established, regular business that engages, as its principal business, in the purchase, sale, or lease of the products being supplied **may be credited towards the DBE program goal at sixty percent (60%) of the sale price** when determining the percentage of DBE participation.

xi. **Packagers, Brokers, Manufacturers' Representatives:** Purchases from a DBE firm who arranges or expedites transactions not as regular dealers, **may not be counted in full** when determining DBE participation. Only the fees or commissions charged in the procurement of the materials or supplies, or fees or transportation charges for the delivery of the materials or supplies may be credited towards achievement of the DBE program goal.

G. Definitions

i. **Disadvantaged Business Enterprise (DBE)** means a small business concern that has successfully completed a DBE certification process and been granted DBE status by a certifying agency within the Arizona Unified Certification Program

ii. **Small Business Enterprise** (SBE) means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. A small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual(s) that has annual average gross receipts in excess of the cap established by federal regulation. The Secretary shall adjust this figure from time to time for inflation.

iii. **Socially and Economically Disadvantaged Individuals** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Membership in one of the above-mentioned groups does not qualify the firm to be considered a DBE for purposes of this contract. Only firms that have completed a DBE certification process and been granted DBE status shall be considered socially and economically disadvantaged individuals for purposes of this contract.

iv. **DBE Joint Venture** is an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. One participant in the joint venture arrangement must hold DBE status from a recognized certifying entity. The joint venture is limited in scope and duration to this contract, and resources, assets and labor of the participants must be combined in an effort to accrue profit.

v. **Sole Proprietorship** is a DBE for purposes of this contract, if it is 100 percent owned, operated, and controlled by a socially and economically disadvantaged individual.

vi. **Corporation** is a DBE, for purposes of this contract, if the ownership, operation, and control of the business is conditioned upon the control of its shares of stock or other equitable securities, at least 51 percent of which (of all shares) is legally and equitably owned by socially and economically disadvantaged individuals.

vii. **Partnership** is a DBE, for purposes of this contract, if one or more socially and economically disadvantaged individuals own more than 51 percent of the assets or interest in the partnership's property.

viii. **Purchaser** for purposes of this contract, means the Phoenix-Mesa Gateway Airport Authority.

ix. **Bidder** is an individual, partnership, joint venture, corporation or firm submitting a proposal or bid to the Phoenix-Mesa Gateway Airport Authority to perform services required by the contract. The submittal may be direct or through an authorized representative.

x. **Contract** is a written agreement obligating the seller or business enterprise to furnish goods or services as proposed and the Purchaser or Buyer to pay for such goods or services.

xi. **Subcontract** is any contract at any tier below the prime contract, including purchase orders.

xii. **Supplier** is a business enterprise that manufactures the goods or materials it sells.

xiii. **Wholesaler, Distributor, Broker, or Jobber** is a business enterprise that does not manufacture the goods or materials it sells or does not perform the essential work of the contract. ***Example:*** *1) A trucking company who does not own or operate the trucks necessary to perform the work, but brokers the work to another trucking firm; 2) A distributor who supplies goods or materials as a pass through from the manufacturer, without substantial alteration of the goods or materials; and, 3) A sub-tier bidder who purchases and supplies the goods and materials on behalf of the prime bidder, and delivers the goods and materials to the prime bidder without substantial alteration of the goods and materials.*

H. Enforcement

i. This contract and all subsequent subcontracts entered into as a result of this contract, are subject to the requirements, provisions, and enforcement actions of 49 CFR Part 26, Subpart F, *Compliance and Enforcement*, § 26.107. Further, Consultant is required to insert the below clause from § 26.107 in all subcontracts entered into with a DBE as a result of this Contract.

ii. § 26.107 Enforcement Actions for firms participating as a DBE:

a) If you are a firm that does not meet the eligibility criteria of 49 CFR Part 26,Subpart D, Certification Standards, and that attempts to participate in a Department of Transportation (DOT)-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the DOT may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of 49 CFR Part 26, Subpart D, the DOT may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the DOT from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

d) The DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

The DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

Executed as of the Commencement Date.

CONSULTANT
OLSSON, INC.
a Nebraska Corporation

By: _____
Name: Fadi Jalaghi
Title: Associate Vice President
Date: 12/7/23

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO
Date: _____

EXHIBIT A - SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

SCOPE OF SERVICES

The Scope of Services to be performed by Consultant for each task under this Contract will be specified in one or more written "Authorization of Services" to be issued and agreed to by the parties during the term of the Contract. The services that are anticipated to be performed under this Contract generally consist of labor, equipment, supplies and materials to produce and deliver documents and specifications related to necessary Airport Engineering Services for various local, state and federally funded projects for PMGAA.

Any and all services to be performed as part of the Contract require an approved Authorization of Services. The Authorization of Services for each individual project under this Contract shall be used to describe in detail the scope of work to be performed, the amount of time required for performance, fees associated with that performance, and any other applicable terms or conditions for that project. Fees for individual Authorization of Services will be based on the Fees included in this section unless modified in writing by PMGAA. Either party may elect not to perform any services before mutual execution of such an Authorization of Services.

In connection with FAA Advisory Circular 150/1500-14E, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects, as updated and amended, the Airport Engineering basic services include, but are not limited to, the four distinct and sequential phases summarized below:

1. **Preliminary Phase**
   This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Some examples of activities within this phase of a project include, but are not limited to:
   a. Coordinating with PMGAA on project scope requirements, finances, schedules, operational safety and phasing considerations, site access and other pertinent matters.
   b. As applicable, coordinating project with local FAA personnel and other interested stakeholders to identify potential impacts to their operations.
   c. Planning, procuring, and/or preparing necessary surveys, geotechnical engineering investigations, field investigations, and engineering studies required for design considerations.
   d. Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations, and preliminary layouts and cost estimates.
   e. Preparing project design criteria and other bridging documents commonly used for alternative project delivery methods such as design-build, JOC or CMAR contracting.

2. **Design Phase**
   This phase includes all activities required to undertake and accomplish a full and complete project design. Examples include, but are not limited to, those below:
   a. Conducting and attending meetings and design conferences to obtain information and to coordinate or resolve design matters.
   b. Collecting engineering or other data and undertaking field investigations; performing geotechnical engineering studies; and performing engineering, and special environmental studies.
   c. Preparing necessary engineering or architectural reports and recommendations.
   d. Preparing detailed plans, specifications, cost estimates, and design/construction schedules.
   e. Preparing Construction Safety and Phasing Plan (CSPP).
   f. Printing and providing necessary copies of engineering drawings and contract specifications.

3. **Bidding and Negotiation Phase**
   These activities are also sometimes considered part of the design phase and sometimes the construction phase. They involve assisting PMGAA in advertising and securing bids, negotiating for services, analyzing bid results, furnishing recommendations on the award of contracts and preparing contract documents.

4. **Construction Phase**

This phase may include all basic services rendered after the award of a construction contract, including, but not limited to, the following activities:

a. Providing consultation and advice to PMGAA during all phases of construction.
b. Representing the PMGAA at preconstruction conferences.
c. Inspecting work in progress periodically and providing appropriate reports to PMGAA.
d. Reviewing and approving shop and erection drawings submitted by contractors for compliance with design concept/drawings.
e. Reviewing, analyzing, and accepting laboratory and mill test reports of materials and equipment.
f. Assisting in the negotiation of change orders and supplemental agreements.
g. Observing or reviewing performance tests required by specifications.
h. Assisting in the negotiation of change orders and supplemental agreements.
i. Observing or reviewing performance tests required by specifications.
j. Determining amounts owned to contractors and assisting sponsors in the preparation of payment requests for amounts reimbursable from grant projects.
k. Making final inspections and submitting punch-lists and a report of the completed project to the PMGAA.
l. Reviewing operations and maintenance manuals.

5. **Project Closeout Phase**

This phase includes all basic services rendered after the completion of a construction contract, including, but not limited to, the following activities:

a. Making final inspections and submitting punch-lists and a report of the completed project to PMGAA.
b. Providing record drawings.
c. Preparing summary of material testing report.
d. Preparing summary of project change orders.
e. Preparing grant amendment request and associated justification, if applicable.
f. Preparing final project reports including financial summary.
g. Obtaining release of liens from all contractors.

All work will be required to meet FAA Standards, the ADOT Multimodal Planning Department, Aeronautics Group Standards and/or City of Mesa requirements. All work shall be accomplished in accordance with all Federal, State, Airport and local guidelines and regulations including FAA Advisory Circulars, the National Environmental Policy Act (NEPA) and Arizona Environmental Statutes. Federal, State, Airport and local requirements will apply to each of the listed projects in the event projects are reimbursed through FAA's Airport Improvement Program or an approved Passenger Facility Charge at a later date.

The scope of work includes the pre-design, design and deliverables necessary to complete projects anticipated over the term of the Contract. It is anticipated that individual projects may be assigned to Consultant periodically, on an as-needed basis, over the contracted period. PMGAA reserves the right to stop assigning projects to Consultant at any time and to perform a new consultant selection or engage the services of other consultants for specific projects on a case-by-case basis.

The projects identified below may be assigned over the term of the Contract and may or may not be included in PMGAA's Capital Improvement Program. The projects listed below include federally funded AIP, State-funded grant projects and non-grant projects, and are not listed in order of priority:

Facilities:

Fuel Farm Capacity Analysis Study
Fuel Farm Improvements, Tanks etc.
Replace Terminal Seats Ph1, 2 Gates
Replace Carpeting at the Terminal Gates

Baggage Claim 2 Canopy
Replace Terminal Seats Ph 2, 2 gates
TSA Checked Baggage System Construction
Baggage Claim Improvements
Replace Terminal Seats Ph 3, 2 gates
Airport Buildings Roof Recoating
GAS, Building 46, Remodel
Demolish Existing Structures on Airport

Airfield Projects:

Repackage and Re-Bid Reconstruction of Runway 12R/30L
Repackage and Re-Bid Taxiway H Between B and 12R Reconstruction
Repackage and Re-Bid Taxiway W Reconstruction
Runway 12C/30C Asphalt Mill & RDR Signs and Runway Edge Lights Replacement
Replace TWY C Sign Panels C2-C3
Taxilane S Construction Administration
Taxiway Golf Realignment Design & Construction
Compass Rose Design and Relocation
Midfield Connectors Design & Construction
Parallel Taxiway West of Rwy 12C/30C Design & Construction
Lighting Vaults, Generators, LED upgrade 12L/30R
Westside Apron Design and Construction
General Aviation and Maintenance /run-up Areas with Blast Fence
Runway 12L/30R Extension 200-foot Extension
Eastside Taxiway/Taxilane Improvements
Eastside Apron Design and Construction
Safety Management System (SMS) Update

Landside Projects:

Construction of Rental Car Care Facility
Taxiway Circle Access Rd Reconstruction
Mill & Replace Asphalt Parking Lots
Gateway Blvd Design and Reconstruction
Landside Roadways Design and Construction
Access Roads Construction and/or Asphalt Overlay

FEE SCHEDULE

The fees stated herein shall remain in effect for the first year of the Contract. Consultant may increase fees effective on each annual anniversary date of the Contract, up to 5%, with the prior written approval of PMGAA. Such increases, if any, shall not apply to projects that PMGAA has issued and executed an Authorization of Services to the Consultant.

olsson

	Olsson Overhead Rate	185.88%
	Profit Rate	10%
Classifications	**Hourly Rate**	**Billing Rate**
Project Principal	96.50	303.45
Project Manager	83.14	261.45
Lead Task Manager	70.45	221.55
Project Engineer	58.43	183.75
Design Engineer	49.75	156.45
Senior Scientist (Environmental)	63.77	200.55
Project Scientist (Environmental)	49.08	154.35
Cadd Designer	46.75	147.00
Materials Testing - Drilling Manager	50.42	158.55
Materials Testing - Lab/Field Manager	40.40	127.05
Drilling Senior Technician	32.05	100.80
Drilling Associate Technician	27.05	85.05
Geotechnical Engineer	62.10	195.30
Geotechnical Field Manager	49.75	156.45
Geotechnical Senior Technicial	41.07	129.15
Geotechnical Associate Technician	35.06	110.25
Senior Surveyor/RLS	50.42	158.55
Survey Crew Leader	39.07	122.85
Associate Surveyor	32.05	100.80
Assistant Surveyor	26.38	82.95
1 Person Survey Crew	32.05	100.80
2 Person Survey Crew	65.44	205.79
Administrative Coordinator	31.72	99.75
Administrative Assistant	24.04	75.60

6437 W. Chandler Blvd, Chandler, AZ 85226 (480) 829-6000

EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below and in accordance with each Authorization of Services initiated under this Contract. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the amount of time required for performance, the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT B**, "Scope of Services and Fee Schedule".

2. Method of Payment

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice or payment application depicting tasks performed, hours spent, utilized and expenses incurred for services performed. Invoices or payment applications must be based on the actual hours required and expenses incurred for the services completed during the billing period. Consultant's invoices or payment applications must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice or application as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and progress reports in accordance with terms specified in the Contract, which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices/requisitions for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices/requisitions for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C – SPECIAL PROVISIONS

1. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA all Consultant's and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* listing available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

2. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict. Wherever Standard Terms & Conditions are in conflict with conditions stated in this Special Provisions Section, the conditions stated in this Section shall take precedence.

3. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

4. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

5. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. Certification

By signature of this Contract, Consultant certifies:

a. The award of this Contract did not involve collusion or other anti-competitive practices.
b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. Dispute Resolution

a. Negotiations. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.
b. Mediation. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.
c. Binding Dispute Resolution. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

3. Independent Contractor

At all times, each party acts in its individual capacity and not as agent, employee, partner, joint venturer, or associate the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days.

PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

4. Affirmative Action

Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

5. Human Relations

Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

6. Non-Exclusive Contract

This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

7. Americans with Disabilities Act

Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

8. Confidentiality of Records

Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

9. Gratuities

PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

10. Applicable Law

This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

11. Contract

This Contract is based on and the result of a negotiated Scope of Services and Fee Schedule submitted by Consultant. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

12. Contract Amendments

This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

13. Provisions Required by Law

Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

14. Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

15. Protection of Government Property

Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

16. Interpretation – Parol Evidence

This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade

shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

17. Subcontracts

Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days or written request by Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Offeror referred to herein. Offeror is responsible for Contract performance whether or not subcontractors are used.

18. No Waiver

No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

19. Warranties

Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

20. Indemnification

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

21. Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

22. Advertising

Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

23. Right to Inspect

PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of a Consultant's or subcontractor's business, which is related to the performance of this Contract or related subcontract.

24. Force Majeure

In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to

perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

25. Inspection

All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

26. Exclusive Possession

All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

27. Title and Risk of Loss

The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

28. Liens

All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

29. Licenses

Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

30. Subsequent Employment

PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

31. Clean Up

Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

32. Patents

Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

33. Records and Audit Rights

Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

34. E-Verify Requirements

To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

35. Availability of Project Funding

This Contract's approval and continuation is conditioned on the availability of funds appropriated by PMGAA for this purpose. If funds are not available or appropriated for the Contract's requirements, PMGAA may terminate the Contract. Possible sources of funding for this Contract include FAA and ADOT, and this Contract is contingent on the availability of those funds to PMGAA.

EXHIBIT E – FEDERAL PROVISIONS

For this Exhibit: Contractor shall mean the same as "Consultant", "Offeror", "Bidder", "Proposer" or "Firm"
Owner and Sponsor shall mean Phoenix Mesa Gateway Airport Authority

The provisions in this Exhibit E apply to all federally funded Projects/Authorization of Services, unless stated otherwise herein.

A1 ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

A2 AFFIRMATIVE ACTION REQUIREMENT

This provision is applicable if the Scope of Work to be performed in the Authorization of Services (AOS) includes tasks that meet the definition of construction work (as defined by the U.S. Department of Labor). Owner shall include the goals for minority participation for each trade in the AOS.

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for minority participation for each trade:	**TBD**
Goals for female participation in each trade:	**6.9%**

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address,

and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is the State of Arizona, Maricopa County, in the city of Mesa.

A3 BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Consultant or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Consultant until such time the Consultant corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

A4 BUY AMERICAN PREFERENCE

This provision is applicable if the Scope of Work to be performed in the AOS includes a deliverable of a manufactured product. The Contractor will be required to complete the Buy American Preference Certification prior to execution of the AOS.

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

[1] Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

Certification of Compliance with FAA Buy American Preference – Equipment/Building Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101, and other Made in America Laws, U.S. statutes, guidance, and FAA policies by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:

a) Only installing steel and manufactured products produced in the United States;
b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
b) To faithfully comply with providing U.S. domestic product.
c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more that 60 percent of the cost of all components and subcomponents of the "item". The required documentation for a Type 3 waiver is:

a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
d) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver (Unreasonable Costs) - Applying this provision for iron, steel, manufactured goods or construction materials, would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

a) Completed Content Percentage Worksheet and Final Assembly Questionnaire from
b) At minimum two comparable equal bidders and/or offerors;
c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

A5 CIVIL RIGHTS - GENERAL

This provision is applicable to **all** projects/AOS, regardless of funding source.

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

A6 CIVIL RIGHTS

This provision is applicable to all projects/AOS, regardless of funding source.

The Phoenix Mesa Gateway Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Nondiscrimination Requirements/Title VI Clauses for Compliance

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

    a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

    b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

A7 CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Contractor must include this requirement in all subcontracts that exceed $150,000.

A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

This provision is applicable if the Scope of Work to be performed in the AOS includes the Consultant to employ laborers, mechanics, guards, survey crews and drilling.

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.
In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.
The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.
The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

A9 COPELAND "ANTI-KICKBACK" ACT

This provision is applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction, alternation, or repair.

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

A10 DAVIS-BACON REQUIREMENTS

Davis Bacon Requirements are applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5).
Owner shall include the applicable Wage Determination in the AOS if this provision is required.

1. Minimum Wages.
(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of

wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-

assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.
(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.,* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at *https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).
(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;
(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.
(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.
(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable

wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.
The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.
The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment.
A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.
All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.
Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.
(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

A11 DEBARMENT AND SUSPENSION

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.

2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.
   If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

A12 DISADVANTAGED BUSINESS ENTERPRISE

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Phoenix Mesa Gateway Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

Contract Assurance
The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment
The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Phoenix Mesa Gateway Airport Authority. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Phoenix Mesa Gateway Airport Authority. This clause applies to both DBE and non-DBE subcontractors.

See Section XXI of this Contract for additional information and requirements regarding DBE. Consultant agrees to all rules, policies, and requirements a set forth in these Contract documents and Exhibits.

A13 DISTRACTED DRIVING

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.
In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

A14 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

A15 DRUG FREE WORKPLACE REQUIREMENTS

Not Applicable.

A16 EQUAL EMPLOYEMENT OPPORTUNITY (EEO)

This provision is applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction.

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:
   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
   b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
   c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
   d. "Minority" includes:
      (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
      (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
      (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
      (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or

federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written

record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

A19 PROHIBITION of SEGREGATED FACILITIES

This provision is applicable if the Scope of Work to be performed in the AOS includes tasks that meet the definition of construction work as defined by 41 CFR part 60-1.

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

A21 PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

a) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or
b) The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.
Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
b) Fails to meet reasonable contract performance requirements; or
c) Is only available at an unreasonable price.

A22 RIGHT TO INVENTIONS

This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of *experimental, developmental, or research work only*.

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

A23 SEISMIC SAFETY

This provision is applicable if the Scope of Work to be performed in the AOS involves the design and/or construction of a new building(s) or structural addition to an existing building(s).

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

A24 TAX DELINQUENCY AND FELONY CONVICTIONS

Consultant has completed and submitted the following certification statements under the Owners solicitation and has indicated its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from the solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

The clause is stated again below for inclusion in this section.

Certifications

a) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
b) The applicant represents that it is ( ) is not ( ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

A25 TERMINATION OF CONTRACT

Termination for Cause

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party at least 7 days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner**: The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:
   1. Perform the services within the time specified in this contract or by Owner approved extension;
   2. Make adequate progress so as to endanger satisfactory performance of the Project; or
   3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

   Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

   Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

   If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant**: The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:
   1. Defaults on its obligations under this Agreement;
   2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
   3. Suspends the project for more than 180 days due to reasons beyond the control of the Consultant.

   Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified, and approved by Owner, reimbursable expenses incurred by the Consultant through the effective date of termination action.

Termination for Convenience

This Contract may be terminated at any time by mutual written consent or by Owner - with or without cause - provided the terminating party gives fourteen (14) calendar days' advance written notice to the other party. Owner may terminate this Contract, in whole or in part, for Owner's convenience and with fourteen (14) days' written notice. If this Contract is terminated, then Owner is liable only for services rendered and material received, certified, and approved by Owner under the Contract before the termination effective date.

Each payment obligation of Owner created hereby is conditioned on the availability of Owner, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by Owner for continuance of service under this Contract, then Owner may terminate the Contract. Owner shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to Owner if this provision is exercised, and Owner shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

Upon termination of the Contract, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by Owner, its Engineer, Architect, or representative, under this contract, whether complete or partially complete.

A26 TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.
Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

A27 VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

A28 DOMESTIC PREFERENCES FOR PROCUREMENTS

CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

EXHIBIT F- SUBCONTRACTING AND DBE OUTREACH FORMS

Consultant shall submit the following Attachments at time Consultant submits it's fee proposal for **each** AOS that is federally funded:

Attachment(s) A – Subcontracting and Outreach Efforts Summary
Attachment(s) B – Letter of Intent to Perform as a Subcontractor

ATTACHMENT A
SUBCONTRACTING AND OUTREACH EFFORTS SUMMARY

Submit: **Prior to AOS award for each subcontracting opportunity identified** **(even if it did not result in a subcontract)**
Completed By: **Prime Consultant**

NAME OF CONSULTANT: _____ **PROJECT DESCRIPTION:** _____

Scope of Work That May Be Subcontracted	NAICS Code(s) for Scope

FIRMS CONTACTED	NOTES / OUTCOME	DBE (Y/N)	SBE (Y/N)	SELECTED (Y/N)

THIS FORM SHALL NOT RELEASE CONSULTANT FROM PROVIDING DETAILED DOCUMENTATION OF OUTREACH EFFORTS AS SPECIFIED IN THE CONTRACT

1. **CONSULTANT SHALL COMPLETE THIS FORM TO SUMMARIZE THEIR OUTREACH EFFORTS FOR EACH SCOPE OF WORK OPPORTUNITY IDENTIFIED TO SUBCONTRACT (A SEPARATE FORM IS REQUIRED FOR EACH TYPE/SCOPE OF WORK) MAKE COPIES OF THIS FORM AS NECESSARY. EXPAND TEXT BOXES OR ATTACH INFORMATION AS NEEDED.**

Consultant Hereby affirms that the above information, as well as the detailed documentation submitted regarding Consultant's outreach efforts, is true and complete to the best of Consultant's knowledge.

Further, Consultant hereby affirms that the Consultant will enter into a formal agreement with the identified selected subcontractors/suppliers listed herein conditioned upon the execution of a contract with the Phoenix-Mesa Gateway Airport Authority.

Signed By _____ Title _____

Date _____

ATTACHMENT B
LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR

Submit: **For each Subcontractor that is selected**
Completed By: **EACH Subcontractor (regardless of DBE status) selected to perform work**

PROJECT DESCRIPTION: _____ **Project No.:** _____

TO: _____, **FROM:** _____
(Insert name of Prime Consultant) (Insert name of Subcontractor)

SUBCONTRACTOR IS:

1. Prepared and licensed in Arizona to perform the following scope(s) of work on the above referenced project for the Prime Consultant:

   _____ _____ $_____
   Scope of Work/Description NAICS Code for Work Contract Amount

2. Certified as (must select one): ☐ Male Owned ☐ Woman Owned ☐ Neither

3. Certified as (must select one): ☐ Non-Minority ☐ Black American ☐ Hispanic American
   ☐ Native American ☐ Asian-Pacific American
   ☐ Subcontinent Asian American

4. Certified as a (must select one): ☐ Disadvantaged Business Enterprise ☐ Small Business Enterprise ☐ Neither

5. Subcontractor's Age of firm: ☐ Less than 1 year ☐ 1 – 3 years ☐ 4 – 7 years ☐ 8 – 10 years ☐ More than 10 years

6. Subcontractor's Annual Gross Receipts of Firm: ☐ Less than $500,000.00 ☐ $500,000.00 - $1,000,000.00
   ☐ $1,000,001.00 - $2,000,000.00 ☐ $2,000,001.00 - $5,000,000.00
   ☐ Greater than $5,000,000.00

7. Subcontractor's SAMS Unique Entity Identification Number _____

8. Subcontractor will sublet _____ , of their
   (Scope/Description of Work Subletting)

   work to a ☐ Certified DBE ☐ Certified SBE ☐ Neither a DBE nor SBE (must select one if subletting)

   for $_____. Name of firm you are subletting to _____.
   (amount of work subletting)

On the _____ day of _____, 202_, by signature below, the undersigned agrees to enter into a formal agreement/subcontract for the work cited herein should the prime contractor receive award of this contract from the Phoenix-Mesa Gateway Airport Authority.

_____ _____
(Authorized Signature of Subcontractor) (Print Subcontractor Firm Name)

_____ _____
(Print Name and Title) (Phone Number)

IF THE CONSULTANT DOES NOT RECEIVE AWARD OF THE AOS, ANY AND ALL REPRESENTATIONS IN THIS LETTER OF INTENT AND AFFIRMATION SHALL BE NULL AND VOID.

EXHIBIT G- SUBCONTRACTOR PAYMENT FORMS

Consultant shall submit the following forms when Subcontractors are paid for **each** AOS that is federally funded.

Attachment C – Statement of Subcontractor Utilization
Attachment D – Certification of Payment by a DBE Firm to a Lower Tier
Attachment E – Certification of Prompt Payment to Subcontractors

ATTACHMENT C
STATEMENT OF SUBCONTRACTOR UTILIZATION

Submit & Completed By: 1) Prime Consultant with every pay request involving any Subcontractor AND
2) Any Subcontractor when paying any lower tier Subcontractor as a reporting mechanism only (check box below)

SHEET ____ OF _____

☐ **CHECK IF FORM IS FOR SUB-TIER REPORTING** **PROJECT NAME:** _____ **PROJECT NUMBER:** _____

PRIME CONSULTANT PAY REQUEST NO: _____ **PAY REQUEST $**_____

PMGAA USE ONLY

SUBCONTRACTOR RECEIVING PAYMENT	CONTRACT AMOUNT	CONTRACT ADJUSTMENTS	REVISED CONTRACT AMOUNT	AMOUNT EARNED THIS PERIOD	AMOUNT EARNED TO DATE	AMOUNT RETAINED THIS PERIOD	AMOUNT RETAINED TO DATE	NET PAYMENT THIS PERIOD	PP RCVD	REVIEW DATE	NOTES

PRIME CONSULTANT/SUBCONTRACTOR _____ **AUTHORIZED SIGNATURE** _____ **DATE** _____

NOTE: Amount earned this period, less retention, (NET PAYMENT THIS PERIOD) MUST equate to amount on Prompt Payment certification. If not, attach explanation please.

ATTACHMENT D
CERTIFICATION OF PAYMENT BY A DBE FIRM TO LOWER TIER

Submit: **When a DBE Subcontractor/supplier makes a payment to a firm/individual they have sublet a portion of their contract to**

Completed By: **Subcontractor**

PROJECT DESCRIPTION: _____ **Project No.:** _____

DBE Subcontractor Name: _____ ☐ **Submitted with Attachment C**

The work listed below was sublet to: _____**, who is a**
(firm name)

1. ☐ DBE ☐ SBE ☐ NEITHER A DBE NOR SBE (must select at least one)

2. ☐ Contractor ☐ Trucker ☐ Broker (Fees/Commission) ☐ Supplier ☐ Manufacturer ☐ Other (must select one)

Start Date	End Date	Description / Scope of Work	Total Amount Sublet

TOTAL $ _____

I, _____ confirm that _____
(Authorized DBE firm officer, print name) (Name of firm work sublet to)

has performed the scope(s) as described above for $_____

_____
(Authorized DBE firm officer, signature)

_____ _____
(Title) (Date)

ATTACHMENT E
CERTIFICATION OF PROMPT PAYMENT TO SUBCONTRACTORS

Submit: **For each payment made to a Subcontractor or lower tier Subcontractor**
Completed By: **Prime Consultant and Subcontractor OR Subcontractor and Lower Tier Subcontractor**

PRIME CONSULTANT or SUBCONTRACTOR: _____ INVOICE/PAY REQUEST NO.: ____

PRIME CONSULTANT OR SUBCONTRACTOR AFFIDAVIT:
The undersigned, having contracted as the prime Consultant or Subcontractor (herein includes Suppliers) on Project #TBD (TBD), hereby certifies that a payment has been made to the Subcontractor cited below. The total value of this payment made to the Subcontractor for materials and/or work performed on this project contract is as follows:

Subcontractor: _____Total Amount Paid: $_____Date Sent _____

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years following final completion of the contract. In the event the Subcontractor was not paid in accordance with affidavits submitted by the Prime Consultant or Subcontractor, all documentation supporting the payee's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Prime Consultant or Subcontractor (Print Name and Title)

Date: _____

SUBCONTRACTOR AFFIDAVIT:
The undersigned Subcontractor hereby certifies that a contract was entered into with the above named prime Consultant or Subcontractor to perform work or provide materials on the project cited in this document. I further certify that the total amount of this payment received as provided herein by the Prime Consultant or Subcontractor is accurate and unchallenged.

Total Amount Received: $ _____ Date Received _____

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Signature of Authorized Agent for Subcontractor (Print Name and Title)

Date: _____

OVER FOR INSTRUCTIONS

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
CERTIFICATION OF PROMPT PAYMENT TO SUBCONTRACTORS

INSTRUCTIONS

Prime Consultant or Subcontractor will prepare a form for each Subcontractor being paid from each Airport payment for services when the Subcontractor is being paid. The amount paid to each Subcontractor should match the amount earned less any retention held on a pay application as shown on Attachment C.

The date documented by the Prime Consultant or Subcontractor must be the date a check is issued or that an Electronic Fund Transfer is completed as payment to the Subcontractor. This must be in conformance with State and Federal prompt payment regulations per the contract.

The authorized Prime Consultant or Subcontractor must sign and certify the accuracy of the information on this Attachment E and send it to the Subcontractor.

The Subcontractor must document the amount of payment received and the date payment from the Prime Consultant or Subcontractor was received. The authorized Subcontractor representative must sign and certify accuracy of the information.

The Subcontractor must email a scan of the record to the Airport within five (5) days of receipt of the Prime Consultant or Subcontractor payment. Airport contact information is as follows:

PromptPayment@gatewayairport.com

The Subcontractor should also copy the Prime Consultant or Subcontractor on the record.

The Prime Consultant and Subcontractor must retain the payment records and evidence of compliance for three years following completion of the contract.

FOR QUESTIONS ON COMPLETING THIS FORM, PLEASE CONTACT THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY AT (480) 988-7628.

Subcontractors may file complaints on alleged violations of the Prompt Payment standards by contacting the Airport Project Manager or Airport Staff at the number noted above.

EXHIBIT H – CONSULTANT'S DBE PERFORMANCE PLAN

PMGAA and Consultant acknowledge that certain projects may be funded with Federal funds and Consultant's approved DBE Performance Plan submitted under PMGAA's solicitation 2024-005-RFQ is hereby incorporated into the Contract and will be utilized by Consultant throughout the duration of each federally funded project.

EXHIBIT I – CONSULTANT'S RFQ SUBMITTAL

Consultant's Statement of Qualifications in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2024-005-RFQ dated October 12, 2023, is hereby incorporated into the Contract and made part of this Contract.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-66

To:	**Board of Directors**
From:	**Lori Collins, Director of Business and Economic Development**
Through:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Allegiant Air, LLC, Air Carrier Operating Agreement**
Date:	**December 19, 2023**

Proposed Motion

To authorize the Executive Director to execute an Air Carrier Operating Agreement with Allegiant Air, LLC for commercial air service at the Airport.

Narrative

Allegiant Air, LLC ("Allegiant"), a wholly owned subsidiary of Allegiant Travel Company, currently provides commercial passenger transportation services to forty-five domestic destinations at Phoenix-Mesa Gateway Airport ("Airport"). Allegiant's operation at the Airport is governed and guided by an Air Carrier Operating Agreement that specifies exclusive, preferential, and non-exclusive rights to facilities and infrastructure; as well as establishes associated operating costs.

This new one-year agreement accomplishes several important goals:

- Maintains and promotes a low-cost operating structure for Allegiant at the Airport
- Allocates facilities for Allegiant's preferential use.
- Encourages and rewards future growth at the Airport by Allegiant through a defined incentive and non-airline revenue sharing program.
- Preserves and enhances an operating environment at the Airport that provides Allegiant unparalleled efficiency and convenience.

Fiscal Impact

The Airport receives revenue from Allegiant through facility leases; aircraft landing and parking fees; terminal and terminal equipment use fees; and fuel storage/upload fees. The Airport also receives revenue from Allegiant's customers for vehicle parking and other ground transportation services; food/beverage/retail purchases; Passenger Facility Charges (PFC); Customer Facility Charges (CFC); and Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Entitlement Grants.

Attachment(s)

Air Carrier Operating Agreement

RESOLUTION NO. 23-66

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize the Executive Director to execute an Air Carrier Operating Agreement with Allegiant Air, LLC for commercial air service at the Airport;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes the Executive Director to execute an Air Carrier Operating Agreement with Allegiant Air, LLC for commercial air service at the Airport. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority

Air Carrier Operating Agreement

with

Allegiant Air, LLC

Effective Date: January 1, 2024

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
AIR CARRIER OPERATING AGREEMENT

This Air Carrier Operating Agreement (the "Agreement") is executed to be effective the 1st day of January 2024 (the "Effective Date") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY** ("PMGAA"), a joint powers airport authority authorized under the laws of the State of Arizona ("PMGAA"), and **ALLEGIANT AIR, LLC** ("CARRIER"). PMGAA and CARRIER may be referred to collectively as "Parties," and each separately may be referred to as a "Party."

RECITALS:

A. PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "Airport"); and

B. PMGAA has the right to enter into Agreement, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Agreement in respect thereof; and

C. CARRIER provides commercial airline services, charters, flight crews, aircraft and desires to use the Airport facilities for commercial operations; and

D. CARRIER desires to obtain certain non-exclusive rights to use the common use areas of the passenger terminal, services and privileges in connection with the use of the Airport and its facilities, and PMGAA is willing to grant the same to CARRIER upon the terms and conditions hereinafter stated; and

E. The Parties agree to enter into this Agreement, specifying the rights and obligations of the Parties with respect to the operation of the Airport by PMGAA and the use and/or occupancy of the Airport by CARRIER;

NOW, THEREFORE, for good and valuable consideration, the mutual covenants and conditions herein set forth and the sufficiency of which is agreed to by the Parties, the Parties hereby agree as follows:

1. PERMITTED ACTIVITIES AND CONDITIONS OF AIRPORT USE.

1.1 CARRIER shall have the right to use, in common with others, the passenger terminal, taxiways, runways and air navigational aids of the Airport for the purpose of conducting its Federal Aviation Regulation (FAR) Part 121 scheduled domestic operations, public charter, private charter and the landing and taking off of aircraft incidental thereto, and provided, however, such activities and services are performed in strict accordance with applicable PMGAA Minimum Standards, upon terms and conditions as herein provided.

1.2 RESERVED.

1.3 CARRIER shall not engage in any other commercial or revenue producing activity at the Airport (excluding charter activities by CARRIER, and charter activities requested by PMGAA) without first applying for and receiving written approval for such activity from PMGAA. In the event any other commercial or revenue producing activity is engaged in by CARRIER prior to obtaining such approval, without waiver or limitation of any other remedies available to PMGAA at law or equity, CARRIER hereby agrees to remit to PMGAA the sum equal to TEN PERCENT (10%) of gross billings for such unauthorized activity, plus any expenses incurred by PMGAA in the course of any audit conducted for all of CARRIER's activities.

1.4 CARRIER shall at all times comply with all Federal, State and local laws, ordinances, rules and regulations which are applicable to its operations or the Premises itself (including but not limited to the Americans with Disabilities Act), including all laws, ordinances, rules and regulations adopted after the Effective Date. Carrier shall at all times comply with the PMGAA Rules and Regulations, as the same may be amended from time to time in the Authority's sole and absolute discretion.

2. TERM.

2.1 Subject to earlier termination as provided herein, the term of this Agreement shall be one (1) year, commencing on the Effective Date (the "Term").

2.2 Either Party may terminate this Agreement by providing the notified Party ninety (90) calendar days advance written notice of the terminating Party's intent to do so.

3. EXCLUSIVE, PREFERENTIAL, AND NONEXCLUSIVE RIGHTS.

CARRIER shall have the exclusive, preferential, and non-exclusive rights, as applicable, to occupy and use the designated areas of the Airport while in compliance with the terms and conditions of this Agreement. All rights granted to CARRIER under this Agreement are nonexclusive, except as otherwise expressly stated in this Agreement. PMGAA may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport that PMGAA deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with CARRIER's use of the Airport.

3.1 CARRIER shall not schedule or advertise flight schedules originating from or destined for Phoenix-Mesa Gateway Airport without prior coordination with PMGAA and confirmation from PMGAA of terminal availability.

Pursuant to PMGAA's Common Use Facilities Operating Procedures (attached as **EXHIBIT C**), CARRIER shall submit a copy of CARRIER's proposed schedule to PMGAA no less than 60 days prior to the schedule effective date. Along with the schedule submission, CARRIER shall include the name and contact information of the individual responsible for setting CARRIER's schedule at the Airport.

3.2 PMGAA shall provide CARRIER with exclusive use of the Airport facilities identified in **EXHIBIT D**.

3.3 PMGAA shall provide CARRIER with preferential use of five (5) boarding gates and twelve (12) ticketing positions. In addition, CARRIER shall have common use access to additional ticket counters, gate hold rooms, and the baggage claim area for scheduled flight operations, the scheduling of such use is subject to the guidelines outlined in PMGAA's Common Use Facilities Operating Procedures. Common use requirements shall be scheduled with PMGAA's Operations & Maintenance department prior to any planned use.

3.4 PMGAA has implemented Common Use Facilities Operating Procedures. PMGAA reserves the right to modify said procedures from time-to-time, as it deems necessary in its sole and absolute discretion and authority to accomplish its purposes. CARRIER shall at all times comply with these operating procedures.

3.5 PMGAA has implemented an Airport Security Program in a form acceptable to the Transportation Security Administration (TSA). PMGAA reserves the right to modify said program from time-to-time, as it deems necessary to accomplish its purposes. CARRIER shall at all times comply with the Airport Security Program and indemnify, defend, hold and save PMGAA, its board members, member governments, officers, officials, employees, and agents free and harmless for, from, and against any violations of said Security Program caused, or alleged to be caused, by the acts, errors or omissions of CARRIER, its employees, agents, invitees or contractors.

4. RENTALS, FEES AND CHARGES

4.1 General. Rent for use of any exclusive use space is due and payable at the beginning of each month. All other fees are assessed at the time of each use, flight, or service, as applicable, and are due and payable no later than the twentieth (20th) day of the following month in which the use or activity occurred ("Fee Due Date"). CARRIER shall self-report its flight activity monthly to PMGAA pursuant to Section 5. Delinquent rents and fees shall be assessed a finance charge in accordance with Section 4.11.2. Any ground handling services requested of PMGAA or other authorized service provider by CARRIER shall be governed by a separate agreement. In any event, CARRIER shall be the responsible party for the purposes of this Air Carrier Operating Agreement, and therefore CARRIER shall pay, or cause to be paid, to PMGAA, the fees and charges as outlined below.

4.2 Landing Fees. CARRIER shall pay a landing fee at a rate equal to the amount reflected on the most current Airport Rates & Charges Schedule at the time of the aircraft operation, for each flight operated by or in conjunction with CARRIER that is subject to a landing fee. The weight used to determine the landing fee for any particular aircraft shall be its maximum certificated gross landing weight (MGLW), as certified by the Federal Aviation Administration (FAA).

4.3 Terminal Use Fees. Terminal Use includes ticket counter(s) and lobby area, secure hold room and boarding area podium, aircraft parking position, baggage claim area, and common use computer equipment per flight. CARRIER shall pay PMGAA a Terminal Use Fee in the amount reflected on the most current Airport Rates & Charges Schedule.

4.4 Common Use Set-up and Operating Fees. CARRIER shall pay PMGAA for common use terminal equipment, internet connection, and dark fiber per the most current Airport Rates & Charges Schedule.

4.5 Aircraft Parking Fees. CARRIER shall pay PMGAA a fee per the most recent Airport Rates & Charges Schedule for any aircraft occupying an aircraft parking position, including terminal gates and remote parking positions, for more than three hours. This fee shall be waived if the aircraft performed a revenue service operation the day prior or will perform a revenue service operation the day after being parked for more than three hours.

4.6 Passenger Facility Charges. CARRIER shall pay monthly to PMGAA, on or before the Twentieth (20th) day of each month (the "PFC Due Date"), a Passenger Facility Charges (PFC) in the amount of Four and 50/100 Dollars ($4.50) for each Enplaned Passenger departing the Airport on a CARRIER Revenue Flight during the previous calendar month. The collection of said fees by CARRIER shall be subject to the terms, conditions and methods of collection set forth in the Aviation Safety and Capacity Expansion Act of 1990, Section 9110, at it now exists or is modified hereafter (the "PFC Act") and 14 CFR 158.53.

4.7 Monthly Tie Down Fees. CARRIER shall pay Monthly Tie Down Fees per Airports Rates and Charges.

4.8 Fueling Fees. CARRIER shall execute a Fueling Service Agreement with PMGAA co-terminous with this Agreement.

4.9 Aircraft Ramp Space and Services. CARRIER shall pay PMGAA monthly for any aircraft line services, out-of-station Aircraft Rescue and Firefighting (ARFF) services, operations safety officers, ground service equipment use, fuel spill response teams and any other space or service requirements as specified in the Airport Rates & Charges Schedule or, if not so specified in that Schedule, as determined by PMGAA (collectively, "Additional Services").

4.10 Other Fees. Unless specified otherwise herein, CARRIER shall pay PMGAA for its usage or rental of PMGAA equipment and the performance of services by PMGAA within TEN (10) business days of CARRIER's receipt of an invoice (the "Invoice Due Date") for same from PMGAA. The

amount of such fees shall be as provided by separate agreement between CARRIER and PMGAA, or, in the absence of such agreement, as specified in the most current Airport Rates and Charges Schedule or Airport Fees, Services & Rental Rates in effect when the charge or fee was incurred. Failure to remit payment by the Invoice Due Date may result in the suspension of further equipment rentals or services until payment is made to PMGAA in full.

4.11 Requirements. With regard to the fees and charges specified in this SECTION 4, the following conditions and considerations shall apply:

4.11.1 Airport Rates & Charges Schedule. The Airport Rates & Charges Schedule and Airport Fees, Services and Rental Rates referred to in this Agreement may be revised from time to time. CARRIER shall pay the most current fee(s) at the time of the event or service, as applicable, unless specifically outlined in this Agreement. The current Airport Rates & Charges Schedule and the Airport Fees, Services and Rental Rates are attached as **EXHIBIT A** and is subject to change without prior notice or approval of CARRIER.

4.11.2 Finance Charges and Late Fees. If CARRIER fails to pay any charge due and owing to PMGAA in full on or before Fee Due Date, Invoice Due Date or PFC Due Date, as applicable, CARRIER shall be responsible for interest on the unpaid fee or charge at the rate of EIGHTEEN PERCENT (18%) per annum from the applicable due date until payment in full is made. In addition, in the event any payment is received more than TEN (10) days after the applicable due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent amount shall be due and payable in addition thereto.

4.11.3 Books and Records. CARRIER shall maintain permanent books, records and ledgers accurately reflecting the total passengers, and total number of monthly aircraft landings for all aircraft subject to a landing fee indicating the make, type (including model designation), registration number, maximum certificated gross landing weight, and arrival and departure time of each aircraft involved. These records shall be made available to PMGAA upon request. PMGAA may audit the books, records and ledgers maintained by CARRIER in accordance with this SECTION 4. In the event an audit reveals a deficiency of TWO PERCENT (2%) or greater in the amount of payment made pursuant to this SECTION 4, CARRIER shall not only pay such deficiency but also the cost of any audit performed by PMGAA.

4.12 Airport Incentives. As an inducement for CARRIER to initiate additional airline services at the Airport, PMGAA is prepared to provide a comprehensive package of incentives that could include landing fee and terminal use fee waivers, specific route revenue guarantees, and non-airline revenue sharing for eligible new nonstop destinations, increased frequency to existing destinations identified as underserved by PMGAA, and total annual emplaned passenger activity. The PMGAA Air Service Incentive Program for CARRIER is attached as **EXHIBIT E**.

5. REPORTING REQUIREMENTS

5.1 CARRIER shall file with PMGAA written reports for the items specified below no later than the TENTH (10th) day of the calendar month following the month in which the specified activities occurred. Such reports shall cover all of CARRIER's Airport activities during said month, and include activity handled by CARRIER for other Air Transportation Companies not having an agreement with PMGAA providing for its own submission of activity data to PMGAA.

5.1.1 A complete listing of all of CARRIERS's actual aircraft landings at the Airport, including aircraft type and MGLW; and a listing, by destinations, of the number of flights that qualify under applicable waiver agreements for any landing fee waivers;

5.1.2 A complete listing of CARRIER's Enplaned Passengers and Deplaned Passengers, specified by and including the type of aircraft;

5.1.3 A complete listing, by date and flight number, of CARRIER's commercial cargo loaded and off loaded.

5.2 PMGAA shall have the right to rely on said activity reports in determining rentals and other charges due hereunder; provided, however, CARRIER shall have full responsibility for the accuracy of said reports. Payment deficiencies due to incomplete or inaccurate activity reports shall be subject to interest charges as set forth in SECTION 4.11.2 herein.

5.3 CARRIER shall at all times maintain and keep books, ledgers, accounts or other records wherein are accurately kept all entries reflecting the activity statistics to be reported pursuant to SECTION 5. Such records shall be retained by CARRIER for a period of THREE (3) years subsequent to the activities reported therein, or such other retention period as set forth in 14 CFR Part 249.7, and made available at Mesa, Arizona for audit and/or examination by PMGAA or its duly authorized representative during all normal business hours. CARRIER shall produce such books and records at Mesa, Arizona within THIRTY (30) calendar days of PMGAA's notice to do so or pay all reasonable expenses, including but not limited to, transportation, food, lodging and other related expenses, necessary for an auditor selected by PMGAA to audit said books and records.

5.4 The cost of audit, with the exception of the aforementioned expenses, shall be borne by PMGAA; provided, however, the total cost of said audit shall be borne by CARRIER if either or both of the following conditions exist:

5.4.1 The audit reveals an underpayment of more than TWO PERCENT (2%) of rentals, fees and charges due hereunder, as determined by said audit; and/or

5.4.2 CARRIER has failed to maintain true and complete books, records, accounts and supportive source documents in accordance with SECTION 5.

5.5 All payments due and payable hereunder shall be paid in lawful money of the United States of America, without set off, by check made payable to the Phoenix-Mesa Gateway Airport Authority and delivered to:

Phoenix-Mesa Gateway Airport Authority
Attn.: Accounts Receivable
5835 S. Sossaman Road
Mesa, Arizona 85212-0614

6. INSURANCE

6.1 General. Carrier shall procure and maintain the following types and amounts of insurance for its operations at the Airport throughout the Term of this Agreement and any extension thereto:

Aircraft Liability insurance covering third party bodily injury and property damage, and passenger and contractual liabilities which shall protect and indemnify PMGAA from any and all claims arising in connection with aircraft movement on the Airport in amounts as are customarily carried by a carrier of like kind and size, but in no event less than $250,000,000.00 per occurrence. Such insurance shall also insure against third party liabilities arising from War Risk perils.

Airport Premises Liability insurance third party bodily injury and property damage, including coverage for "premises/operations," "products and completed operations," "host liquor" and "blanket contractual" liabilities in an amount not less than $250,000,000.00 per occurrence.

Comprehensive Automobile Liability insurance for all owned, non-owned and hired vehicles operated airside on the Airport that are assigned to or used in the performance of commercial activities in the amount of $25,000,000.00 per occurrence or combined single limit. If any hazardous materials are transported in conjunction with Carrier's business operations at or on the Airport, an MSC 90 endorsement shall be required in addition thereto.

Workers' Compensation insurance, as required by law, and *Employer's Liability* insurance in the amount of $1,000,000.

6.2 Additional Insurance. At any time during the Term of this Agreement, including any extension thereto, PMGAA may, in its reasonable determination decide that the insurance coverage required by this SECTION 6 is no longer adequate, require CARRIER to increase its coverage to commercially reasonable amounts.

6.3 Blanket Insurance. CARRIER's insurance obligations under this Agreement may be satisfied by means of the general corporate "blanket" policies carried by it and evidenced by the insurance carrier's standard certificates thereof.

6.3.1 Use of Proceeds. Proceeds of any liability and property damage insurance required under this SECTION 6 shall be applied toward extinguishing, satisfying or remedying the liability, loss or damage with respect to which such proceeds may be paid.

6.4 Indemnity. To the fullest extent permitted by law CARRIER (as "indemnitor") shall indemnify, defend, hold and save PMGAA, its board members, and its member governments, officers, officials, employees, and agents (as "indemnitee") free and harmless of, for, from and against any and all Losses caused in whole or in part by (a) any act or omission of CARRIER (including indemnitor's officers, officials, agents, employees, contractors or invitees), (b) CARRIER's operations at the Airport, (c) CARRIER's violations of said Security Program caused, or alleged to be caused, by the acts, errors or omissions of CARRIER, its employees, agents, invitees or contractors, or (d) any default by CARRIER hereunder. This indemnification shall exclude responsibility for any consequential damages and for claims to the extent arising by reason of the negligent or wrongful act of PMGAA or its employees, contractors or agents. For purposes hereof "Losses" shall mean any and all losses, liabilities, judgments, suits, claims, damages, fines, penalties, costs and expenses (including reasonable attorneys and consultant fees, investigation costs, monitoring costs, remediation costs, and court costs), of any kind or nature." In carrying out the defense of any claim subject to its indemnification obligations hereunder, CARRIER shall use counsel reasonably acceptable to PMGAA.

6.5 Insurance Form. Each insurance policy obtained pursuant to this SECTION 6, except for Workers' Compensation and Employer Liability policies, shall: (i) name PMGAA as a certificate holder or an additional insured to the extent of Operator's contractual indemnity obligations; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to PMGAA not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in the case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of PMGAA. Operator shall not permit any insurance policy to be canceled or modified without PMGAA's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A - VII or higher from the A.M. Best Company, or an equivalent rating approved by PMGAA.

7. DISABLED OR ABANDONED AIRCRAFT.

7.1 Removal of Disabled Aircraft. Should any aircraft owned or operated by CARRIER, through accident or for any other reason, become disabled or be abandoned in any area which could interfere with the continuous, normal operations of any of the runways, taxiways and airfield facilities at the Airport, CARRIER shall, at CARRIER'S sole cost and expense:

7.1.1 Immediately remove said aircraft to such location as may be designated by PMGAA, unless such aircraft is required to remain in place pending investigation by the appropriate regulatory agency or agencies of the federal government; and

7.1.2 In the event of any accident where federal investigation in place is required, immediately upon receiving clearance to do so from the appropriate federal agency, remove said aircraft and any wreckage or debris resulting therefrom to the area(s) designated by said federal agency authorizing such removal; otherwise, such aircraft wreckage and debris shall be immediately removed from the Airport or stored at a location approved by PMGAA.

7.2 Failure to Remove Disabled Aircraft. Should CARRIER fail to proceed immediately to remove disabled aircraft, or should aircraft owned or operated by CARRIER be abandoned on the Airport, PMGAA shall have the right to remove such aircraft by any means PMGAA deems necessary under the circumstances, and CARRIER shall, to the fullest extent permitted by law, indemnify, defend, keep and hold PMGAA, its members, board of directors, officers, agents, officials, servants, employees and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense (including costs of suit and attorneys' fees and expenses) incurred by PMGAA or claimed by anyone by reason of removal of said aircraft, injury to persons or property or damages to such aircraft caused by such removal, as well as storage costs therefor. CARRIER shall reimburse PMGAA for any costs incurred by PMGAA in removing and storing any aircraft, at PMGAA's sole discretion, and as provided herein in performing authorized maintenance on its aircraft on the Airport.

7.3 Sound and Noise Suppression. CARRIER shall comply fully with Airport Rules & Regulations and Minimum Standards when performing high-speed engine test operations at the Airport, if any, and SECTION 10.3 to mitigate excessive ambient sound and/or noise that may be generated incident thereto and that have or may have an adverse effect on other Airport tenant operations and the surrounding community. CARRIER acknowledges and agrees that the Airport Rules & Regulation for such test operations may change from time to time at PMGAA's sole and absolute discretion. CARRIER also agrees that any costs associated with compliance with Airport Rules & Regulations for sound or noise suppression or mitigation shall be borne solely by CARRIER.

8. ENVIRONMENTAL COMPLIANCE.

CARRIER shall at all times during the existence of this Agreement promptly observe and comply with applicable Federal, State, and local laws, regulations, rules and standards concerning the environment (collectively, the "Environmental Laws"). CARRIER shall be responsible for collecting, storing, recycling and/or disposing of its hazardous or toxic waste, if any, in compliance with the Environmental Laws governing the storage and disposal of hazardous or toxic waste. CARRIER shall ensure its employees and agents are aware that domestic drains, storm drains, or industrial waste drains shall not be used to dispose of gasoline, hydraulic fluid, solvents, concentrated cleaning agents or any other hazardous or toxic materials. Where so required, PMGAA may act on behalf of CARRIER, as and if appropriate, to dispose of CARRIER's waste, sign manifests on behalf of CARRIER and assign such disposal to CARRIER's EPA identification (ID) number. CARRIER shall repay PMGAA the costs and fees for doing so within TEN (10) days of demand therefor. CARRIER shall, to the fullest extent permitted by law, indemnify, defend and hold PMGAA, its members, board of directors, officers, agents, officials, employees, and contractors harmless from and against any and all claims, costs, loss, liability, actions, suits, proceedings, damage or expense including, but not limited to, the costs of suit and reasonable attorneys' fees and expenses of any nature whatsoever arising out of or related to CARRIER's failure to comply with the Environmental Laws.

9. TAXES AND RELATED IMPOSITIONS.

In the event any governmental authority shall impose a tax or imposition based upon this Agreement, upon CARRIER or its aircraft, or upon payments to be made hereunder, CARRIER shall pay such amounts either to PMGAA or the appropriate governmental authority on or before any delinquency date. Specifically, CARRIER shall be responsible for any transaction privilege, sales, excise or other similar tax except income taxes as a

result of this Agreement. CARRIER shall also pay all licensing or permitting fees necessary or required by law for the conduct of its aeronautical operations hereunder, or any other matters hereunder. CARRIER shall be responsible for any property interests created hereunder, which may constitute or be deemed to be a possessory interest for purposes of taxation.

10. RULES, REGULATIONS AND MINIMUM STANDARDS.

10.1 CARRIER shall at all times comply with all federal, State and local laws and ordinances, rules and regulations, which are applicable to its operations, or the operation, management, maintenance, or administration of the Airport, including but not limited to the Americans with Disabilities Act, and all laws, ordinances, rules and regulations adopted after the Effective Date. CARRIER shall at all times comply with all Airport Rules and Regulations, and Minimum Standards established by PMGAA regarding operation and maintenance of the Airport, copies of which are attached as **EXHIBIT B** and are incorporated herein. CARRIER will be responsible for controlling and preventing disruptive pedestrian and vehicle traffic, if any, associated with its activities on the Airport. CARRIER also shall display or provide copies to PMGAA of any permits, licenses, or other evidence of compliance with laws upon request.

10.2 PMGAA shall operate the Airport in compliance with all applicable Federal state and local laws, ordinances, rules and regulations, and shall enforce the Airport Rules and Regulations established by it to ensure the effective and orderly operation of the Airport, and to prevent any disruption caused by CARRIER's operations at and on the Airport.

10.3 CARRIER acknowledges receipt of and agrees to abide by PMGAA's *Fly Friendly* noise abatement procedures and will provide such information to flight crews and/or students, post the information in CARRIER's flight planning area, and use the procedures to the extent possible when consistent with safety and air traffic control directives.

11. DEFAULT: TERMINATION BY PMGAA

11.1 General Grounds. PMGAA may terminate this Agreement upon the occurrence of any of the following events:

11.1.1 Failure of CARRIER to perform any of its obligations under this Agreement, or any other contract, license or agreement between the Parties, which failure shall not be cured within FIVE (5) business days after delivery by PMGAA **to** CARRIER of a written notice of such failure.

11.1.2 The filing of any lien against the Airport because of any act or omission of CARRIER which is not discharged within FIVE (5) business days of receipt of actual notice of such lien by CARRIER.

CARRIER may terminate this Agreement upon the occurrence of any of the following events:

11.1.3 Failure of PMGAA to perform any of its obligations under this Agreement, or any other contract, license or agreement between the Parties, which failure shall not be cured within FIVE (5) business days after delivery by CARRIER **to** PMGAA of a written notice of such failure.

11.1.4 The filing of any lien against CARRIER because of any act or omission of PMGAA which is not discharged within FIVE (5) business days of receipt of actual notice of such lien by PMGAA.

11.2 Failure to Pay Fees. PMGAA may declare CARRIER in default of this Agreement by giving CARRIER FIVE (5) business day's written notice of CARRIER's failure to timely pay any fees or payments due pursuant to this Agreement. If CARRIER fails to cure such payment

default within said FIVE (5) business day period, PMGAA may, in its sole discretion, elect to do any one or more than one of the following:

11.2.1 Institute action(s) to enforce this Agreement; or

11.2.2 Terminate this Agreement automatically without further notice to CARRIER; or

11.2.3 Exercise any other remedy allowed by law or equity.

11.3 Failure to Provide Insurance. In the event CARRIER at any time fails to maintain all insurance coverage required by this Agreement, PMGAA shall have the right, upon written notice to CARRIER, **to** immediately terminate this Agreement or secure the required insurance at CARRIER's expense.

11.4 No Waiver by PMGAA. No waiver by PMGAA of any default by CARRIER in the performance of its obligations under this Agreement shall be deemed to be a waiver of any subsequent default by CARRIER in the performance of any such obligations.

12. GOVERNING LAW; ATTORNEY'S FEES.

The laws of the State of Arizona shall govern this Agreement and the matters set forth therein, without regard to its conflict of law principles. Venue of any action brought under this Agreement shall, at the option of PMGAA, lie in Maricopa County, Arizona. In the event of any litigation or arbitration between PMGAA and CARRIER arising under this Agreement, the successful party shall be entitled to recover its attorney's fees, expert witness fees and other costs incurred in connection with such litigation or arbitration.

13. NONWAIVER.

PMGAA's right to revoke this Agreement shall be absolute. Any election by PMGAA to not enforce any provision of this Agreement, or any failure by PMGAA to exercise any of the remedies allowed PMGAA under this Agreement, shall not operate as a waiver by PMGAA of any of its right hereunder.

14. ASSIGNMENT.

CARRIER shall not assign or transfer any right or interest in this Agreement.

15. OTHER RESTRICTIONS.

CARRIER shall comply with all rules, laws, ordinances, and statues of any governmental authority having jurisdiction over the Airport or the matters provided in this Agreement.

16. AIRPORT SECURITY.

PMGAA maintains an approved Airport Security Plan (the "Security Plan") pursuant to 49 CFR Parts 1540 and 1542. CARRIER shall at all times comply with the Security Plan and the written and verbal directives issued by PMGAA supporting the Security Plan.

16.1 CARRIER shall immediately correct physical or procedural deficiencies which are contrary to the Security Plan, security directives, security bulletins, or verbal notifications existing now or in the future. CARRIER is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards of the Security Plan.

16.2 CARRIER shall, to the fullest extent permitted by law, indemnify, defend, and hold PMGAA harmless for, from, and against any violations of the Security Plan committed by any agents, employees, invitees, subcontractors, or independent contractors of CARRIER.

16.3 CARRIER shall conduct and document all self-audits and self-inspections as required by the TSA or PMGAA and make such audits available for inspection.

16.4 CARRIER shall designate a primary security coordinator to receive security -related briefings, bulletins, and sensitive security information ("SSI").

16.5 PMGAA reserves the right to modify the Security Plan from time-to-time, as necessary, or as directed by the TSA.

17. AIRPORT SECURITY BADGE

17.1 Carrier employees/contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by PMGAA, TSA, or other entities having jurisdiction at PMGAA.

17.2 CARRIER and employees/contractors shall comply with all security-related audits, inspection, and screenings conducted by PMGAA.

17.3 CARRIER will immediately notify PMGAA and promptly return badges to the Airport Badging Office when badge holders terminate employment, the badge is no longer needed, or the employee/contractor is on extended leave.

17.4 Misuse of a badge or security procedures will bring about punitive action including suspension or revocation of one or all badges.

18. NOTICE.

18.1 All notices required or permitted under this Agreement shall not be deemed effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial overnight courier service, to the following addresses:

TO PMGAA:

Phoenix-Mesa Gateway Airport Authority
Attn.: Business Development Department
5835 S. Sossaman Road
Mesa, Arizona 85212-0614

TO CARRIER:

Allegiant Air, LLC
Attn: Director of Airports
1201 N. Town Center Drive
Las Vegas, NV 89144

18.2 Notices shall be deemed to have been received TWO (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service. Any Party may designate in writing a different address for notice purposes pursuant to this SECTION.

19. PRIOR AGREEMENTS AND PERMITS.

Upon execution hereof, this Agreement shall supersede and cancel any prior air carrier operating agreements between PMGAA and CARRIER with respect to the business activities governed hereby. CARRIER shall not construe PMGAA's execution of this Agreement as a waiver of any prior indebtedness or obligation to PMGAA under any prior agreement or license, nor does PMGAA waive any claim or cause of action arising therefrom.

20. CORPORATE AUTHORIZATION.

In executing this Agreement, CARRIER represents and warrants to PMGAA that if CARRIER is a corporation, CARRIER has obtained and been granted the full right, power and authority to enter into this Agreement.

21. MISCELLANEOUS.

21.1 Personal Liability. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

21.2 No Waiver. No provision of this Agreement may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

21.3 Non-Waiver of Rights. No waiver or default by PMGAA of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by CARRIER shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by CARRIER, and PMGAA shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

21.4 Amendment. Only a written instrument executed by the Parties may amend this Agreement.

21.5 Invalid Provisions. Should any provision of this Agreement or any application thereof be held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

21.6 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

21.7 Entire Agreement. This Agreement, including **EXHIBITS** attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

22. INCORPORATION OF RECITALS.

The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective on the Effective Date specified above.

CARRIER:

ALLEGIANT AIR, LLC

By: _____

Name: Thayne Klingler

Title: Director of Airports

Date: December 12, 2023

PMGAA:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A

Airport Rates & Charges Schedule

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rates_charges.pdf

Airport Fees, Services & Rental Rates

https://www.gatewayairport.com/Documents/DocumentLibrary/ExecDirSect/Executive_Approved_Airport_Fees_Services_Rental_Rates.pdf

EXHIBIT B

PMGAA Minimum Standards

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_minimum_standards.pdf

PMGAA Rules & Regulations

https://www.gatewayairport.com/documents/documentlibrary/boardpolicies/airport_rules_regulations.pdf

EXHIBIT C

Common Use Facilities Operating Procedures:

https://www.gatewayairport.com/Documents/DocumentLibrary/Regulatory%20Documents/PMGAA_CUSE%20Procedures%2022-01%2020220420.pdf

EXHIBIT D

Airport Facilities Designated for Exclusive Use*:

Space	Amount of SF	Rent per SF
Ticketing Terminal – Suite 207	675 SF	$38.00 / SF / Year **
Ground Handler Offices in Terminal	650 SF	$18.00 / SF / Year
Ticketing Terminal – Suite 201	116 SF	-$38.00 / SF / Year **

* PMGAA has all of the building maintenance & utility (water, electricity, etc.) responsibilities for space designated for CARRIER's exclusive use.

** The rent per SF does not include any applicable taxes. The applicable taxes will be charged in addition to the rent.

EXHIBIT E

Incentives to Increase Air Service:

1) PMGAA's approved Air Service Incentive Program (Effective January 1, 2017) is provided below:

https://www.gatewayairport.com/Documents/DocumentLibrary/BoardPolicies/Air%20Service%20Incentive%20Program_16-58.pdf?Uniqueifier=GOaVUh1r1l

2) During the Term of this Agreement, if CARRIER maintains its Signatory Carrier status and pursuant to Part D of the Air Service Incentive Program, PMGAA agrees to share non-Airline revenue (parking fees, rental car fees, food and beverage concessions, and retail concessions) with CARRIER as outlined below:

Fiscal Year EPAX Thresholds	Increase in Fiscal Year EPAX Above 800,000 Threshold	Percentage of Incremental Non-Airline Revenue Shared for Incremental Increase in EPAX Above Threshold
0 – 800,000	Not Applicable	0.0%
800,001 – 850,000	50,000 (800,001 – 850,000)	15.0%
850,001 – 900,000	50,000 (800,001 – 850,000) 50,000 (850,001 – 900,000)	15.0% 17.5%
900,001 – 950,000	50,000 (800,001 – 850,000) 50,000 (850,001 – 900,000) 50,000 (900,001 – 950,000)	15.0% 17.5% 20.0%
950,001, - 1,000,000	50,000 (800,001 – 850,000) 50,000 (850,001 – 900,000) 50,000 (900,001 – 950,000) 50,000 (950,001 – 1,000,000)	15.0% 17.5% 20.0% 22.5%
1,000,001 – 1,050,000	50,000 (800,001 – 850,000) 50,000 (850,001 – 900,000) 50,000 (900,001 – 950,000) 50,000 (950,001 – 1,000,000) 50,000 (1,000,001 – 1,050,000)	15.0% 17.5% 20.0% 22.5% 25.0%

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-67

To:	**Board of Directors**
From:	**Margi EvanSon, Operations & Maintenance Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**Access Control and Alarm Monitoring System Services**
Date:	**December 19, 2023**

Proposed Motion
To authorize a contract with Premise One, LLC to provide preventative maintenance for Access Control and Alarm Monitoring System Services (ACAMS) at a fixed fee, in an amount not to exceed $243,237.98, for the length of the base term of three years, with two optional one-year extensions not to exceed $85,992.01 and $88,571.77 respectively. This amount does not include variable costs for projects or Ad Hoc repairs.

The ACAMS is an integral part of airport security and a central component in maintaining a secure workplace. A preventative maintenance program consists of scheduled testing, inspection, calibration, and maintenance to keep hardware and software in good operating condition. Preventative maintenance of the ACAMS is necessary to increase the system's reliability and reduce operational downtime, preventing potential severe security threats and vulnerabilities. A good preventative maintenance program extends the service life of the system components and is a valuable budgeting reference.

Request for Proposal # 2024-008-RFP for ACAMS Services was issued on August 31, 2023. The RFP was posted on the Airport's website and on the following websites: Arizona Association of Airports, International Parking Institute, Airports Council International North America, Airport Consultants Council, and the Southwest Chapter of the American Association of Airport Executives. The RFP was also advertised in the Arizona Business Gazette on September 7, 14, and 21, 2023, and emailed to eleven perspective respondents. Airport staff received two proposals on September 27, 2023:

1. Convergint Technologies LLC
2. Premise One LLC

After review of the qualifications, presentations, and interviews, the evaluation panel unanimously selected Premise One, LLC as the firm that best satisfied the requirements, based on the qualifications, experience, project understanding and approach, and pricing proposal.

Fiscal Impact
This contract was included in the FY24 operating budget and is funded under Operations & Maintenance, Contractual Services.

Attachment(s)
Contract

RESOLUTION NO. 23-67

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a contract with Premise One, LLC to provide preventative maintenance for Access Control and Alarm Monitoring System Services (ACAMS) at a fixed fee, in an amount not to exceed $243,237.98, for the length of the base term of three years, with two optional one-year extensions not to exceed $85,992.01 and $88,571.77 respectively. This amount does not include variable costs for projects or Ad Hoc repairs;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a contract with Premise One, LLC to provide preventative maintenance for Access Control and Alarm Monitoring System Services (ACAMS) at a fixed fee, in an amount not to exceed $243,237.98, for the length of the base term of three years, with two optional one-year extensions not to exceed $85,992.01 and $88,571.77 respectively. This amount does not include variable costs for projects or Ad Hoc repairs. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

PREMISE ONE, LLC

FOR

ACCESS CONTROL AND ALARM MONITORING SYSTEM (ACAMS) SERVICES

CONTRACT NUMBER 20240060

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona ("PMGAA") desires performance of the services more fully described in this **Contract Number 20240060** ("Contract") and the attached exhibits. Premise One, LLC, an Arizona Limited Liability Company ("Consultant"), with its principal offices located at 1917 E. 5th Street, Tempe, Arizona, 85288, desires to perform these services.

Recitals

A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and

B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under this Contract shall generally include, but not be limited to, the following: Access Control and Alarm Monitoring System Services, as more specifically described in the detailed scope of services attached as **EXHIBIT A**, "Scope of Services & Fee Schedule."

PMGAA's authorized representative shall be the PMGAA Director of Operations and Maintenance, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

A. Access to copies of readily available maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.

B. In PMGAA's discretion and upon Consultant's reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.

C. Prompt review of and feedback on Consultant's deliverables. PMGAA will advise Consultant concerning progress of PMGAA's review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract.

This Contract is effective January 1, 2024 and ends on December 31, 2026 ("Base Term"), unless terminated, canceled or extended as provided in this Contract.

This Contract has two (2) optional one-year extensions that PMGAA may exercise at its sole discretion. Prior to the expiration of the Contract Base Term, PMGAA may elect to extend the Contract. If PMGAA exercises such right, all terms, conditions and provisions of the original Contract shall remain the same and apply during the extended

period with the possible exception of fees, as provided for in **EXHIBIT A**, "Scope of Services & Fee Schedule.". Any extension of this Contract shall require an amendment signed by both parties.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant itself shall provide all services to be performed under this Contract. If Sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with PMGAA's Procurement Policy. Payments will be made in accordance with **EXHIBIT B**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum or maximum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum or maximum fee.

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate contracts or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.

B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.

C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.

D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

The Annual Preventative Maintenance cost, per **EXHIBIT A**, "Scope of Services & Fee Schedule," shall be paid on an annual basis during each year upon receipt of Consultant's invoice and within thirty (30) days after acceptance of the invoice.

For all other services performed by Consultant under this Contract, Consultant shall submit periodic invoices for any unbilled portion of the services actually completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT D**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution provision in all contracts with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar dispute resolution provision in all contracts with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX INSURANCE REQUIREMENTS

A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. All insurance policies required by this Contact, except *Workers Compensation* and *Technology Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.

C. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:

   i. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than $1,000,000 per occurrence, $2,000,000 General Aggregate.
   ii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than $5,000,000 Combined Single limit per accident for bodily injury and property damage
   iii. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.
   iv. Network Security Liability: Liability arising from the interruption of your systems caused by damage to your computer programs or data that results from virus, hacking, a denial of service attack, a denial of access or a simple mistake by your authorized personnel in the administration of your computer system or handling of your e-Business information assets (administrative error). This also includes liability for transmission of a computer virus to a third party via a covered computer system or the failure to prevent the use of your computer system in a denial of service attack.
   v. Technology Professional Liability: Liability arising from Errors and Omission in rendering computer information technology services.

D. If the Consultant maintains higher limits than the minimums shown above, PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PMGAA.

E. Additional insurance provisions. The insurance policies shall provide, or be endorsed to include, the following provisions:

i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to PMGAA.

ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract, except *Workers Compensation* and *Professional Liability,* for claims arising out of the Consultant's work or service.

iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.

iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by PMGAA. PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to PMGAA.

vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:

a) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

vii. Verification of Coverage: Consultant shall furnish PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.

ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX NOTICES

Any notice, report or information which may be or is required to be given under this Contract will be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

TO PMGAA: Phoenix-Mesa Gateway Airport Authority
Attn: Director of Operations and Maintenance
5835 South Sossaman Road
Mesa, Arizona 85212

TO CONSULTANT: Premise One, LLC
Attn: Mike Anderson
1917 E. 5th Street
Tempe, AZ 85288

or to such other person(s) or address(es) as any such Party may designate from time to time by notice to the other Parties in accordance with this Section.

SECTION XXI MINIMUM REQUIREMENTS

During the Term of the Contract, or any extension thereof, Consultant and Consultant's technician(s) shall have the appropriate manufacturer license(s) / certification(s) for all components they work on. License(s) / certification(s) shall be available to PMGAA upon request. The following qualifications are required:

1. Lenel Value Added Retailer Certification
2. Lenel Certified Professional in Access Control (all badged technicians)
3. Premier Milestone Partner Reseller
    a. Integration Technician Certification (all badged technicians)
    b. Integration Engineer Certification (at least 1)
    c. Milestone Certified Design Engineer (at least 1)
4. BICSI Structural Cabling Certification for all technicians adding or maintaining any structural cabling.
5. All technicians responding to the Airport must be able to pass and maintain a Criminal History Records Check and pass security training to be able to be an Airport Security Badge Holder.
6. A company signatory will be required to manage the security protocol for the company regarding Airport Security Badge responsibilities.
7. All equipment users will hold active and current operator license(s) / certification(s) according to local requirements. (forklifts; man-lifts; cranes; trenchers; vehicles; etc.).

SECTION XXII LIQUDATED DAMAGES

In addition to any other remedy available to PMGAA at law or in equity, the Consultant will be liable for and must pay to PMGAA the amounts listed below for each violation by the Consultant. The parties further agree that the amounts are reasonable and approximate and the actual or anticipated loss to PMGAA at the time and making of this Contract in the event that the Consultant commits a breach. The parties acknowledge and agree to the fixed amounts set forth below because of the difficulty of proving PMGAA's actual damages in the event that the Consultant commits a breach. PMGAA may impose liquidated damages as follows:

1	Consultant or it's representative(s) fail to adhere to Company Signatory Responsibilities and/or Airport Security Badging Agreement(s)	$250 per instance
2	Consultant or it's representative(s) receive a Notice of Violation (NOV) for failure to adhere to Airport Rules & Regulations as posted to the public	$250 per violation
3	Consultant or it's representative(s) cause a significant interruption of operations or services as a result of negligent action or inaction	$500 per instance
4	Recurring offenses and/or violations (as listed here in) of the same nature that exceeds three (3) instances in any 90-day period.	$500 per instance/violation

Consultant shall pay PMGAA any amount(s) under Liquidated Damages within thirty (30) days of written notice to Consultant from PMGAA.

Consultant agrees all of the deficiencies listed in this section shall result in PMGAA incurring damages that are impractical or impossible to determine. Consultant agrees the monetary assessments set forth in this section are reasonable approximations of such damages. The parties intend that Consultant's payment of the liquidated damages amount would serve to compensate PMGAA for any breach by Consultant of its obligations under this section, and they do not intend for it to serve as punishment for any such breach by Consultant, but rather a reasonable measure of damages.

SECTION XXIII INVENTORY STOCKING PROGRAM

During the Term of the Contract, or any extension thereof, Consultant shall stock sufficient inventory of critical parts for PMGAA's ACAMS system. Consultant will not charge PMGAA for stocking the critical part(s) nor will Consultant charge PMGAA for the critical part(s) until PMGAA requests a critical part(s) for use. The list of critical parts shall be mutually agreed upon by PMGAA and Consultant.

Executed as of the Commencement Date.

CONSULTANT
Premise One, LLC
an Arizona Limited Liability Company

By: _____

Name: Timothy E Chandler

Title: Chief Strategy Officer

Date: Nov 27, 2023

PMGAA
PHOENIX MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the state of Arizona

By: _____

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: _____

EXHIBIT A – SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Schedule agreed to by the parties.

SCOPE OF SERVICES

1. Remedial Maintenance
    a. Remedial maintenance corrects faults and returns the system to operation in the event that a hardware or software component fails.
    b. All remedial maintenance of the ACAMS is managed by PMGAA.
    c. Offer shall have a digital work order system with a customer access point to submit and monitor work progress.
    d. Selected Consultant shall adhere to the following response times. Priority levels are assigned by PMGAA.

TYPE	PRIORITY	CONFIRMATION (hours)	ON-SITE (hours)	LABOR TYPE
P1	Emergency/Critical	2	6	24/7/365
P2	High	4	12	Business Hours/ 365
P3	Next Available	4	48	Business Hours / Business Days
P4	Scheduled	4	Per Schedule	Per Schedule
P5	Install	24	Per Schedule	Business Hours / Business Days
P6	Proposal / Quote	24	5 Business Days	Business Hours / Business Days
P7	Parts Only	24	Per Schedule	Business Hours / Business Days

2. Preventative Maintenance
    a. Preventative maintenance consists of scheduled maintenance to keep the hardware and software in good operating condition. Preventative maintenance includes, but is not limited to the following:
        i. Replacing discontinued and end of support components to keep the ACAMS up to current manufacture specifications as well as maintaining a congruent and balanced ACAMS.
        ii. Updating system and application software. This includes software updates and patches to the ACAMS systems.
        iii. Testing and performing manufacture specified maintenance actions.
        iv. Replacing components that fail testing.
        v. Creating and analyzing ACAMS testing reports.
        vi. Updating system documentation as applicable.
    b. ACAMS component manufacturer's provide recommendations as to the types of testing, inspection, calibration, and maintenance that should be performed and the frequency with which those activities should be performed. PMGAA intends to ensure that these activities are performed in accordance with the manufacturer's instructions and as frequently as the manufacturer recommends. Consultant will be responsible for reviewing the patch notes to ensure they apply to PMGAA's environment and recommend the appropriate patches to be applied in accordance with the manufacturer. If a component of the ACAMS arrives lacking such instructions, Consultant shall contact either the manufacturer or the vendor to obtain recommendations concerning performance of any specific activities.
    c. On a scheduled basis, and annually at minimum, Consultant shall provide systems preventive services for components listed within the Equipment List, or as amended. All preventive maintenance testing will be performed in accordance with manufacturer's recommendations and will address areas that can adversely affect system performance. Preventive maintenance will include a visual inspection, cleaning, and

functional testing and applicable calibration of system components. The intent is to maintain the original condition of installed and commissioned systems.

i. For all Internet of Things (IoT) and Operational Technology (OT) devices firmware updates and password updates shall be conducted during the scheduled preventative maintenance services and as recommended by the manufacture.
ii. Replacement of consumable items such as batteries, UPS, tamper switches, etc. shall be completed each preventative maintenance.
iii. After each preventative testing, a detailed report shall be provided documenting at a minimum:
    a) Status / Condition of each component
    b) Detail on the cleaning, testing, and calibration of each component
    c) Lifecycle status of each component; including replacement schedule recommendations. When in the Consultant's evaluation, the Equipment or any major sub-system or major component thereof as so classified by the Consultant becomes worn out due to normal wear and tear or, becomes obsolete or outdated due to advances in technology, Consultant shall submit to PMGAA a cost estimate for its replacement.
iv. Verification of As-Built documentation accuracy.

3. Professional Consulting Services
    a. Consultant will work with PMGAA in the support and development of planned airport projects.
    b. Consultant will work with PMGAA in the support and development of tenant projects.

4. Hardware
    a. Only standardized materials as defined in the approved Equipment List (Exhibit E) are to be used within the ACAMS environment. Consistency with hardware deployments advocates for a healthier system lifecycle and promotes reliability. Parts substitutions are only permitted with prior written permission from PMGAA.

5. Installations
    a. Offeror shall perform installations according to hardware, architecture & design, and typical standards. Additionally, they are to align with the following requirements.
    b. Location Specific Requirements
        i. Roof Access
        ii. Confined Space
        iii. Hot Work
        iv. Terminal Activity Coordination
        v. Restricted Areas; Airport Security Badges
        vi. Apron Access (Air Operations Area)
    c. General Best Practices
        i. All portions of the installation shall be completed in a neat and orderly manner.
        ii. All portions of the installation shall comply with all applicable codes.
        iii. All other aspects of the installation method shall conform to the supplied installation drawings.
        iv. Once all equipment is installed and tested and building construction allows, equipment should be cleaned, and any cosmetic damages corrected so that the system is left in like new condition.
        v. Camera domes shall be completely free of dirt and dust.
        vi. Security cabinets shall be cleaned of all excess wire and bits of metal.
        vii. Coordinate time and date for final walk-through of the project with PMGAA.
        viii. Submit all required close-out documentation to PMGAA.
        ix. All equipment shall be clean and neat prior to entering the warranty period.

6. Testing & Commissioning
    a. Upon completion of any installation, Offeror shall complete performance tests of each device, alarm zone, video analytic, switch, control unit, power supply, battery standby unit, and all other equipment and material required by the contract and as recommended by the manufacture or industry best practice. Testing and commissioning shall be conducted in the presence of PMGAA, including the appropriate airport operations team representation.
    b. All camera views must be approved by PMGAA prior to project close out.
    c. Offeror must conduct tests of the system during installation and prior to the formal final test. Only after the system is ready to be tested will a test be scheduled.
    d. Offeror shall, at a minimum, test the system to show that:
        i. The complete system is free from grounding or open circuits.
        ii. The emergency power source can operate the system as specified.
        iii. Conduit is properly installed.
        iv. The system is operable under the specified trouble or power fail conditions.
        v. The software functions properly as specified, and the equipment is properly programmed.
        vi. The system as installed matches the record "as-installed" drawings. As built drawings are required for the close out test so have them completed before calling for the test.
        vii. Equipment is installed properly and neatly, and clean-up has occurred.
        viii. Every device in the system will be tested. It is important to not call for a test until the system has performed to 100% compliance in the pre-test.

7. Safety
    a. All site work is subject to approval by PMGAA. This includes but is not limited to; confined space; fall protection; hot work; and high voltage.
    b. Job Hazard Analysis is required during all site surveys and prior to on-site work. A copy may be requested from PMGAA.
    c. Offeror shall inspect the area and ensure it is free of any hazards before starting any work.
    d. Offeror shall ensure areas which are under scope are properly identified with the appropriate safety and warning equipment such as cones and barriers.
    e. Offeror shall follow all posted signage.
    f. Offeror assumes the responsibility of promptly and accurately reporting all on-the-job accidents/injuries to PMGAA. This should be done by contacting Airport Operations immediately after emergency services have been requested by telephone to 9-1-1. All incidents and accidents must be reported in a timely manner to Airport Operations at 480-988-7570 regardless of severity and before the scene is modified other than to support life, safety, and further property damage.

8. Personal Protective Equipment (PPE)
    a. Offeror, when onsite to perform work are required to provide and use the following as applicable to the work environment and in accordance with NIOSH & OSHA and site signage;
        i. Hard Hat
        ii. Hearing Protection – ear plugs/headset
        iii. Eye Protection – safety glasses / goggles
        iv. Safety Harnesses
        v. Steel or Composite Toed Boots
        vi. Gloves (Kevlar, with full length sleeves)
    b. Offeror is required to wear a reflective safety vest with employer's name or logo and carry a personal First Aid Kit.

9. Drawings
   If requested by PMGAA, the following drawings shall be submitted to PMGAA by Offeror for each project:
   a. Typical drawings ("Typicals") inform key construction stakeholders such as Architects, General Contractors, and Service Providers of system, hardware, and installation standards. They reflect standard and approved devices, their installation requirements, and how they interact with their environment. Typicals are helpful throughout the lifecycle of systems and devices.
   b. Pre-Construction drawings, sometimes referred to as 'Spots & Dots', are early design drawings which capture the general scope of work which can be leveraged by key construction stakeholders to ensure general alignment on needs. Pre-Construction drawings will typically come with, and support, a quote for a service.
   c. As-Builts are construction drawings that reflect the final, tested, and commissioned system. They provide documentation of the exact locations and wiring of all devices, panels, panel layouts, cable paths, floor plans, device addressed, device numbers and IP addresses. As-Builts are required upon close out of all installations.

10. Housekeeping
    a. Offeror, when onsite to perform work, shall maintain a reasonable cleanup at the work site, keep work site areas clear of hazardous or unsightly accumulations of material or rubbish, and keep on-site equipment in an orderly arrangement and in such a manner as to allow clear access to plant facilities and firefighting equipment during the performance of the services.
    b. Additionally, Offeror when onsite to perform work, will keep access to emergency exits clear at all times.
    c. Project storage shall be approved by PMGAA prior to personnel departing the project site.
    d. Tools and equipment will be under the control of Offeror at all times within controlled security or safety areas.
    e. Cellular phones are prohibited in some controlled environments including the Airport Operations Center (AOC) and the Air Traffic Control Tower (ATCT) Cab.

11. Sales Prerequisites to Site Visits
    a. All communication & coordination requirements
    b. All local safety requirements
    c. All Phoenix-Mesa Gateway Airport policies and procedures
    d. Nondisclosure Agreement
    e. Sensitive Security Training

12. Security Badges
    a. See Exhibit C, Special Provisions, for Security Badge information and requirements.
    b. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Offeror to adhere to prescribed Airport requirements/regulations has consequences that may

       jeopardize the health, welfare and lives of Airport customers and employees, as well as the Offeror's own employees. Therefore, if Offeror is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

13. On-Boarding Assessment
    Within thirty (30) days of Contract commencement, Consultant shall perform a full audit of PMGAA's ACAMS system. Upon completion of the audit, Consultant shall provide recommendations on a critical parts list to be maintained by Consultant and critical parts list to be maintained by PMGAA (to include recommended

quantities), preventative maintenance schedule and scope for each component, findings and risk assessment, corrective actions and quotation for recommended work. The audit and report are at no cost to PMGAA.

FEE SCHEDULE

For the services provided herein, PMGAA agrees to pay Consultant the following rates and fees:

With the exception of prices for Equipment purchases, the fees/prices stated herein shall remain in effect for the first year of the Contract. Consultant may increase fees/prices effective on each annual anniversary date of the Contract, up to 3%, with the prior written approval of PMGAA. Consultant must request such increase in writing at least 60 days prior to the anniversary date.

Such increases, if any, shall not apply to projects that Consultant has already started work on, equipment that is on rent prior to the anniversary date of the Contract and consumables that PMGAA has already issued a purchase order for prior to the anniversary date of the Contract but has not yet taken delivery of.

If PMGAA increases the number of equipment pieces on the Equipment List (Exhibit E), Consultant shall not increase the Annual Preventative Maintenance for such additions.

Preventative Maintenance:

Annual Preventative Maintenance, year one (1) price: $ 78,694.87

Annual Preventative Maintenance shall be completed annually or, more frequent if specified by a specific equipment manufacturer, in October of each year.

Labor Rates:

Tab F: Price Proposal

Attachment A: Price Proposal Labor Rates

Skill	Labor Rate/Hr.	Technician	Labor Type	Applicable Hours	Applicable Days	Conditions
T1	$100.00	Lenel Certified Professional in Access Control	Business Hours - Business Days	8am - 5pm	Mon - Fri	2 hours minimum; $75 trip charge
T1	$150.00	Lenel Certified Professional in Access Control	Non-Business Hours - Business Days	5pm - 8am	Mon - Fri	2 hours minimum; $75 trip charge
T1	$150.00	Lenel Certified Professional in Access Control	Non-Business Hours - Non-Business Days	24 Hours	Sat-Sun	2 hours minimum; $75 trip charge
T1	$212.50	*Lenel Certified Professional in Access Control*	*Emergency / Holiday*	*24 Hours*	*24/7/365*	*2 hours minimum; $75 trip charge*
T2/A1	$101.50	Lenel Certified Expert in Access Control	Business Hours - Business Days	8am - 5pm	Mon - Fri	2 hours minimum; $75 trip charge
T2/A1	$101.50	Lenel Certified Expert in Access Control	*Emergency / Holiday*	*24 Hours*	*24/7/365*	2 hours minimum; $75 trip charge
T1	$100.00	Milestone Certified Integration Technician	Business Hours - Business Days	8am - 5pm	Mon - Fri	2 hours minimum; $75 trip charge
T1	$150.00	Milestone Certified Integration Technician	Non-Business Hours - Business Days	5pm - 8am	Mon - Fri	2 hours minimum; $75 trip charge
T1	$150.00	Milestone Certified Integration Technician	Non-Business Hours - Non-Business Days	24 Hours	Sat-Sun	2 hours minimum; $75 trip charge
T1	$212.50	*Milestone Certified Integration Technician*	*Emergency / Holiday*	*24 Hours*	*24/7/365*	*2 hours minimum; $75 trip charge*
T2/A1	$101.50	Milestone Certified Integration Engineer	Business Hours - Business Days	8am - 5pm	Mon - Fri	2 hours minimum; $75 trip charge
A2	$122.50	Milestone Certified Design Engineer	Business Hours - Business Days	8am - 5pm	Mon - Fri	2 hours minimum; $75 trip charge

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Equipment:

Attachment B: Price Proposal Equipment

All pricing below is for hardware only. Not included are any cable requirements, licensing, control boards, labor, commissioning, or programming. All these factors would be impacted by the specific requirements of a specific job, numbers below are meant to be representative of a basic hardware configuration for each of these categories.

Description	Cost Per Item
Access Controlled Door (free exit; includes fire exit) Assume single reader, REX, Handset, and DC.	$2300
Access Controlled Door (controlled exit) Assume Dual reader, REX, Handset, and DC.	$2600
Access Controlled Gate (free exit)	NA Per RFI
Access Controlled Gate (controlled exit)	NA Per RFI
Access Control Panel Assume 4 door Life Safety Panel	$1240
Audible Door Sounder Assume Pizeo Electric sounder.	$180
Badging Station Assume USB enrollment Reader, no licensing/cards/printer	$202
Power Supply Assume 4 door power supply (no can)	$430
Badge/Card Reader Assume Signo 40	$275
Server (not including video recorders) Assume Management Server only	$6300
Video Management System (VMS) Assume single Pro+ Base license	$487
Camera POE Injector Assume 30w injector.	$89
Exterior Cameras (lower than 15' AFG) Assume outdoor dome surface mount (P3265-LVE). Ladder Accessible	$705
Exterior Cameras (higher than 15' AFG) Assume outdoor dome surface mount (P3265-LVE). Less than 20', scissor lift.	$705
Interior Cameras (lower than 15' AFG) Assume Indoor dome surface mount (P3265-V). Ladder Accessible.	$512
Interior Cameras (higher than 15' AFG) Assume Indoor dome surface mount (P3265-V). Less than 20', scissor lift.	$512
Network Video Recorder Assume IVO350 Tower	$3300
Camera Feeds Assume single Pro + License	$146

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Equipment Rental Rates:

Attachment C: Equipment Rental Rates

Rental Rate $/Day	Description
$151	Man-Lift – 19' Scissor
$528	Man Lift – 40' Boom
No charge up to 12'	Ladders
$500	Scaffolding (20'x20') (minimum 3 day rental)
	Fall Protection

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Consumables Pricing:

Attachment D: Consumables Pricing

Rate ($)	Consumables
$19.24	12v; 7ah battery
$30.40	12v; 12ah battery
$1.93	3v; CR2330 battery
$9.10	Enclosure tamper switch
$15.04	Low Power disconnect module

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EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT A**, "Scope of Services and Fee Schedule".

2. Method of Payment

Subject to the terms of this Contract, PMGAA shall pay Consultant the appropriate rate or fixed price amount for services rendered as described in the Contract only after Consultant has submitted an invoice for services performed and PMGAA has certified and approved each invoice.

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice depicting tasks performed and/or hours spent for services performed. Invoices must be based on the actual hours and/or expenses incurred for the services completed during the billing period. Consultant's invoices must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and/or progress reports in accordance with terms specified in the Contract. Progress reports will clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated September 30, 2014, or most current version.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Accounts Payable: ap@gatewayairport.com

EXHIBIT C - SPECIAL PROVISIONS

1. Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2. Civil Rights Act of 1964, Title VI – Assurance

Title VI List of Pertinent Nondiscrimination Acts and Authorities:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English

proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Title VI Compliance With Nondiscrimination Requirements:
During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

3. <u>Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</u>
Consultant, by accepting this Contract, certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any government department or agency.

4. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.

b. Employee Security Badges – If deemed necessary by PMGAA all Consultant and/or subcontractor personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* available via the Airport website at www.gatewayairport.com and are subject to change.

   i. All fees must be paid to PMGAA by cash or check.
   ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
   iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewairport.com.
   iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
   v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
   vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
   vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
   viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
   ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
   x. At all times, aircraft shall have the right-of-way over all vehicle traffic.

c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant's own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

5. Standard Terms & Conditions

PMGAA's Standard Terms & Conditions (in **EXHIBIT D** attached) include clauses that pertain to both construction and professional services. For such, the term "contractor" is to be considered same as "consultant." If a clause implies construction service then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict.

6. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

7. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

8. Independent Contractor Status

At all relevant times, Consultant is - and shall remain - an independent contractor with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT D – PMGAA STANDARD TERMS & CONDITIONS

1. **Certification.** Consultant certifies:
   a. The award of this Contract did not involve collusion or other anti-competitive practices.
   b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
   c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. **Termination of Contract.**

   a. Termination for cause. PMGAA reserves the right to cancel this Contract in whole or in part due to failure of Consultant to carry out any term, promise, or condition of the Contract. At least ten (10) business days before terminating the Contract, PMGAA will issue a written notice of default specifying one of the following reasons. PMGAA shall, at all times during the term of the Contract or any extension term thereto, have the sole authority to determine if the default has been cured to its satisfaction. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Contract.

      (1) Consultant has provided personnel that do not meet the requirements of the Contract.

      (2) Consultant has failed to perform adequately the stipulations, conditions or services/specifications required in this Contract.

      (3) Consultant has attempted to impose on PMGAA personnel or materials, products, or workmanship of unacceptable quality.

      (4) Consultant has failed to furnish the required service(s) and/or product(s) within the time stipulated in the Contract or associated Authorization of Services.

      (5) Consultant has failed to make progress in the performance of the requirements of the Contract or Authorization of Services, or Consultant fails to give PMGAA adequate assurance the Consultant will perform the Contract in full and on time.

      (6) Each payment obligation of PMGAA created hereby is conditioned on the availability of PMGAA, state, or federal funds appropriated for payment of the obligation. If funds are not available or allocated by PMGAA for continuance of service under this Contract, then PMGAA may terminate the Contract. PMGAA shall promptly notify Consultant regarding the service that may be affected by a shortage of funds. No penalty accrues to PMGAA if this provision is exercised, and PMGAA shall not be liable for any future payments due or for any damages as a result of termination under this paragraph.

   b. Termination for convenience. This Contract may be terminated at any time by mutual written consent or by PMGAA - with or without cause - provided the terminating party gives thirty (30) calendar days' advance written notice to the other party. PMGAA may terminate this Contract, in whole or in part, for PMGAA's convenience and with thirty (30) days' written notice.

   c. If this Contract is terminated, then PMGAA is liable only for services rendered and material received, certified, and approved by PMGAA under the Contract before the termination effective date. If the Preventative Maintenance, as detailed in **EXHIBIT A**, "Scope of Services & Fee Schedule," has not been completed but PMGAA has been invoiced and paid Consultant for such annual fee, PMGAA shall be entitled to a full refund of payment for any portion that has not been completed.

   d. Upon termination of the Contract, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and

materials prepared by PMGAA and/or Consultant under this contract, whether complete or partially complete.

3. **Dispute Resolution**.

   a. **Negotiations**. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.

   b. **Mediation**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.

   c. **Binding Dispute Resolution**. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

4. **Independent Contractor.** At all times, each party acts in its individual capacity not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days. PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

5. **Affirmative Action.** Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

6. **Human Relations**. Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

7. **Non-Exclusive Contract**. This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

8. **Americans with Disabilities Act.** Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

9. **Confidentiality of Records**. Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

10. **Gratuities.** PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

11. **Applicable Law.** This Contract shall be governed by, and PMGAA and Consultant shall have, all remedies afforded each by the *Uniform Commercial Code*, as adopted in the state of Arizona, except as otherwise provided in this Contract or in laws pertaining specifically to PMGAA. This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

12. **Contract**. This Contract is based on and the result of a negotiated Scope of Work and Proposal, Bid or Statement of Qualifications submitted by Consultant under an RFP, IFB or RFQ. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

13. **Contract Amendments**. This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

14. **Provisions Required by Law**. Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

15. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

16. **Protection of Government Property.** Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

17. **Interpretation – Parol Evidence.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

18. **Subcontracts.** Consultant shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Consultant of its acceptance or rejection within forty-five (45) days or written request by Consultant. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Consultant referred to herein. Consultant is responsible for Contract performance whether subcontractors are used.

19. **No Waiver.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any

right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

20. **Warranties.** Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

21. **Indemnification.** To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

22. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

23. **Advertising.** Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

24. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Consultant's or any of Consultant's subcontractor's business, which is related to the performance of this Contract or related subcontract.

25. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

26. **Inspection.** All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

27. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

28. **Title and Risk of Loss.** The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

29. **Liens.** All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

30. **Licenses.** Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

31. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

32. **Clean Up.** Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

33. **Patents.** Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

34. **Records and Audit Rights.** Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

35. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

EXHIBIT E – PMGAA EQUIPMENT LIST

At the time of execution of this Contract, PMGAA has the following equipment for it's ACAMS:

Quantity	Description
53	Access Controlled Door (free exit; includes fire exit)
50	Access Controlled Door (controlled exit)
4	Access Controlled Gate (free exit)
13	Access Controlled Gate (controlled exit)
31	Access Control Panel
12	Audible Door Sounder
1	Badging Station
48	Power Supply
176	Badge/Card Reader
3	Server (not including video recorders)
1	Video Management System (VMS)
138	Camera POE Injector
54	Exterior Cameras (lower than 15' AFG)
3	Exterior Cameras (higher than 15' AFG)
81	Interior Cameras (lower than 15' AFG)
1	Interior Cameras (higher than 15' AFG)
3	Network Video Recorder
205	Camera Feeds

EXHIBIT F – CONSULTANT'S RFP SUBMITTAL

Consultant's Proposal in response to Phoenix-Mesa Gateway Airport Authority's Solicitation 2024-008-RFP dated September 25, 2023, is hereby incorporated herein and made part of this Contract.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-68

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**FY24 Capital Budget Amendment - Rental Car Care Facility Improvements - CIP 1242**
Date:	**December 19, 2023**

Proposed Motion

To authorize an Amendment of the FY24 Capital Budget to add $428,639.07 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR Contract, with Willmeng Construction, Inc., due to owner-driven changes that are necessary to meet the actual needs of the car rental companies.

Narrative

The growth of commercial service at the Airport benefits the car rental companies and generates revenue for the Airport through Customer Facility Charges (CFC). CFC's are daily transaction fees imposed upon a customer renting a vehicle from an on-airport car rental company. CFC revenues are used to pay for costs associated with the design and construction of facilities or improvements used for the car rental companies located at the Airport.

Our current Car Care Facility is outdated, inadequate, and lacks the capacity and efficiency needed to service our customers effectively. This facility needs to be upgraded and expanded to accommodate the increased number of rental cars currently in service. Willmeng Construction, Inc. is providing CMAR Construction Services that include the removal of existing facilities, building a new car care building, vacuum, car wash, and light maintenance facilities, office and restroom space, increased car queuing, signage, asphalt, pavement, striping, and lighting. This contract modification includes; SRP post design changes including permits, bollards, conduit, and conductor totaling $103,078.50, City of Mesa post design changes for bollards totaling $14,904.00, tenant-requested security measures (curb and bollards) and devices (entry and exit gates) totaling $197,754.84, tenant requested pre-wash equipment totaling $57,138.00, tenant requested division of the middle office building totaling $25,353.76. This increase in the contract value also increases the taxes, insurance, bonds, and allowable markup totaling $30,409.97. The costs have been reviewed by Airport staff and deemed reasonable and acceptable.

Fiscal Impact

Requesting to have these additional project funds, for the Rental Car Care Facility Improvements Construction Services Project, added and included in the FY24 Capital Budget utilizing CFC funds under CIP 1242.

Attachment(s)

None

RESOLUTION NO. 23-68

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an Amendment of the FY24 Capital Budget to add $428,639.07 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR Contract, with Willmeng Construction, Inc., due to owner-driven changes that are necessary to meet the actual needs of the car rental companies;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes an Amendment of the FY24 Capital Budget to add $428,639.07 in funding to the current Rental Car Care Facility Improvements Project (CIP 1242) CMAR Contract, with Willmeng Construction, Inc., due to owner-driven changes that are necessary to meet the actual needs of the car rental companies. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**
>
> Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-69

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO** **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**Rental Car Care Facility Improvements Contract Modification – Willmeng Construction, Inc. - CIP 1242**
Date:	**December 19, 2023**

Proposed Motion

To authorize a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with Willmeng Construction, Inc., due to requests from the rental car companies and SRP for changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $428,639.07 under CIP 1242.

Narrative

The growth of commercial service at the Airport benefits the car rental companies and generates revenue for the Airport through Customer Facility Charges (CFC). CFC's are daily transaction fees imposed upon a customer renting a vehicle from an on-airport car rental company. CFC revenues are used to pay for costs associated with the design and construction of facilities or improvements used for the car rental companies located at the Airport.

Our current Car Care Facility is outdated, inadequate, and lacks the capacity and efficiency needed to service our customers effectively. This facility needs to be upgraded and expanded in order to accommodate the increased number of rental cars currently in service. Willmeng Construction, Inc. is providing CMAR Construction Services. This contract modification includes: SRP post design changes including permits, bollards, conduit and conductor totaling $103,078.50, City of Mesa post design changes for bollards totaling $14,904.00, tenant requested security measures (curb and bollards) and devices (entry and exit gates) totaling $197,754.84, tenant requested pre-wash equipment totaling $57,138.00, tenant requested division of the middle office building totaling $25,353.76. This increase of the contract value also increases the taxes, insurances, bonds, and allowable markup totaling $30,409.97. The costs have been reviewed by Airport staff and deemed reasonable and acceptable.

Fiscal Impact

Requesting to have this contract modification, for the Rental Car Care Facility Improvements Construction Services Project authorized in the FY23 Carryover Capital Budget utilizing PMGAA Customer Facility Charge (CFC) funds under CIP 1242.

Attachment(s): CMAR Construction Services Contract Modification

RESOLUTION NO. 23-69

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with Willmeng Construction, Inc., due to requests from the rental car companies and SRP for changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $428,639.07 under CIP 1242;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a contract modification to the current Rental Car Care Facility Improvements Project CMAR Contract, with Willmeng Construction, Inc., due to requests from the rental car companies and SRP for changes to meet the desired operational needs of the car rental companies. This contract modification amount is not to exceed $428,639.07 under CIP 1242. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

DocuSign Envelope ID: F5B3E6F4-5DF8-4E74-A0E9-CCCA935C642C

Phoenix-Mesa Gateway Airport

Engineering & Facilities
5835 South Sossaman Road
Mesa, Arizona 85212
Telephone 480-988-7628
FAX 480-988-2315

CHANGE ORDER

Change Order No.:	3	Project Number/Name:	1242-Car Care Facility
Change Order Date:	12/5/2023	Notice to Proceed Date:	October 3, 2022
Is This Change Order Grant Eligible?	No	FAA Grant No.:	0
Are Additional Grant Funds Requested?	No	ADOT Grant No.:	0
Contract/Completion Implications - # of days:	0	Contract Date:	September 20, 2022
Contractor:	Willmeng	Exhibit A Date:	
Contract No.:	20230068	Purchase Order No.:	0

This Contract is changed as follows:

This Contract has been modified to include the design changes implemented by SRP, City of Mesa, and Tenant Requirements. Additional scope added to this project include major electrical changes, additional wash equipment, layout configuration of suites 2 and 3, secure entry and exit devices as well as concrete perimeter structures. This will increase the contact value by an additional $428,639.07

This Change Order shall constitute a final settlement of all matters relating to the change in the Work which is the subject of the Change Order, including but not limited to all direct or indirect costs associated with such change, all delay and disruption costs, any impact such change may have on unchanged work, and any and all adjustments to the Contract Sum or the Contract Time. This Change Order supersedes all prior reservations stated or implied.

	Cost excl. taxes	Taxes	Cost incl. Taxes
The original *Contract Sum* was:	$ 6,946,325.35	$ 374,754.25	$ 7,321,079.60
Net change by previously authorized Change Orders:	$ 1,959,950.76	$ (284,452.02)	$ 1,675,498.74
The *Contract Sum* prior to this Change Order was:	$ 8,906,276.11	$ 90,302.23	$ 8,996,578.34
The Sum of this Change Order	**$ 424,174.27**	**$ 4,464.80**	**$ 428,639.07**
The new *Contract Sum* including this Change Order is:	$ 9,330,450.38	$ 94,767.03	$ 9,425,217.41

Approvals

Contractor:

Sign: Pat Baldwin
Print: Pat Baldwin
Title: Operations Manager
Date: 12/5/2023 | 10:45 AM PST

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY
An Arizona Joint Powers Airport Authority

Sign: Rich Adams Digitally signed by Rich Adams Date: 2023.12.06 08:45:23 -07'00' Date:
Print: Rich Adams
Title: Project Manager

Sign: Bob Draper, PE Digitally signed by Bob Draper, PE DN: C=US, E=bdraper@gatewayairport.com, OU=PMGAA, CN="Bob Draper, PE" Date: 2023.12.06 10:54:36-07'00' Date:
Print: Bob Draper
Title: Engineering & Facilities Director

Sign: Date:
Print: J Brian O'Neill
Title: Executive Director/CEO

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-70

To:	**Board of Directors**
From:	**Bob Draper, P.E., LEED AP, CM Engineering & Facilities Director**
Through:	**Scott Brownlee, Deputy Director/COO**
	J. Brian O'Neill, A.A.E., Executive Director/CEO
Subject:	**FY24 Capital Budget Amendment – Taxiway W PCCP Repairs –CIP 744**
Date:	**December 19, 2023**

Proposed Motion

To Authorize an Amendment of the FY24 Capital Budget to provide an additional $1,400,000 to the existing $800,000 budget due to a 100% ADOT Grant for Taxiway W PCCP Repairs under CIP 744. The new project total will be $2,200,000.

Narrative

Due to the deteriorating pavement condition of Taxiway W, rehabilitation of the concrete pavement is required. ADOT has provided an additional $1,400,000 grant to assist in the rehabilitation of the pavement. A separate Board action will be submitted for the construction project once the project bids have been received.

Fiscal Impact

Requesting that these additional funds, $1,400,000 for the Taxiway W project be added to the FY24 Capital Budget utilizing ADOT grant funds under CIP 744, for a new project total of $2,200,000

Attachment(s)

None

RESOLUTION NO. 23-70

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize an Amendment of the FY24 Capital Budget to provide an additional $1,400,000 to the existing $800,000 budget due to a 100% ADOT Grant for Taxiway W PCCP Repairs under CIP 744. The new project total will be $2,200,000;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

The Board of Directors of the Authority hereby authorizes an Amendment of the FY24 Capital Budget to provide an additional $1,400,000 to the existing $800,000 budget due to a 100% ADOT Grant for Taxiway W PCCP Repairs under CIP 744. The new project total will be $2,200,000. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.

Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Board Action Item

Re: Resolution 23-71

To:	**Board of Directors**
From:	**Lori Collins, Director of Business and Economic Development**
Through:	**J. Brian O'Neill, A.A.E., Executive Director/CEO**
Subject:	**VTWV GATEWAY INDUSTRIAL I, LLC – Land Lease for Lots 101, 102 and 103**
Date:	**December 19, 2023**

Proposed Motion

To authorize a Land Lease Agreement with VTWV GATEWAY INDUSTRIAL I, LLC for Lots 101, 102, and 103, consisting of approximately 7.5 acres (327,252.46 SF). The lease term is sixty (60) years, with no renewal options. The annual Base Rent is $202,896.60 annually, payable in equal monthly installments of $16,908.05 plus applicable taxes.

Narrative

Lots 101, 102, and 103 are non-aeronautical land sites, generally located at the southeast corner of the intersection of Sossaman Rd. and Velocity Way and consisting of approximately 327,252 total square feet (the "Premises"). VTWV Gateway Industrial I, LLC ("Lessee") plans to lease the Premises to develop two industrial buildings totaling approximately 96,000 SF with an estimated capital investment of approximately $16,000,000 (the "Improvements").

Agreement Term and Rate

The Term of this agreement is for sixty (60) years with no options to extend. The Base Rent is $202,896.53 annually ($0.62 per sq. ft.), payable in monthly installments of $16,908.04 plus applicable taxes. The agreement also includes an annual three percent (3%) increase to the base rent and is subject to market rate adjustments every ten years.

The Base Rent becomes due and payable at the first of either (i) the delivery of a Certificate of Occupancy ("CofO") or its equivalent from the City of Mesa or; (ii) July 1, 2025, (the "Rent Commencement Date").

Attachment(s)

Lots 101, 102 and 103 Land Lease Agreement
Declaration of Reciprocal Access Easement
Declaration of Utility Easement
Form of Sublease

RESOLUTION NO. 23-71

WHEREAS, the Phoenix-Mesa Gateway Airport Authority ("Authority"), a joint powers airport authority formed pursuant to Arizona Revised Statute §28-8521 *et seq.* owns and operates the Phoenix-Mesa Gateway Airport ("Airport"); and

WHEREAS the Authority desires to authorize a Land Lease Agreement with VTWV GATEWAY INDUSTRIAL I, LLC for Lots 101, 102, and 103, consisting of approximately 7.5 acres (327,252.46 SF). The lease term is sixty (60) years, with no renewal options. The annual Base Rent is $202,896.60 annually, payable in equal monthly installments of $16,908.05 plus applicable taxes;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

> **The Board of Directors of the Authority hereby authorizes a Land Lease Agreement with VTWV GATEWAY INDUSTRIAL I, LLC for Lots 101, 102, and 103, consisting of approximately 7.5 acres (327,252.46 SF). The lease term is sixty (60) years, with no renewal options. The annual Base Rent is $202,896.60 annually, payable in equal monthly installments of $16,908.05 plus applicable taxes. This resolution also authorizes the Chair or Executive Director/CEO to make such additions, deletions, and changes as may be approved by the Chair or Executive Director/CEO, necessary to carry out the purposes and intent of this Resolution.**

Passed and adopted by the Authority this 19th day of December, 2023.

Walter Wilson, Chair

ATTEST:

Misty Johnson, Clerk of the Board

APPROVED AS TO FORM:

Jill Casson Owen, Attorney

When Recorded, Return To:

Phoenix-Mesa Gateway Airport Authority
5835 South Sossaman Road
Mesa, Arizona 85212-6014
Attention: Director of Business Development

For Recorder's Use

DECLARATION OF RECIPROCAL ACCESS EASEMENT

THIS DECLARATION OF RECIPROCAL ACCESS EASEMENT ("**Declaration**") is made as of the _____ day of _____, 202__ by PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a Joint Powers Airport Authority authorized under the laws of the State of Arizona ("**PMGAA**").

RECITALS

A. PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport in Maricopa County, Arizona.

B. PMGAA is the fee owner of two adjacent parcels of real property located in Maricopa County, Arizona. One parcel comprises lots commonly known as Lots 101, 102 and 103 and is more particularly described on **EXHIBIT A** attached hereto ("**101-103 Parcel**"), and the other parcel comprises lots commonly referred to as Lot 116-B and is more particularly described on **EXHIBIT B** attached hereto ("**116-B Parcel**"). The 101-103 Parcel and the 116-B Parcel are collectively referred to herein as the "**Parcels**".

C. The Parcels or portions thereof are or will be subject to leases with PMGAA. For purposes hereof, any lease covering the 101-103 Parcel from time to time is referred to as the "**101-103 Lease**" and the tenant pursuant to a 101-103 Lease is referred to as the "**101-103 Lessee**". Any lease covering the 116-B Parcel from time to time is referred to as a "**116-B Lease**" and the tenant pursuant to a 116-B Lease is referred to as the "**116-B Lessee.**" The 101-103 Lessee and the 116-B Lessee are sometimes individually referred to herein as a "**Parcel Tenant**" and collectively as the "**Parcel Tenants**." The 101-103 Lease and 116-B Lease are each individually a "**Lease**" and collectively referred to as the "**Leases**".

D. PMGAA desires to establish and declare hereby a mutual reciprocal easement in favor of the Parcels, for the purpose of pedestrian and vehicular access, ingress, and egress in, over, and under a portion of the Parcels, in accordance with the terms and conditions set forth herein.

DECLARATION

NOW THEREFORE, PMGAA hereby declares as follows:

1. Creation of Easement. PMGAA does hereby reserve, grant and declare a perpetual, nonexclusive reciprocal easement in, over, and under a portion of the 116-B Parcel set forth on **EXHIBIT C** attached hereto ("**Easement Area**") for the purpose of pedestrian and vehicular ingress and egress ("**Access Easement**"). The Access Easement is created for the benefit of, and may be used by the Parcel Tenants and their respective employees, customers, contractors, subtenants, agents, invitees, subtenants, successors and assigns ("**Permittees**").

2. Initial Construction.

(a) *Responsibility for Initial Construction*. The 116-B Lessee will be responsible for the initial construction of the Easement Area and any improvements located thereon ("**Easement Construction**"). The Easement Construction will include installing in a good and workmanlike manner the pavement, curbing, striping, and if necessary any drainage system and other improvements for the Easement Area as generally depicted on **EXHIBIT D** attached hereto. The 116-B Lessee shall use commercially reasonable efforts to complete the Easement Construction on or before December 1, 2024 (the "**Completion Deadline**"). Notwithstanding the foregoing, in the event the 116-B Lessee is diligently proceeding with the Easement Construction, the 116-B Lessee shall have the right to extend the Completion Deadline for a period of up to forty-five (45) days upon written notice to PMGAA and the 101-103 Lessee.

(b) *Costs and Expenses*.

(i) The Easement Construction will be undertaken by the 116-B Lessee in connection with the original construction of the 116-B Parcel, at 116-B Lessee's sole cost and expense except as provided for herein. The 116-B Lessee will document and keep a record of the costs incurred with respect to the concrete/asphalt paving, the landscaping, any mark-ups, and permit fees, included in the Easement Construction ("**Easement Construction Expenses**").

(ii) Upon execution of the first 101-103 Lease executed between PMGAA and the 101-103 Lessee (for purposes hereof, the "**Initial 101-103 Lease**") and thereafter, the first 101-103 Lessee (for purposes hereof "**Initial 101-103 Lessee**") must reimburse the 116-B Lessee for fifty percent (50%) of the Easement Construction Expenses ("**Construction Reimbursement**") within thirty (30) days of the Initial 101-103 Lessee's receipt of an invoice therefor, along with reasonable supporting documentation of the Easement Construction Expenses. If the Initial 101-103 Lessee fails to reimburse the 116-B Lessee for the Construction Reimbursement within the applicable thirty (30) day period, such unpaid amount shall accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, from the date due until paid. The Construction Reimbursement will constitute the personal obligation of the Initial 101-103 Lessee. In no event will the 116-B Lessee have any right to file, record, or claim a lien against the underlying Parcels.

(c) *Construction Self-Help Rights*. If the 116-B Lessee fails to complete the Easement Construction by the Completion Deadline (as may be extended pursuant to Section 2(a) above), the 101-103 Lessee may notify the 116-B Lessee in writing ("**Self-Help Notice**") of such failure and of 101-103 Lessee's intent to complete the Easement Construction on 116-B Lessee's behalf if the 116-B Lessee fails to complete the Easement Construction within sixty (60) days following receipt of the Self-Help Notice, or such longer time, not to exceed an additional ninety (90) days, as may be reasonably necessary provided that the 116-B Lessee has commenced to cure such failure within the initial sixty (60) day period and is diligently pursuing the same ("**Cure Period**"). Within the Self-Help Notice, the 101-103 Lessee must provide an estimate for the completion of the Easement Construction Expenses required to complete the remaining Easement Construction. In the event the 116-B Lessee fails to complete the Easement Construction within the Cure Period, the 101-103 Lessee may proceed with completing the Easement Construction in accordance with the Self-Help Notice. In exercising its rights hereunder, the 101-103 Lessee may not unreasonably interfere with the operations on the 116-B Parcel and must use commercially reasonable efforts to complete the Easement Construction within a commercially reasonable period and perform the completion of the Easement Construction in a manner so as to minimize any interference with the operations on the 116-B Parcel. If the 101-103 Lessee performs the Easement Construction, the 116-B Lessee must reimburse the 101-103 Lessee for fifty percent (50%) of the actual Easement Construction Expenses required to complete the remaining Easement Construction, within thirty (30) days of a receipt of an invoice therefor along with reasonable supporting documentation of the Easement Construction Expenses incurred by the 101-103 Lessee. If the 116-B Lessee fails to reimburse the 101-103 Lessee for the Construction Reimbursement within the applicable thirty (30) day period, such unpaid amount shall accrue interest at the rate of eighteen percent (18%) per annum,

compounded annually, from the date due until paid. In the event the 101-103 Lessee exercises the rights hereunder, any contractor employed by the 101-103 Lessee shall be commercially licensed, bonded and insured in the state of Arizona. Before the commencement of any work by such contractor, 101-103 Lessee shall provide 116-B Lessee with copies of such contractor's applicable insurance policies prior to entering onto the 116-B Parcel. At a minimum, such policies shall include builder's all-risk coverage, liability for death, personal injury and property damage arising out of the performance of any work at or about the 116-B Parcel by contractor, any subcontractor or any other party required to be under the control of contractor, and shall provide comprehensive automobile liability insurance, shall be primary and non-contributing and shall provide for the insurer to provide written notice to 116-B Lessee thirty (30) days prior to any cancellation, expiration or modification of such coverage. Said policies shall each name 116-B Lessee, PMGAA and 116-B Lessee's lender(s), if applicable, as additional insured parties and shall each cover any occurrence caused by or occurring because of activities or failure to properly and safely perform the work.

(d) All construction performed under this Declaration, whether performed by 116-B Lessee or 101-103 Lessee, shall be performed in a good and workmanlike manner and in manner to keep the 116-B Parcel free and clear of any liens arising out of any such work performed.

3. Maintenance.

(a) *Responsibility for Maintenance*. Subject to Section 3(d) below, the 116-B Lessee will be responsible to maintain, inspect, repair and replace (if necessary) the Easement Area and any improvements located thereon ("**Easement Maintenance**"). The Easement Maintenance must include keeping all improvements in a neat and clean condition and in good order, condition and repair, including without limitation the patching of pavement, resurfacing, sweeping and removing trash and debris, and maintaining any drainage system.

(b) *Costs and Expenses*.

(i) Until such time as the Initial 101-103 Lease is first executed, the 116-B Lessee will be exclusively responsible for the cost and expenses incurred in performing the Easement Maintenance ("**Easement Maintenance Expenses**").

(ii) Upon the execution of the Initial 101-103 Lease and continuing thereafter, the Easement Maintenance Expenses will be shared equally by the 116-B Lessee and the 101-103 Lessee (including the Initial 101-103 Lessee). The 101-103 Lessee must reimburse the 116-B Lessee fifty percent (50%) of the Easement Maintenance Expenses within thirty (30) days of a receipt of an invoice therefor along with reasonable supporting documentation of the Easement Maintenance Expenses. If the 101-103 Lessee fails to reimburse the 116-B Lessee its proportionate share of the Easement Maintenance Expenses within the applicable thirty (30) day period, such unpaid amount shall accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, from the date due until paid. The applicable proportionate share of Easement Maintenance Expenses will constitute the personal obligation of the 101-103 Lessee. In no event will the 116-B Lessee have any right to file, record, or claim a lien against the underlying Parcels.

(iii) During any period of time during which there is no Lease for one or both of the Parcels, PMGAA will assume the responsibilities for Easement Maintenance and/or Easement Maintenance Expenses in connection with the Parcel without a tenant, as applicable.

(c) *Maintenance Self-Help Rights*. If the 116-B Lessee fails to perform the Easement Maintenance, the 101-103 Lessee may notify the 116-B Lessee in writing of such failure. If the 116-B Lessee fails to object on the basis that such maintenance or repairs are not required or fails to complete any required Easement Maintenance within thirty (30) days following receipt of such written notice, or such longer time, not to exceed an additional ninety (90) days, as may be reasonably necessary provided that the 116-B Lessee has

commenced to perform the Easement Maintenance within the initial thirty (30) day period and is diligently pursuing the same, the 101-103 Lessee may perform the Easement Maintenance. In exercising its rights hereunder, the 101-103 Lessee may not unreasonably interfere with the operations on the 116-B Parcel and must use commercially reasonable efforts to perform the maintenance in a manner so as to minimize any interference with the operations on the 116-B Parcel. If the 101-103 Lessee performs the Easement Maintenance, the 116-B Lessee must reimburse the 101-103 Lessee for fifty percent (50%) of the Easement Maintenance Expenses within thirty (30) days of a receipt of an invoice therefor, along with reasonable supporting documentation of the Easement Maintenance Expenses incurred by the 101-103 Lessee, together with interest thereon at the rate of eighteen percent (18%) per annum, compounded annually, from the date of expenditure until paid.

(d) *PMGAA's Election to Perform*. Notwithstanding anything to the contrary herein, PMGAA may elect by written notice to the 116-B Lessee and 101-103 Lessee, at any time and from time to time in PMGAA's sole discretion, to perform the Easement Maintenance and seek reimbursement from the Parcel Tenants for their share of the Easement Maintenance Expenses. Such election may be relinquished or revoked at any time and from time to time by PMGAA upon written notice to the 116-B Lessee and 101-103 Lessee, following which the 116-B Lessee will resume performing the Easement Maintenance in accordance with Section 3(a).

(e) *No Obligation of PMGAA*. For avoidance of doubt, except as provided for in Section 3(b)(iii) and Section 3(d) above, PMGAA has no obligation to construct any improvements, perform the Easement Maintenance, or pay any costs or expenses set forth herein (including, without limitation, any Easement Construction Expenses, Construction Reimbursement, and any Easement Maintenance Expenses).

4. Damage or Destruction.

(a) *By Fire or Other Casualty*. If any portion of the Easement Area or improvements thereon are destroyed or damaged by fire or other casualty, the terms of the 101-103 Lease and the 116-B Lease will govern with respect to the such portion of the Easement Area located on each of the Parcels, respectively; provided however, that prior to the Initial 101-103 Lease, the 116-B Lease will govern as to the entirety of the Easement Area, as if the entire Easement Area is located within the 116-B Parcel.

(b) *By Act of the Parcel Tenants*. Notwithstanding any other provision herein, (a) in the event any portion of the Easement Area, or any improvement located thereon, is damaged or destroyed by a willful or grossly negligent act of the 101-103 Lessee or its Permittees, the Lot 101-103 Lessee will be responsible for the entire cost of repairing all damage resulting from such act; and (b) in the event any portion of the Easement Area, or any improvement located thereon, is damaged or destroyed by a willful or grossly negligent act of the 116-B Lessee or its Permittees, the 116-B Lessee will be responsible for the entire cost of repairing all damage resulting from such act.

5. Barriers; Obstructions. Any fence, wall, or other barrier or structure of any kind on the Easement Area which would prevent, obstruct or impair the passage of pedestrian and vehicular traffic over and across the Easement Area to and from the Parcels is prohibited. Parking of vehicles upon the Easement Area is prohibited.

6. Indemnity. Except to the extent covered by insurance required to be carried by 101-103 Lessee under this Declaration, 101-103 Lessee shall and hereby does indemnify, defend and hold harmless 116-B Lessee for, from and against all claims, including any action or proceeding brought therein, and all costs, losses, expenses and liabilities (including reasonable attorneys' fees and costs of suit) ("**Claims**") arising from or in connection with any person using the Easement Area for the purposes of traveling to or from the 101-103 Parcel. The foregoing indemnity shall not apply to any Claims arising from 116-B Lessee's gross negligence or

willful misconduct or 116-B Lessee's breach of its maintenance obligations under this Declaration. The provisions of this Section shall survive any termination of this Declaration or the easement.

7. Insurance. Prior to exercise any of its rights with respect to the easement, including the construction or placement of any improvements within the Easement Area, both Parcel Tenants shall obtain, and shall thereafter maintain at all times, commercial general liability insurance for the Easement Area and against the risks of death, bodily injury, property damage and personal injury liability (including contractual liability arising under any indemnity contained herein) occurring therein, with at least the coverage limits required pursuant to the Leases. Such insurance shall name the other Parcel Tenant and PMGAA as additional insureds. Each Parcel Tenant shall provide to the other Parcel Tenant a certificate evidencing the required insurance within 15 days of request from such Parcel Tenant. If a notice of non-renewal, cancellation or material change is issued with respect to either Parcel Tenant's required insurance, such Parcel Tenant shall obtain replacement insurance and provide a replacement certificate to the other Parcel Tenant within 10 days, or the requesting Parcel Tenant may obtain the insurance and certificate and be entitled to reimbursement by the other Parcel Tenant for all reasonable costs incurred in connection therewith.

8. Attorneys' Fees. In the event of any action to enforce the provisions of this instrument, the prevailing party will be entitled to receive reimbursement for reasonable costs and attorneys' fees, in an amount determined by the court and not by a jury.

9. No Public Dedication; Running of Benefits and Burdens; No Merger. The provisions of this Declaration are not intended to and do not constitute a dedication for public use of any portion of the Easement Area. All provisions of this Declaration, including the benefits and burdens, shall run with the land, and shall be binding upon and shall inure to the benefit of the successors and assigns of PMGAA. The common ownership of all or any portion of the Parcels shall not extinguish or merge the interests created under this Declaration at any time unless the then-current owner(s) of all the Parcels records an instrument in the records of Maricopa County, Arizona terminating this Declaration.

10. Subsequent Liability. Whenever the transfer or termination of any ownership of or leasehold interest in all or any part of the Parcels occurs, the transferor or former leasehold interest holder will not be liable for the breach, subsequent to such transfer or termination, of any of the covenants contained herein; provided, however, that the transferor or former leasehold interest holder will remain liable for any obligations hereunder of such transferor or former leasehold interest holder that accrued prior to the transfer or termination.

11. Applicable Law. This Declaration must be construed and interpreted under, and governed and enforced according to, the laws of the State of Arizona.

12. Headings and Counterparts. The headings of this Declaration are for purposes of reference only and will not limit or define the meaning of any provision of this Declaration. This Declaration may be executed in any number of counterparts, each of which will be an original but all of which will constitute one and the same instrument.

13. Amendments. PMGAA may amend, modify or revoke this Declaration at any time in its sole discretion, by recording in the office of the Recorder of Maricopa County, Arizona an instrument in writing reciting such revocation or amendment.

[*Remainder of page intentionally left blank; signature page follows*]

IN WITNESS WHEREOF, PMGAA has caused this Declaration of Reciprocal Access Easement to be executed as of the date first above-written.

PMGAA:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO
Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
NOTARY PUBLIC

My Commission Expires:

[*Remainder of Page Left Intentionally Blank*]

EXHIBIT A

Legal Description of the 101-103 Parcel

LOT 101:

BEING A PORTION OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,369.41 FEET;

THENCE NORTH 89 DEGREES 00 MINUTES 10 SECONDS EAST, 59.68 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, SAID POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 77 DEGREES 23 MINUTES 02 SECONDS WEST, 1,811.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07 DEGREES 10 MINUTES 54 SECONDS, HAVING A RADIUS OF 1811.00 FEET, 227.00 FEET;

THENCE NORTH 70 DEGREES 13 MINUTES 22 SECONDS EAST, 339.03 FEET TO A POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 69 DEGREES 14 MINUTES 19 SECONDS WEST, 1,915.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH AN CENTRAL ANGLE OF 08 DEGREES 59 MINUTES 01 SECOND, HAVING A RADIUS OF 1915.00 FEET, 300.26 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE;

THENCE SOUTH 79 DEGREES 16 MINUTES 57 SECONDS WEST, 322.22 FEET TO THE BEGINNING OF A TANGENT CURVE;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH AN CENTRAL ANGLE OF 88 DEGREES 07 MINUTES 20 SECONDS, HAVING A RADIUS OF 20.00 FEET, 30.76 FEET TO THE POINT OF BEGINNING.

LOT 102:

BEING A PORTION OF SECTION 31 AND 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,784.65 FEET;

THENCE SOUTH 89 DEGREES 00 MINUTES 10 SECONDS WEST, 79.79 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE, NORTH 49 DEGREES 40 MINUTES 42 SECONDS EAST, 338.42 FEET TO A NON-

EXHIBIT A

Legal Description of the 101-103 Parcel

TANGENTIAL CURVE WHOSE CENTER BEARS SOUTH 59 DEGREES 16 MINUTES 03 SECONDS WEST, 1,915.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 09 DEGREES 58 MINUTES 16 SECONDS, HAVING A RADIUS OF 1915.00 FEET, 333.27 FEET;

LOT 103:

BEING A PORTION OF SECTION 31 AND 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,784.65 FEET;

THENCE SOUTH 89 DEGREES 00 MINUTES 10 SECONDS WEST, 79.79 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, SAID POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 63 DEGREES 29 MINUTES 29 SECONDS WEST, 1,811.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 11 DEGREES 37 MINUTES 32 SECONDS, HAVING A RADIUS OF 1811.00 FEET, 367.46 FEET TO THE POINT OF REVERSE CURVE;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87 DEGREES 27 MINUTES 52 SECONDS, HAVING A RADIUS OF 20.00 FEET, 30.53 FEET TO A POINT OF TANGENCY, SAID POINT LYING ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF VELOCITY WAY PER MAP OF DEDICATION RECORDED IN BOOK 733 OF MAPS ON PAGE 39, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE, NORTH 49 DEGREES 19 MINUTES 50 SECONDS EAST, 333.21 FEET;

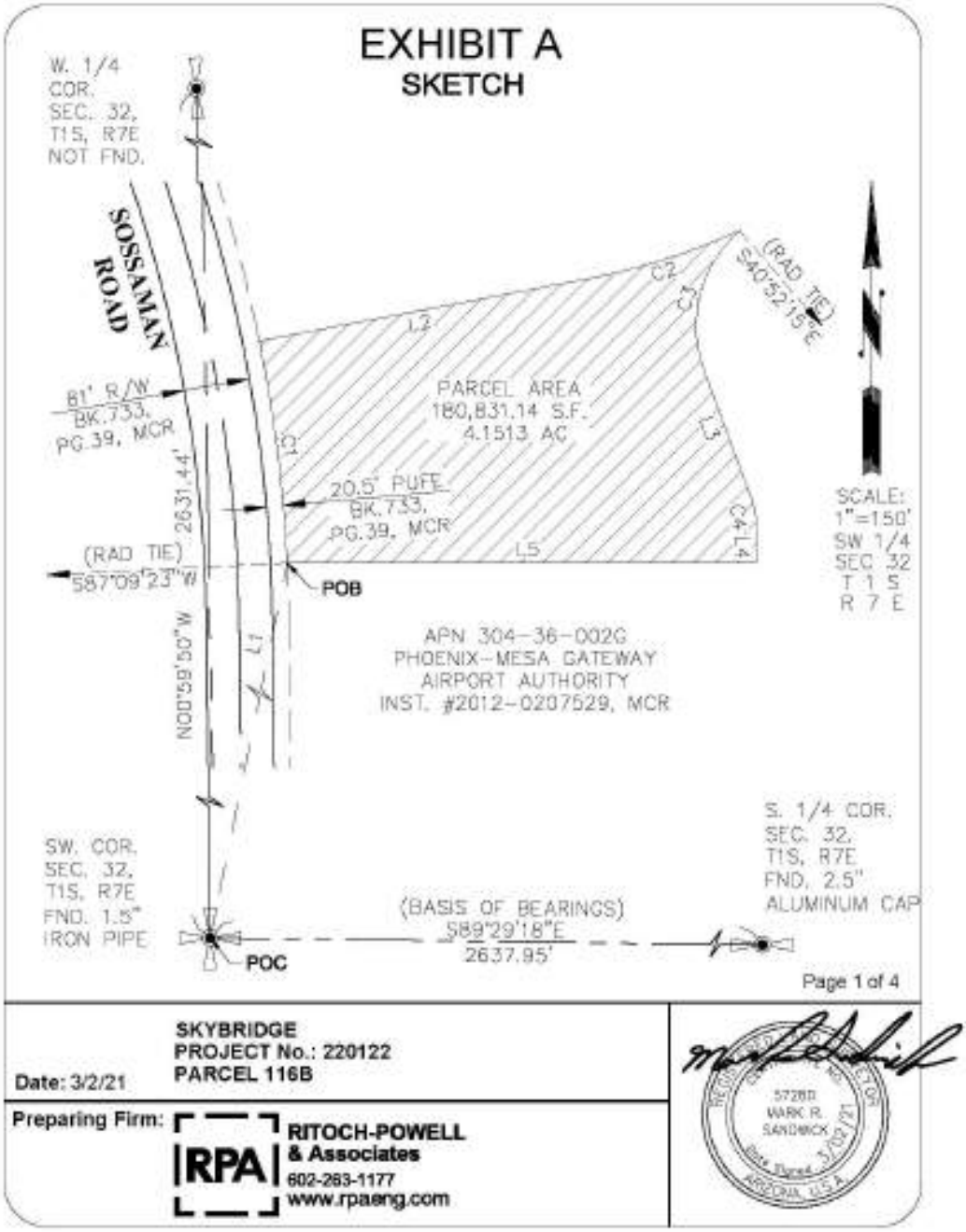
THENCE, SOUTH 44 DEGREES 22 MINUTES 51 SECONDS EAST, 300.63 FEET;

THENCE, SOUTH 05 DEGREES 27 MINUTES 40 SECONDS WEST, 121.36 FEET;

THENCE, SOUTH 49 DEGREES 40 MINUTES 42 SECONDS WEST, 338.42 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

Legal Description of the 116-B Parcel



4866-3906-1140

EXHIBIT B

Legal Description of the 116-B Parcel

EXHIBIT A
TABLES

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BRG
C1	08°40'07"	1811.00'	274.00'	273.74'	N07°10'41"W
C2	14°10'04"	775.00'	191.64'	191.15'	N72°11'08"E
C3	69°19'34"	155.00'	187.55'	176.31'	S14°27'58"W
C4	20°11'49"	95.00'	33.49'	33.31'	S10°05'55"E

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N04°09'50"E	1067.41'
L2	N79°16'10"E	414.41'
L3	S20°11'49"E	169.18'
L4	S00°00'00"E	44.94'
L5	N90°00'00"W	575.15'

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SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT B

Legal Description of the 116-B Parcel

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 LOCATED WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS S 89°29'18" E A DISTANCE OF 2637.95 FEET;

THENCE N 4°09'50" E A DISTANCE OF 1067.41 FEET TO A POINT ON THE EAST LINE OF A PUBLIC UTILITY AND FACILITY EASEMENT (PUFE) AS SHOWN ON THE MAP OF DEDICATION FOR VELOCITY WAY, SOUTH TAXIWAY CIRCLE AND SOUTH CARGO WAY RECORDED IN BOOK 733, PAGE 39, MARICOPA COUNTY RECORDS BEING THE WEST BOUNDARY LINE OF SAID ALTA/NSPS LAND TITLE SURVEY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 87°09'23" W, THE POINT OF BEGINNING;

THENCE ACROSS SAID PHOENIX-MESA GATEWAY AIRPORT AUTHORITY TRACT THE REMAINING COURSES AND DISTANCES:

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT AND ALONG SAID EAST PUFE LINE HAVING A RADIUS OF 1811.00 FEET, THROUGH A CENTRAL ANGLE OF 08°40'07" AND HAVING AN ARC LENGTH OF 274.00 FEET;

THENCE N 79°16'10" E A DISTANCE OF 414.41 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 775.00 FEET, THROUGH A CENTRAL ANGLE OF 14°10'04" AND HAVING AN ARC LENGTH OF 191.64 FEET TO A CUSP AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 40°52'15" E;

Page 3 of 4

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT B

Legal Description of the 116-B Parcel

EXHIBIT A
LEGAL DESCRIPTION

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 155.00 FEET, THROUGH A CENTRAL ANGLE OF 69°19'34" AND HAVING AN ARC LENGTH OF 187.55 FEET;

THENCE S 20°11'49" E A DISTANCE OF 169.18 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 20°11'49" AND HAVING AN ARC LENGTH OF 33.49 FEET;

THENCE S 00°00'00" E A DISTANCE OF 44.94 FEET;

THENCE N 90°00'00" W A DISTANCE OF 575.15 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 180,831.14 SQUARE FEET OR 4.1513 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTIONS IS S 89°29'18" E FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS SHOWN ON THE PLSS SUBDIVISION RECORD OF SURVEY-MARICOPA COUNTY GEODETIC DENSIFICATION AND CADASTRAL SURVEY RECORDED IN BOOK 609, PAGE 29, MARICOPA COUNTY RECORDS.

Page 4 of 4

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT D

Site Plan of Easement Construction

DESCRIPTION FOR ACCESS EASEMENT PHOENIX-MESA GATEWAY AIRPORT A.P.N. 304-36-002G

A portion of Section 32, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, being more particularly described as follows:

Commencing at the Southwest corner of said Section 32, being marked with an aluminum cap in a handhole stamped "L.S. 32778" said point lies South 00 degrees 59 minutes 50 seconds East 2631.46 feet from the West quarter corner of said Section 32, being marked with a 3 inch brass cap;

Thence, along the West line of the Southwest quarter of said Section 32, North 00 degrees 59 minutes 50 seconds West 1324.14 feet;

Thence North 89 degrees 00 minutes 10 seconds East 68.62 feet to a point on the Southwesterly line of the Phoenix–Mesa Gateway Airport, said point also being the POINT OF BEGINNING;

Thence North 79 degrees 16 minutes 14 seconds East 39.80 feet;

Thence North 11 degrees 45 minutes 41 seconds West 26.18 feet to a point on the South line of the Phoenix–Mesa Gateway Airport Lease Parcel 101;

Thence, along said South line, North 79 degrees 17 minutes 31 seconds East 40.01 feet;

Thence South 11 degrees 45 minutes 41 seconds East 71.17 feet;

Thence South 79 degrees 16 minutes 14 seconds West 80.84 feet to a point on a non–tangent curve on the aforementioned Southwesterly line of said Airport property;

Thence along said Southwesterly line and said non–tangent curve turning to the left, the radius point of which bears South 80 degrees 16 minutes 01 seconds West 1811.00 feet, through a central angle of 01 degrees 25 minutes 25 seconds, an arc length of 45.00' to the POINT OF BEGINNING.

Comprising 0.107 acres or 4657 square feet, subject to all easements of record.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
31020
G. BRYAN
GOETZENBERGER
10/19/23
Date signed
ARIZONA

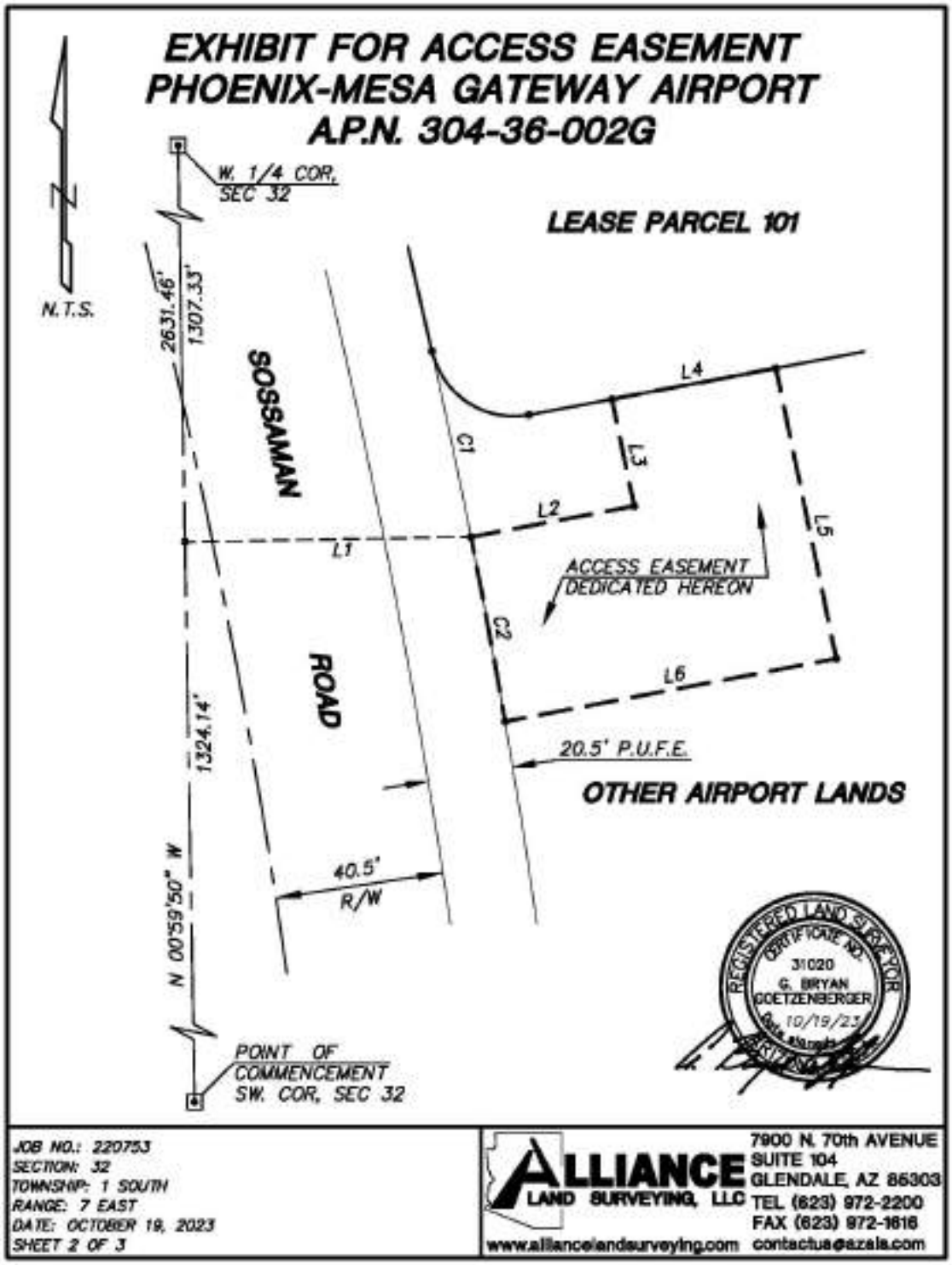
JOB NO.: 220753
SECTION: 32
TOWNSHIP: 1 SOUTH
RANGE: 7 EAST
DATE: OCTOBER 19, 2023
SHEET 1 OF 3

ALLIANCE LAND SURVEYING, LLC
www.alliancelandsurveying.com

7900 N. 70th AVENUE
SUITE 104
GLENDALE, AZ 85303
TEL (623) 972-2200
FAX (623) 972-1616
contactus@azals.com

EXHIBIT D

Site Plan of Easement Construction



4866-3906-1140

EXHIBIT D

Site Plan of Easement Construction

TABLES FOR ACCESS EASEMENT
PHOENIX-MESA GATEWAY AIRPORT
A.P.N. 304-36-002G

LINE	BEARING	DISTANCE
L1	S 89°00'10" W	68.62'
L2	N 79°16'14" E	39.80'
L3	S 11°45'41" E	26.18'
L4	N 79°17'31" E	40.01'
L5	S 11°45'41" E	71.17'
L6	S 79°16'14" W	80.84'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	1811.00'	45.50'	1°26'23"	S 11°52'36" E	45.50'
C2	1811.00'	45.00'	1°25'25"	N 10°26'42" W	45.00'

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
31020
G. BRYAN
GOETZENBERGER
10/19/23
ARIZONA

JOB NO.: 220753
SECTION: 32
TOWNSHIP: 1 SOUTH
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SHEET 3 OF 3

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Site Plan of Easement Construction

4866-3906-1140

CONSENT OF THE 116-B LESSEE

The 116-B Parcel is currently subject to that certain Lease Agreement dated June 1, 2023 made between PMGAA and SkyB Lot 116-B LLC, an Arizona limited liability company.

The undersigned is the current 116-B Lessee under the 116-B Lease. The undersigned hereby consents to this Declaration, agrees that the 116-B Lease is subordinated and subject to the Declaration, and agrees to be bound by this Declaration.

116-B LESSEE:

SkyB Lot 116-B LLC, an Arizona limited liability company

By: _____

Name: Felipe Monroy Torres

Its: Manager

STATE OF _____)

) ss.

COUNTY OF _____)

This instrument was acknowledged before me this _____ day of _____, 202___, by Felipe Monroy Torres, in his capacity as Manager of SKYB LOT 116-B LLC, and Arizona limited liability company, on behalf of the company.

_____

NOTARY PUBLIC

My Commission Expires:

When Recorded, Return To:

Phoenix-Mesa Gateway Airport Authority
5835 South Sossaman Road
Mesa, Arizona 85212-6014
Attention: Director of Business Development

For Recorder's Use

DECLARATION OF UTILITY EASEMENT

THIS DECLARATION OF UTILITY EASEMENT ("**Declaration**") is made as of the _____ day of _____, 202__ by PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a Joint Powers Airport Authority authorized under the laws of the State of Arizona ("**PMGAA**").

RECITALS

A. PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport in Maricopa County, Arizona.

B. PMGAA is the fee owner of two adjacent parcels of real property located in Maricopa County, Arizona. One parcel comprises lots commonly known as Lots 101, 102 and 103 and is more particularly described on **EXHIBIT A** attached hereto ("**101-103 Parcel**"), and the other parcel comprises lots commonly referred to as Lot 116-B and is more particularly described on **EXHIBIT B** attached hereto ("**116-B Parcel**"). The 101-103 Parcel and the 116-B Parcel are sometimes individually referred to herein as a "**Parcel**" and collectively as the "**Parcels**".

C. The Parcels or portions thereof are or will be subject to leases with PMGAA. For purposes hereof, any lease covering the 101-103 Parcel from time to time is referred to as the "**101-103 Lease**" and the tenant pursuant to a 101-103 Lease is referred to as the "**101-103 Lessee**". Any lease covering the 116-B Parcel from time to time is referred to as a "**116-B Lease**" and the tenant pursuant to a 116-B Lease is referred to as the "**116-B Lessee.**" The 101-103 Lessee and the 116-B Lessee are sometimes individually referred to herein as a "**Parcel Tenant**" and collectively as the "**Parcel Tenants**." The 101-103 Lease and 116-B Lease are each individually a "**Lease**" and collectively referred to as the "**Leases**".

D. PMGAA desires to establish and declare hereby a utility easement in favor of the 101-103 Parcel over a portion of the 116-B Parcel, for the purpose of allowing the installation, operation and maintenance of wet and dry utility lines over such portion of the 116-B Parcel, in accordance with the terms and conditions set forth herein.

DECLARATION

NOW THEREFORE, PMGAA hereby declares as follows:

1. Creation of Easements. PMGAA does hereby reserve, grant and declare for the benefit of the 101-103 Parcel a perpetual, nonexclusive easement in, over, and under the following portions of the 116-B Parcel: (i) that certain area set forth on **EXHIBIT C** attached hereto ("**Water Easement Area**") for the

purpose of the installation, construction, maintenance, operation, use, repair and replacement of underground water services, lines and appurtenant facilities, structures and improvements to service the 101-103 Parcel (the "**Water Improvements**"), and (ii) that certain area set forth on **EXHIBIT D** hereto ("**Sewer Easement Area**") for the purpose of the installation, construction, maintenance, operation, use, repair and replacement of underground sewer services, lines and appurtenant facilities, structures and improvements to serve the 101-103 Parcel (the "**Sewer Improvements**"). The Water Easement Area and Sewer Easement Area are collectively referred to herein as the "**Easement Areas**". The Water Improvements and Sewer Improvements are collectively referred to herein as the "**Utility Improvements**". In connection with the easements granted herein, PMGAA grants to the Parcel Tenants non-exclusive and reasonably necessary rights of ingress and egress from the public right of way over and across the Easement Areas for purposes of exercising the easement rights granted herein. In exercising the easement rights provided herein, 101-103 Lessee shall use commercially reasonable efforts not to interfere with the operations on the 116-B Parcel.

The 116-B Lessee may use the Easement Areas for any use consistent with the 116-B Lease and this Declaration and the easements and rights granted herein. Further, no vertical improvements may be constructed or located within the Easement Areas, and any horizontal improvements constructed or located within the Easement Areas must be consistent with other properties within the Phoenix-Mesa Gateway Airport.

2. Initial Construction.

(a) *Construction by 101-103 Lessee.* Neither 116-B Lessee nor 101-103 Lessee shall have any obligation to PMGAA to install any improvements in the Easement Areas pursuant to this Declaration. The 101-103 Lessee shall be solely responsible, at its expense, for the construction of all Utility Improvements required by the 101-103 Lessee within the respective Easement Areas in connection with the development of the 101-103 Parcel, unless previously installed by the 116-B Lessee as set forth below. All Utility Improvements constructed and installed by or on behalf of the 101-103 Lessee in the Easement Areas shall be constructed in a good and workmanlike and lien-free manner and in accordance with the applicable final plans and specifications therefor approved by the City of Mesa (the "**City**"), PMGAA and any applicable utility company serving the 101-103 Parcel. Any contractor employed by the 101-103 Lessee shall be commercially licensed, bonded and insured in the state of Arizona. Before the commencement of any work by such contractor, 101-103 Lessee shall provide 116-B Lessee with copies of such contractor's applicable insurance policies prior to entering onto the 116-B Parcel. At a minimum, such policies shall include builder's all risk coverage, liability for death, personal injury and property damage arising out of the performance of any work at or about the 116-B Parcel by contractor, any subcontractor or any other party required to be under the control of contractor, and shall provide comprehensive automobile liability insurance, shall be primary and non contributing and shall provide for the insurer to provide written notice to 116-B Lessee thirty (30) days prior to any cancellation, expiration or modification of such coverage. Said policies shall each name 116-B Lessee, PMGAA and 116-B Lessee's lender(s), if applicable, as additional insured parties and shall each cover any occurrence caused by or occurring because of activities or failure to properly and safely perform the work.

(b) *Construction by 116-B Lessee.* If the 116-B Lessee desires to install hardscape on the 116-B Parcel prior to completion of the Utility Improvements by the 101-103 Lessee, then the 116-B Lessee may notify the 101-103 Lessee in writing of such desire. If the 101-103 Lessee fails to complete the Utility Improvements within sixty (60) days following receipt of such written notice, the 116-B Lessee shall install and complete the Utility Improvements as part of such hardscape improvements within nine (9) months thereafter. All Utility Improvements constructed and installed by or on behalf of the 116-B Lessee in the Easement Areas shall be constructed in a good and workmanlike and lien-free manner and in accordance with the applicable final plans and specifications therefor provided by the 101-103 Lessee and approved by the City, PMGAA and any applicable utility company serving the 101-103 Parcel. If the 116-B Lessee installs the Utility Improvements, the 101-103 Lessee must reimburse the 116-B Lessee for the reasonable costs incurred in connection therewith within thirty (30) days of a receipt of an invoice therefor along with reasonable supporting documentation of such costs and expenses incurred by the 116-B Lessee, together with interest thereon at the

rate of eighteen percent (18%) per annum, compounded annually, from the date of expenditure until paid. If the 116-B Lessee gives such notice but fails to timely complete the Utility Improvements, the 101-103 Lessee shall have the right to complete such Utility Improvements in accordance with Section 2(a) above.

(c) *Shared Connections*. In the event that one or more shared points of connection to any utility, including either a "T" split or manhole (each a "**Shared Connection**") must be installed within the Easement Areas in order for both the 116-B Parcel and 101-103 Parcel to access public sewer or water utilities from the public right of way, then the Parcel Tenant first seeking connection to the utilities shall be responsible to construct and install the Shared Connection ("**Constructing Tenant**"). The Parcel Tenants shall reasonably agree on the location of any Shared Connection. Any Shared Connection constructed and installed in the Easement Areas shall be constructed in a good and workmanlike and lien-free manner and in accordance with the applicable final plans and specifications therefor provided by the Constructing Tenant and approved by the City, PMGAA and any applicable utility company serving the Parcels. Following completion of construction of the Shared Connection and at such time as the Parcel Tenant that did not install the Shared Connection ("**Non-Constructing Tenant**") wishes to make connection to the Shared Connection, the Non-Constructing Tenant must reimburse the Constructing Tenant for fifty percent (50%) of the actual cost to construct and install the Shared Connection ("**Construction Reimbursement**") within thirty (30) days of the Non-Constructing Tenant's receipt of an invoice therefor, along with reasonable supporting documentation of the cost to construct and install the Shared Connection. If the Non-Constructing Tenant fails to reimburse the Constructing Tenant for the Construction Reimbursement within the applicable thirty (30) day period, such unpaid amount shall accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, from the date due until paid. The Construction Reimbursement will constitute the personal obligation of the Non-Constructing Tenant. In no event will the Constructing Tenant have any right to file, record, or claim a lien against the underlying Parcels.

(d) All construction performed under this Declaration, whether performed by 116-B Lessee or 101-103 Lessee, shall be performed in a good and workmanlike manner and in manner to keep the 116-B Parcel free and clear of any liens arising out of any such work performed.

3. Maintenance.

(a) *Responsibility for Maintenance*. Subject to Section 3(d) below, the Easement Areas, Utility Improvements and Shared Connection will be maintained as follows:

(i) The 116-B Lessee shall be responsible to maintain, inspect, repair and replace (if necessary) the surface of the Water Easement Area, excluding any Utility Improvements located thereon, as part of the overall maintenance of the 116-B Parcel, at 116-B Lessee's sole cost and expense ("**Water Easement Maintenance**")

(ii) The Parcel Tenants acknowledge that the Sewer Easement Area is located within the Access Easement Area pursuant to that certain Declaration of Reciprocal Access Easement ("**RAE**") recorded by PMGAA against the Parcels contemporaneously herewith, and that as a result, the maintenance obligations for the surface of the Sewer Easement Area will be included within the Easement Maintenance as defined in the RAE.

(iii) The 101-103 Lessee shall be responsible to maintain, inspect, repair, and replace (if necessary) the Utility Improvements located in the Easement Areas at 101-103 Lessee's sole cost and expense ("**Utility Improvements Maintenance**").

(iv) The Constructing Tenant shall be responsible to maintain, inspect, repair, and replace (if necessary) any Shared Connection located in the Easement Areas ("**Shared Connection Maintenance**"). Until such time as the Non-Constructing Tenant connects to the Shared Connection, the

Constructing Tenant will be exclusively responsible for the cost and expenses incurred in performing the Shared Connection Maintenance ("**Shared Connection Maintenance Expenses**"). At such time as the Non-Constructing Tenant connects to the Shared Connection, the Shared Connection Maintenance Expenses will be equally shared by the Constructing Tenant and the Non-Constructing Tenant. The Non-Constructing Tenant must reimburse the Constructing Tenant fifty percent (50%) of the Shared Connection Maintenance Expenses within thirty (30) days of a receipt of an invoice therefor along with reasonable supporting documentation of the Shared Connection Maintenance Expenses. If the Non-Constructing Tenant fails to reimburse the Constructing Tenant its proportionate share of the Shared Connection Maintenance Expenses within the applicable thirty (30) day period, such unpaid amount shall accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, from the date due until paid. The applicable proportionate share of the Shared Connection Maintenance Expenses will constitute the personal obligation of the Non-Constructing Tenant. In no event will the Constructing Tenant have any right to file, record, or claim a lien against the underlying Parcels. For purposes of this Section 3(a)(iv) only, use of the defined term "Constructing Tenant" means the initial Constructing Tenant and subsequent Parcel Tenants of the same Parcel leased by said initial Constructing Tenant, and use of the defined term "Non-Constructing Tenant" means the initial Non-Constructing Tenant and subsequent Parcel Tenants of the same Parcel leased by said initial Non-Constructing Tenant.

(v) The Water Easement Maintenance, Utility Improvements Maintenance, and Shared Connections Maintenance are collectively referred to as the "**Required Maintenance**". During any period of time during which there is no Lease for one or both of the Parcels, PMGAA will assume the responsibilities for Required Maintenance and/or any Required Maintenance expenses in connection with the Parcel without a tenant, as applicable.

(b) *Maintenance Requirements*. In connection with the performance of any of the 101-103 Lessee's Required Maintenance obligations hereunder, the 101-103 Lessee may not unreasonably interfere with the operations on the 116-B Parcel and must use commercially reasonable efforts to perform the maintenance in a manner so as to minimize any interference with the operations on the 116-B Parcel. In connection with the 101-103 Lessee's performance of the Required Maintenance, the 101-103 Lessee will restore, at no cost to the 116-B Lessee, the surface area of the Easement Areas to as good a condition which existed prior to the commencement of such Required Maintenance. In the event the 101-103 Lessee damages the Easement Areas in connection with its performance of the Required Maintenance, the 101-103 Lessee will repair, at no cost to the 116-B Lessee, any and all damage and restore the affected portion of the surface area of the Easement Areas so damaged to as good a condition which existed prior to such damage.

(c) *Maintenance Self-Help Rights*. If any Parcel Tenant fails to perform the Required Maintenance of which it is responsible (either being the "**Defaulting Tenant**"), the non-defaulting Parcel Tenant ("**Non-Defaulting Tenant**") may notify the Defaulting Tenant in writing of such failure in the Required Maintenance. If the Defaulting Tenant fails to object on the basis that such Required Maintenance is not required or fails to complete any Required Maintenance within thirty (30) days following receipt of such written notice, or such longer time, not to exceed an additional sixty (60) days, as may be reasonably necessary provided that the Defaulting Tenant has commenced to perform the Required Maintenance within the initial thirty (30) day period and is diligently pursuing the same, the Non-Defaulting Tenant may perform the Required Maintenance. In exercising its rights hereunder, the Non-Defaulting Tenant may not unreasonably interfere with the operations on the Defaulting Tenant's Parcel and must use commercially reasonable efforts to perform the maintenance in a manner so as to minimize any interference with the operations on the Defaulting Tenant's Parcel. If the Non-Defaulting Tenant performs the Required Maintenance, the Defaulting Tenant must reimburse the Non-Defaulting Tenant for the costs incurred in connection therewith within thirty (30) days of a receipt of an invoice therefor along with reasonable supporting documentation of such costs and expenses incurred by the Non-Defaulting Tenant, together with interest thereon at the rate of eighteen percent (18%) per annum, compounded annually, from the date of expenditure until paid.

(d) *PMGAA's Election to Perform*. Notwithstanding anything to the contrary herein, PMGAA may elect by written notice to the responsible 116-B Lessee or 101-103 Lessee, as appliable, at any time and from time to time in PMGAA's sole discretion, to perform the Required Maintenance and seek reimbursement from the responsible 116-B Lessee and/or the 101-103 Lessee, for the costs incurred in connection therewith. Such election may be relinquished or revoked at any time and from time to time by PMGAA upon written notice to the responsible 116-B Lessee or 101-103 Lessee, following which the responsible 116-B Lessee or 101-103 Lessee, as applicable, will resume performing the respective Required Maintenance in accordance with Section 3(a).

(e) *No obligation of PMGAA*. For avoidance of doubt, except as provided for in Section 3(a)(v) and Section 3(d) above, PMGAA has no obligation to construct any improvements, perform the Required Maintenance, or pay any costs or expenses set forth herein (including, without limitation, any Construction Reimbursement, Shared Connection Maintenance Expenses and Required Maintenance expenses).

4. Damage or Destruction.

(a) *By Fire or Other Casualty*. If any portion of the Easement Areas or Utility Improvements thereon are destroyed or damaged by fire or other casualty, the terms of the 116-B Lease will govern with respect to the entirety of the Easement Areas.

(b) *By Act of the Parcel Tenants*. Notwithstanding any other provision herein, (a) in the event any portion of the Easement Areas, any Utility Improvements located thereon or any improvements related to the 116-B Parcel's utilities located within the Easement Areas, is damaged or destroyed by a willful or grossly negligent act of the 101-103 Lessee or its employees, customers, contractors, subtenants, agents, invitees, subtenants, successors and assigns ("**Permittees**"), the 101-103 Lessee will be responsible for the entire cost of repairing all damage resulting from such act; and (b) in the event any portion of the Easement Areas, any Utility Improvements located thereon or any improvements related to the 116-B Parcel's utilities located within the Easement Areas, is damaged or destroyed by a willful or grossly negligent act of the 116-B Lessee or its Permittees, the 116-B Lessee will be responsible for the entire cost of repairing all damage resulting from such act.

5. Indemnity. Except to the extent covered by insurance required to be carried by 101-103 Lessee under this Declaration, 101-103 Lessee shall and hereby does indemnify, defend and hold harmless 116-B Lessee for, from and against all claims, including any action or proceeding brought therein, and all costs, losses, expenses and liabilities (including reasonable attorneys' fees and costs of suit) ("**Claims**") arising from or in connection with any person using the Easement Areas or Utility Improvements for the purposes granted to the 101-103 Parcel herein. The foregoing indemnity shall not apply to any Claims arising from 116-B Lessee's gross negligence or willful misconduct or 116-B Lessee's breach of its Required Maintenance obligations under this Declaration. The provisions of this Section shall survive any termination of this Declaration or the easement.

6. Insurance. Prior to exercise any of its rights with respect to the easement, including the construction or placement of any Utility Improvements within the Easement Areas, both Parcel Tenants shall obtain, and shall thereafter maintain at all times, commercial general liability insurance for the Easement Areas and against the risks of death, bodily injury, property damage and personal injury liability (including contractual liability arising under any indemnity contained herein) occurring therein, with at least the coverage limits required pursuant to the Leases. Such insurance shall name the other Parcel Tenant and PMGAA as additional insureds. Each Parcel Tenant shall provide to the other Parcel Tenant a certificate evidencing the required insurance within 15 days of request from such Parcel Tenant. If a notice of non-renewal, cancellation or material change is issued with respect to either Parcel Tenant's required insurance, such Parcel Tenant shall obtain replacement insurance and provide a replacement certificate to the other Parcel Tenant within 10 days,

or the requesting Parcel Tenant may obtain the insurance and certificate and be entitled to reimbursement by the other Parcel Tenant for all reasonable costs incurred in connection therewith.

7. Attorneys' Fees. In the event of any action to enforce the provisions of this instrument, the prevailing party will be entitled to receive reimbursement for reasonable costs and attorneys' fees, in an amount determined by the court and not by a jury.

8. No Public Dedication; Running of Benefits and Burdens; No Merger. The provisions of this Declaration are not intended to and do not constitute a dedication for public use of any portion of the Easement Area. All provisions of this Declaration, including the benefits and burdens, shall run with the land, and shall be binding upon and shall inure to the benefit of the successors and assigns of PMGAA. The common ownership of all or any portion of the Parcels shall not extinguish or merge the interests created under this Declaration at any time unless the then-current owner(s) of all the Parcels records an instrument in the records of Maricopa County, Arizona terminating this Declaration.

9. Subsequent Liability. Whenever the transfer or termination of any ownership of or leasehold interest in all or any part of the Parcels occurs, the transferor or former leasehold interest holder will not be liable for the breach, subsequent to such transfer or termination, of any of the covenants contained herein; provided, however, that the transferor or former leasehold interest holder will remain liable for any obligations hereunder of such transferor or former leasehold interest holder that accrued prior to the transfer or termination.

10. Applicable Law. This Declaration must be construed and interpreted under, and governed and enforced according to, the laws of the State of Arizona.

11. Headings and Counterparts. The headings of this Declaration are for purposes of reference only and will not limit or define the meaning of any provision of this Declaration. This Declaration may be executed in any number of counterparts, each of which will be an original but all of which will constitute one and the same instrument.

12. Amendments. PMGAA may amend, modify or revoke this Declaration at any time in its sole discretion, by recording in the office of the Recorder of Maricopa County, Arizona an instrument in writing reciting such revocation or amendment.

[*Remainder of page intentionally left blank; signature page follows*]

IN WITNESS WHEREOF, PMGAA has caused this Declaration of Utility Easement to be executed as of the date first above-written.

PMGAA:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO
Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
NOTARY PUBLIC

My Commission Expires:

[*Remainder of Page Left Intentionally Blank*]

EXHIBIT A

Legal Description of the 101-103 Parcel

LOT 101:

BEING A PORTION OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,369.41 FEET;

THENCE NORTH 89 DEGREES 00 MINUTES 10 SECONDS EAST, 59.68 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, SAID POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 77 DEGREES 23 MINUTES 02 SECONDS WEST, 1,811.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07 DEGREES 10 MINUTES 54 SECONDS, HAVING A RADIUS OF 1811.00 FEET, 227.00 FEET;

THENCE NORTH 70 DEGREES 13 MINUTES 22 SECONDS EAST, 339.03 FEET TO A POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 69 DEGREES 14 MINUTES 19 SECONDS WEST, 1,915.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH AN CENTRAL ANGLE OF 08 DEGREES 59 MINUTES 01 SECOND, HAVING A RADIUS OF 1915.00 FEET, 300.26 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE;

THENCE SOUTH 79 DEGREES 16 MINUTES 57 SECONDS WEST, 322.22 FEET TO THE BEGINNING OF A TANGENT CURVE;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH AN CENTRAL ANGLE OF 88 DEGREES 07 MINUTES 20 SECONDS, HAVING A RADIUS OF 20.00 FEET, 30.76 FEET TO THE POINT OF BEGINNING.

LOT 102:

BEING A PORTION OF SECTION 31 AND 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,784.65 FEET;

THENCE SOUTH 89 DEGREES 00 MINUTES 10 SECONDS WEST, 79.79 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE, NORTH 49 DEGREES 40 MINUTES 42 SECONDS EAST, 338.42 FEET TO A NON-TANGENTIAL CURVE WHOSE CENTER BEARS SOUTH 59 DEGREES 16 MINUTES 03

EXHIBIT A

Legal Description of the 101-103 Parcel

SECONDS WEST, 1,915.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 09 DEGREES 58 MINUTES 16 SECONDS, HAVING A RADIUS OF 1915.00 FEET, 333.27 FEET;

LOT 103:

BEING A PORTION OF SECTION 31 AND 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,784.65 FEET;

THENCE SOUTH 89 DEGREES 00 MINUTES 10 SECONDS WEST, 79.79 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, SAID POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 63 DEGREES 29 MINUTES 29 SECONDS WEST, 1,811.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 11 DEGREES 37 MINUTES 32 SECONDS, HAVING A RADIUS OF 1811.00 FEET, 367.46 FEET TO THE POINT OF REVERSE CURVE;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87 DEGREES 27 MINUTES 52 SECONDS, HAVING A RADIUS OF 20.00 FEET, 30.53 FEET TO A POINT OF TANGENCY, SAID POINT LYING ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF VELOCITY WAY PER MAP OF DEDICATION RECORDED IN BOOK 733 OF MAPS ON PAGE 39, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE, NORTH 49 DEGREES 19 MINUTES 50 SECONDS EAST, 333.21 FEET;

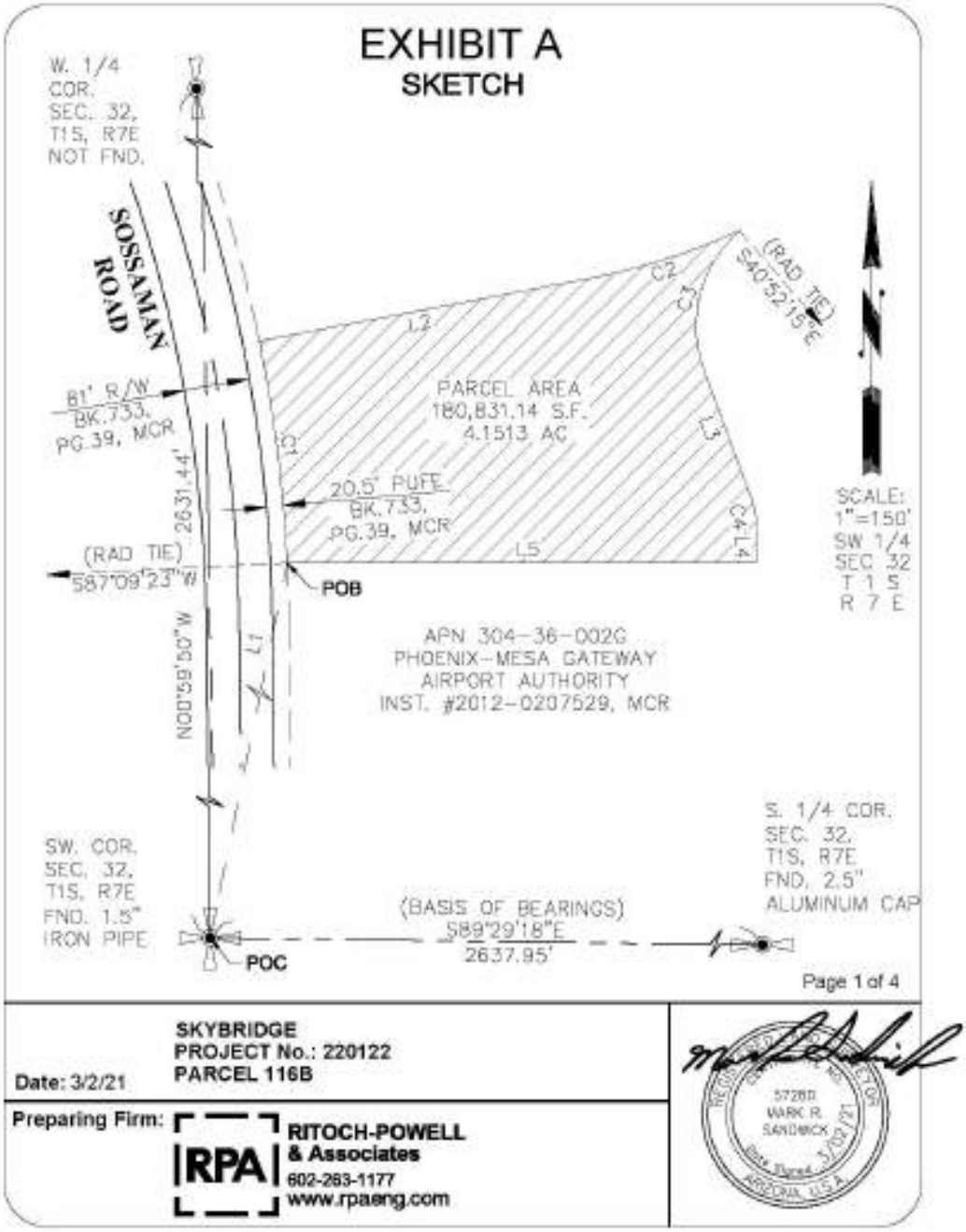
THENCE, SOUTH 44 DEGREES 22 MINUTES 51 SECONDS EAST, 300.63 FEET;

THENCE, SOUTH 05 DEGREES 27 MINUTES 40 SECONDS WEST, 121.36 FEET;

THENCE, SOUTH 49 DEGREES 40 MINUTES 42 SECONDS WEST, 338.42 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

Legal Description of the 116-B Parcel



4890-8846-9140

EXHIBIT B

Legal Description of the 116-B Parcel

EXHIBIT A
TABLES

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BRG
C1	08°40'07"	1811.00'	274.00'	273.74'	N07°10'41"W
C2	14°10'04"	775.00'	191.64'	191.15'	N72°11'08"E
C3	69°19'34"	155.00'	187.55'	176.31'	S14°27'58"W
C4	20°11'49"	95.00'	33.49'	33.31'	S10°05'55"E

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N04°09'50"E	1067.41'
L2	N79°16'10"E	414.41'
L3	S20°11'49"E	169.18'
L4	S00°00'00"E	44.94'
L5	N90°00'00"W	575.15'

Page 2 of 4

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT B

Legal Description of the 116-B Parcel

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT TRACT AS CONVEYED TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY BY DEED OF RECORD IN INSTRUMENT NUMBER 2012-0207529, MARICOPA COUNTY RECORDS (MCR) AND AS SHOWN ON THAT ALTA/NSPS LAND TITLE SURVEY BY HUNTER ENGINEERING STAMPED AND SIGNED BY JERRY D. HEATH JR. ON 4/30/2018 LOCATED WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32 (FND 1.5" IRON PIPE) FROM WHICH POINT THE SOUTH QUARTER CORNER THEREOF (2.5" AL CAP) BEARS S 89°29'18" E A DISTANCE OF 2637.95 FEET;

THENCE N 4°09'50" E A DISTANCE OF 1067.41 FEET TO A POINT ON THE EAST LINE OF A PUBLIC UTILITY AND FACILITY EASEMENT (PUFE) AS SHOWN ON THE MAP OF DEDICATION FOR VELOCITY WAY, SOUTH TAXIWAY CIRCLE AND SOUTH CARGO WAY RECORDED IN BOOK 733, PAGE 39, MARICOPA COUNTY RECORDS BEING THE WEST BOUNDARY LINE OF SAID ALTA/NSPS LAND TITLE SURVEY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 87°09'23" W, THE POINT OF BEGINNING;

THENCE ACROSS SAID PHOENIX-MESA GATEWAY AIRPORT AUTHORITY TRACT THE REMAINING COURSES AND DISTANCES:

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT AND ALONG SAID EAST PUFE LINE HAVING A RADIUS OF 1811.00 FEET, THROUGH A CENTRAL ANGLE OF 08°40'07" AND HAVING AN ARC LENGTH OF 274.00 FEET;

THENCE N 79°16'10" E A DISTANCE OF 414.41 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 775.00 FEET, THROUGH A CENTRAL ANGLE OF 14°10'04" AND HAVING AN ARC LENGTH OF 191.64 FEET TO A CUSP AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT FROM WHICH POINT THE RAIDIUS POINT BEARS S 40°52'15" E;

Page 3 of 4

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT B

Legal Description of the 116-B Parcel

EXHIBIT A
LEGAL DESCRIPTION

THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 155.00 FEET, THROUGH A CENTRAL ANGLE OF 69°19'34" AND HAVING AN ARC LENGTH OF 187.55 FEET;

THENCE S 20°11'49" E A DISTANCE OF 169.18 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 20°11'49" AND HAVING AN ARC LENGTH OF 33.49 FEET;

THENCE S 00°00'00" E A DISTANCE OF 44.94 FEET;

THENCE N 90°00'00" W A DISTANCE OF 575.15 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 180,831.14 SQUARE FEET OR 4.1513 ACRES OF LAND, MORE OR LESS, INCLUDING ANY EASEMENTS OF RECORD.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTIONS IS S 89°29'18" E FOR THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA & SALT RIVER MERIDIAN, CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS SHOWN ON THE PLSS SUBDIVISION RECORD OF SURVEY-MARICOPA COUNTY GEODETIC DENSIFICATION AND CADASTRAL SURVEY RECORDED IN BOOK 609, PAGE 29, MARICOPA COUNTY RECORDS.

Page 4 of 4

SKYBRIDGE
PROJECT No.: 220122
PARCEL 116B

Date: 3/2/21

Preparing Firm: RPA RITOCH-POWELL & Associates
602-263-1177
www.rpaeng.com

REGISTERED LAND SURVEYOR
57280
MARK R. SANDWICK
Date Signed 3/02/21
ARIZONA, U.S.A.

EXHIBIT C

Legal Description of the Water Easement Area

DESCRIPTION FOR WATERLINE EASEMENT
PHOENIX-MESA GATEWAY AIRPORT
A.P.N. 304-36-002G

A portion of Section 32, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, being more particularly described as follows:

Commencing at the Southwest corner of said Section 32, being marked with an aluminum cap in a handhole stamped "L.S. 32778" said point lies South 00 degrees 59 minutes 50 seconds East 2631.46 feet from the West quarter corner of said Section 32, being marked with a 3 inch brass cap;

Thence, along the West line of the Southwest quarter of said Section 32, North 00 degrees 59 minutes 50 seconds West 1368.86 feet;

Thence North 89 degrees 00 minutes 10 seconds East 60.02 feet to a point on the Southwesterly line of the Phoenix–Mesa Gateway Airport property, said point also being the point of curvature on the Southerly line of the Phoenix–Mesa Gateway Airport Lease Parcel 101, said point also being the POINT OF BEGINNING;

Thence, along said Southerly line and along said curve to the left, having a radius 20.00 feet, through a central angle of 88 degrees 06 minutes 37 seconds, an arc length of 30.76 feet to a point of tangency;

Thence, continuing along said Southerly line, North 79 degrees 23 minutes 03 seconds East 10.55 feet;

Thence South 11 degrees 34 minutes 31 seconds East 24.99 feet;

Thence South 79 degrees 17 minutes 31 seconds West 30.00 feet to a point on the aforementioned Southwesterly line of said airport property, said point being on a non–tangent curve;

Thence along said non–tangent curve to the left, the radius point of which bears South 78 degrees 48 minutes 20 seconds West 1181.00 feet, through a central angle of 01 degrees 24 minutes 12 seconds, an arc length of 44.35 feet to the POINT OF BEGINNING,

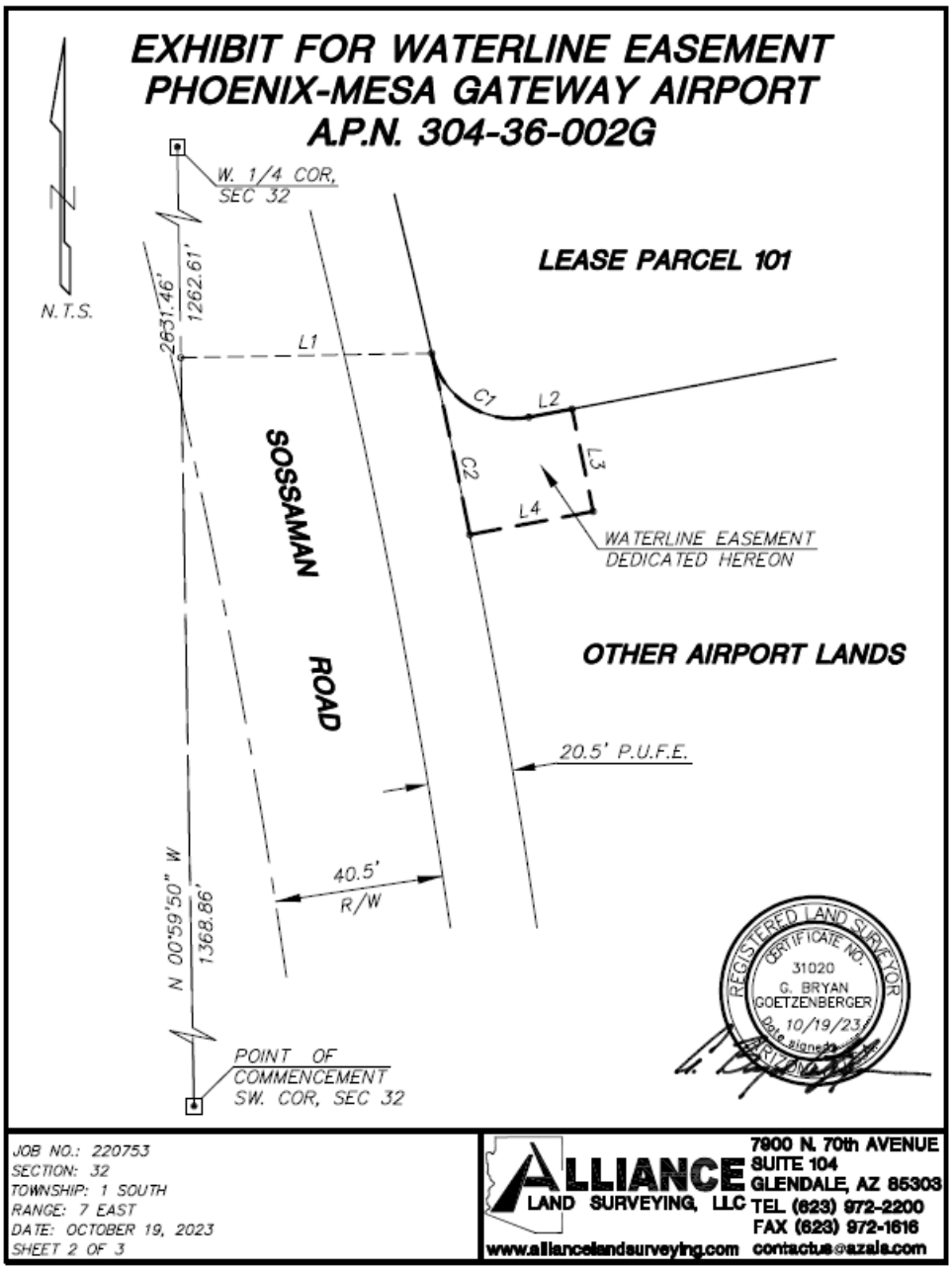
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
31020
G. BRYAN
GOETZENBERGER
10/19/23
Date Signed
ARIZONA

JOB NO.: 220753
SECTION: 32
TOWNSHIP: 1 SOUTH
RANGE: 7 EAST
DATE: OCTOBER 19, 2023
SHEET 1 OF 3

ALLIANCE LAND SURVEYING, LLC
7900 N. 70th AVENUE
SUITE 104
GLENDALE, AZ 85303
TEL (623) 972-2200
FAX (623) 972-1616
www.alliancelandsurveying.com contactus@azals.com

EXHIBIT C

Legal Description of the Water Easement Area



4890-8846-9140

EXHIBIT C

Legal Description of the Water Easement Area

TABLES FOR WATERLINE EASEMENT
PHOENIX-MESA GATEWAY AIRPORT
A.P.N. 304-36-002G

LINE	BEARING	DISTANCE
L1	N 89°00'10" E	60.02'
L2	N 79°23'03" E	10.55'
L3	S 11°34'31" E	24.99'
L4	S 79°17'31" W	30.00'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	20.00'	30.76'	88°06'37"	S 56°39'10" E	27.81'
C2	1811.00'	44.35'	1°24'12"	S 11°53'46" E	44.35'

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
31020
G. BRYAN
GOETZENBERGER
Date signed 10/19/23
ARIZONA

JOB NO.: 220753
SECTION: 32
TOWNSHIP: 1 SOUTH
RANGE: 7 EAST
DATE: OCTOBER 19, 2023
SHEET 3 OF 3

ALLIANCE LAND SURVEYING, LLC
7900 N. 70th AVENUE
SUITE 104
GLENDALE, AZ 85303
TEL (623) 972-2200
FAX (623) 972-1616
www.allianceland surveying.com contactus@azals.com

EXHIBIT D

Legal Description of Sewer Easement Area

DESCRIPTION FOR SANITARY SEWER EASEMENT PHOENIX-MESA GATEWAY AIRPORT A.P.N. 304-36-002G

A portion of Section 32, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, being more particularly described as follows:

Commencing at the Southwest corner of said Section 32, being marked with an aluminum cap in a handhole stamped "L.S. 32778" said point lies South 00 degrees 59 minutes 50 seconds East 2631.46 feet from the West quarter corner of said Section 32, being marked with a 3 inch brass cap;

Thence, along the West line of the Southwest quarter of said Section 32, North 00 degrees 59 minutes 50 seconds West 1317.33 feet;

Thence North 89 degrees 00 minutes 10 seconds East 69.82 feet to a point on the Southwesterly line of the Phoenix-Mesa Gateway Airport property, said point being the POINT OF BEGINNING;

Thence North 78 degrees 48 minutes 16 seconds East 58.55 feet;

Thence North 12 degrees 03 minutes 31 seconds West 32.61 feet to a point on the Southeasterly line of the Phoenix-Mesa Gateway Airport Lease Parcel 101;

Thence, along said Southeasterly line, North 79 degrees 17 minutes 31 seconds East 20.01 feet;

Thence South 12 degrees 03 minutes 31 seconds East 52.44 feet;

Thence South 78 degrees 48 minutes 16 seconds West 79.05 feet to a point on the aforementioned Southwesterly line of said airport property said point being on a non-tangent curve;

Thence along said non-tangent curve to the left, the radius point of which bears South 79 degrees 41 minutes 40 seconds West 1811.00 feet, through a central angle of 00 degrees 37 minutes 58 seconds, an arc length of 20.00 feet to the POINT OF BEGINNING.

Comprising 0.051 acres or 2226 square feet, subject to all easements of record.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
31020
G. BRYAN
GOETZENBERGER
10/19/23

JOB NO.: 220753
SECTION: 32
TOWNSHIP: 1 SOUTH
RANGE: 7 EAST
DATE: OCTOBER 19, 2023
SHEET 1 OF 3

ALLIANCE LAND SURVEYING, LLC
7900 N. 70th AVENUE
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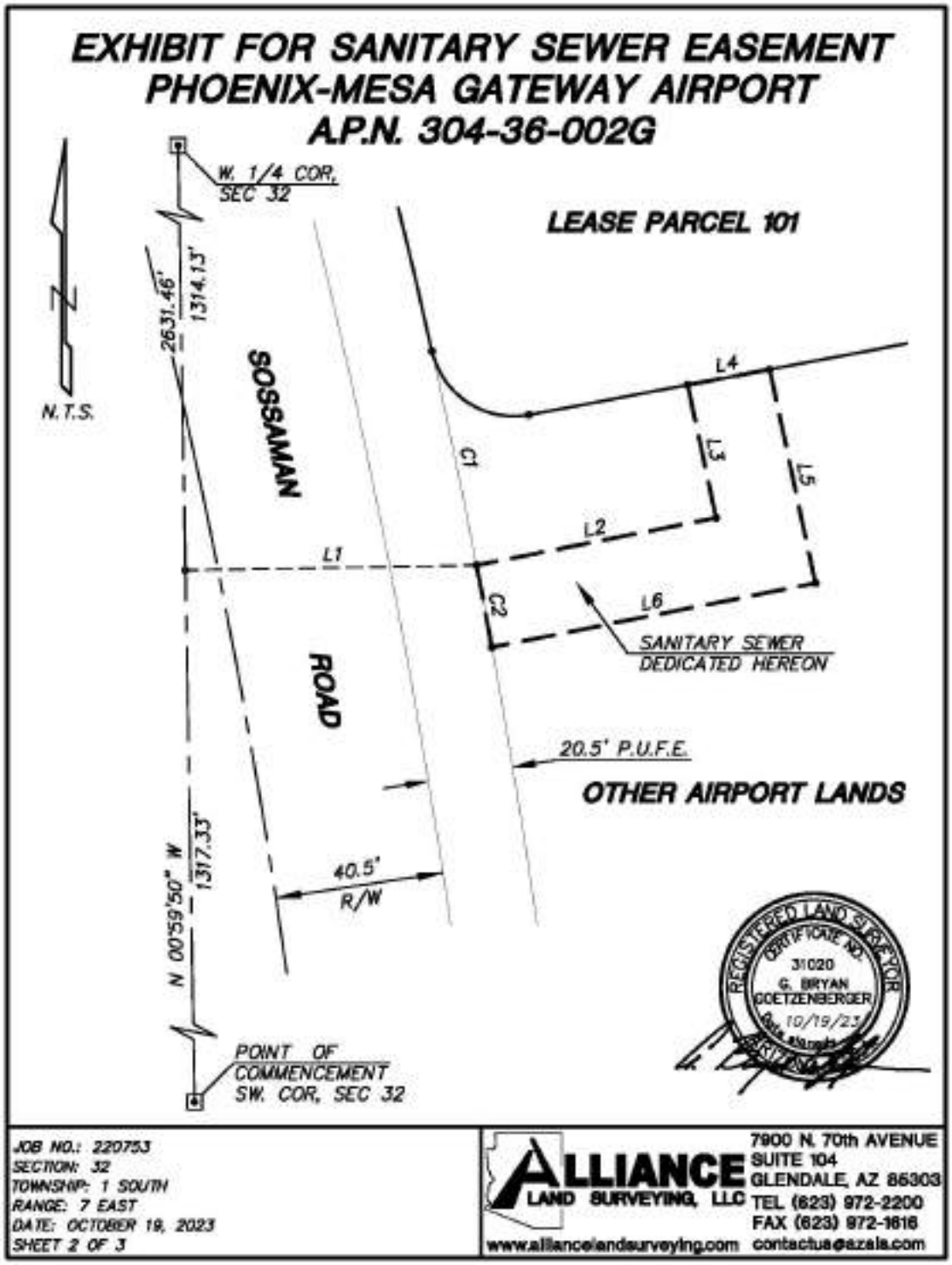

[Exhibit D –Declaration of Utility Easement]

TABLES FOR SANITARY SEWER EASEMENT
PHOENIX-MESA GATEWAY AIRPORT
A.P.N. 304-36-002G

LINE	BEARING	DISTANCE
L1	N 89°00'10" E	69.82'
L2	N 78°48'16" E	58.55'
L3	N 12°03'31" W	32.61'
L4	N 79°17'31" E	20.01'
L5	S 12°03'31" E	52.44'
L6	S 78°48'16" W	79.05'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	1811.00'	52.41'	1°39'30"	S 11°46'03" E	52.41'
C2	1811.00'	20.00'	0°37'58"	N 10°37'19" W	20.00'

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
31020
G. BRYAN
GOETZENBERGER
10/19/23
ARIZONA

JOB NO.: 220753
SECTION: 32
TOWNSHIP: 1 SOUTH
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DATE: OCTOBER 19, 2023
SHEET 3 OF 3

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CONSENT OF THE 116-B LESSEE

The 116-B Parcel is currently subject to that certain Lease Agreement dated June 1, 2023 made between PMGAA and SkyB Lot 116-B LLC, an Arizona limited liability company.

The undersigned is the current 116-B Lessee under the 116-B Lease. The undersigned hereby consents to this Declaration, agrees that the 116-B Lease is subordinated and subject to the Declaration, and agrees to be bound by this Declaration.

116-B LESSEE:

SkyB Lot 116-B LLC, an Arizona limited liability company

By: _____

Name: Felipe Monroy Torres

Its: Manager

STATE OF _____)

) ss.

COUNTY OF _____)

This instrument was acknowledged before me this _____ day of _____, 202___, by Felipe Monroy Torres, in his capacity as Manager of SKYB LOT 116-B LLC, and Arizona limited liability company, on behalf of the company.

_____

NOTARY PUBLIC

My Commission Expires:

Phoenix-Mesa Gateway Airport Authority

LAND LEASE

with

VTWV GATEWAY INDUSTRIAL I, LLC

Effective Date: January 1, 2024

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PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

LAND LEASE

This Land Lease (the "**Lease**") is executed to be effective the FIRST (1ST) day of JANUARY, 2024 (the "**Effective Date**") between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), and **VTWV GATEWAY INDUSTRIAL I, LLC**, an Arizona limited liability company ("**Lessee**"). Lessor and Lessee may be referred to jointly as "**Parties**," and each separately may be referred to as a "**Party**."

RECITALS:

A. Lessor is the owner and operator of the Phoenix-Mesa Gateway Airport generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "**Airport**"); and

B. Lessor has the right to lease, license and grant the use of property and facilities on the Airport and has full power and authority to enter into this Lease in respect thereof; and

C. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, that certain real property at the Airport located at 6459 South Sossaman Road, Mesa, Arizona 85212, consisting of approximately THREE HUNDRED TWENTY-SEVEN THOUSAND, TWO HUNDRED FIFTY-TWO AND 46/100 (327,252.46) square feet, and described as Lots 101, 102 and 103, as set forth in **EXHIBIT A-1** and **EXHIBIT A-2** attached hereto ("**Premises**"); and

D. Lessor desires to lease the Premises to Lessee on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. LEASE

Lessor hereby leases the Premises to Lessee, subject to all easements and rights of way that may encumber the Premises, and further subject to all operational and use restrictions and other terms and conditions set forth in this Lease.

1.1 **Right to Use Premises**. Lessor agrees that so long as no Event of Default shall have occurred and is continuing, Lessee shall peaceably have and enjoy the use of the Premises without hindrance from Lessor and those claiming through Lessor. Lessee specifically acknowledges that Lessee has inspected the Premises prior to entering into this Lease and agrees to accept the Premises in an "as is, where is" condition without any warranty or representation from Lessor, either express or implied, of any kind or nature whatsoever with respect to the Premises, including, but not limited to, any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed, except for representations and warranties contained in this Lease. Should Lessee desire any inspection report, environmental assessment, survey, creation of a legal description, drainage report, or any similar study, Lessee shall be responsible for the same at Lessee's sole expense. Lessor agrees to cooperate with Lessee, at no or nominal cost to Lessor, in connection with such activities and undertakings.

1.2 **Reserved**.

1.3 **Access**. Lessee is granted the right of reasonable access to and from the Premises via such portions of the Airport as are or may be necessary to allow Lessee to conduct its business operations permitted herein at and on the Premises and the Airport. Lessor reserves the right to designate the location of such access and to change its location from time to time, as Lessor deems reasonably necessary and appropriate; provided such changes do not materially interfere with Lessee's use of or access to the Premises.

1.4 **Permitted Uses**. Subject to the provisions of SECTION 1.5, Lessee may use the Premises for development, construction and use of one (1) or two (2) multi-tenant industrial buildings totaling an aggregate of approximately 96,060 square feet and to lease such building or buildings in accordance with SECTION 9 and for no other use. Lessee's use of the Premises and operation of its business at and on the Airport and the Premises is subject to all applicable laws, rules and regulations of any governmental authority, including Lessor, and to Lessee's compliance with applicable provisions of the *Airport Rules and Regulations* and *Airport Minimum Standards*.

1.5 **Prohibited Activities**. Lessee shall not use or permit its agents, employees, contractors, invitees, licensees or customers to use the Premises or the Airport for any use that is in violation of the *Airport Rules and Regulations*, the *Airport Minimum Standards*, any matters of record, or applicable laws, rules, regulations and operating policies of any governmental authority, including Lessor, or for any other activity or operation not specified in SECTION 1.4 herein, or that does not have advance, written approval of Lessor's Executive Director.

1.6 **Property Manager**. Upon commencement of business operations at and on the Premises and the Airport, Lessee shall designate a property manager for the term of this Lease who shall be available to Lessor and Lessee's customers, if any, during normal business hours, and otherwise as required by the *Airport Minimum Standards*, as applicable.

1.7 **Lessee Acknowledgement**. Lessee acknowledges and agrees that its obligations to pay Base Rent and all other charges due and owing under the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Lessor or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the Premises; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all rent being payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

2. TERM

2.1 **Initial Term**. The initial term of this Lease shall be for a period of SIXTY (60) years, commencing on the Effective Date and terminating on JANUARY 1, 2084 thereafter (the "**Term**").

2.2 **Intentionally Omitted**.

3. NONEXCLUSIVE RIGHTS

Lessee shall have the exclusive right to occupy and use the Premises while in compliance with the terms and conditions of this Lease, subject to SECTION 27 below. All other rights granted to Lessee under this Lease

are nonexclusive. Lessor may, in its sole discretion and at any time, permit third parties to conduct any and all business activities at the Airport that Lessor deems appropriate, or conduct such activities itself, provided that such activities do not require or materially interfere with Lessee's or any permitted sublessee's use of the Premises.

4. RENT

4.1 **Base Rent**. Subject to the increases provided SECTION 4.3 and 4.4 below, Lessee agrees to pay Lessor annual rental for the use of the Premises in the amount of TWO HUNDRED TWO THOUSAND, EIGHT HUNDRED NINETY-SIX AND 60/100 DOLLARS ($202,896.60), payable in equal monthly installments of SIXTEEN THOUSAND, NINE HUNDRED EIGHT AND 05/100 DOLLARS ($16,908.05) (the "**Base Rent**").

The Base Rent shall be payable in advance, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever, and tendered in lawful currency of the United States, either by check or electronic transfer.

4.2 **Rent Commencement**. Base Rent shall become due and payable on the earlier of either (i) the delivery of a Certificate of Occupancy ("**CofO**") or its equivalent from the City of Mesa for the first building (if multiple buildings are to be constructed on the Premises) or; (ii) July 1, 2025 (the "**Rent Commencement Date**").

4.3 **Base Rent Percentage Annual Increases**. The annual Base Rent paid by Lessee shall be increased (but never decreased) on every ONE (1) year anniversary of the Rent Commencement Date of this Lease by an amount equal to THREE PERCENT (3%) of the amount of Base Rent due hereunder for the immediately preceding year of the Term.

4.4 **Market Adjustments to Base Rent**.

4.4.1 Notwithstanding the Base Rent increases referenced in Section 4.3, the annual Base Rent shall be increased (but never decreased) on each Ten (10) year anniversary of the Effective Date of this Lease (the "Adjustment Date(s)") as hereinafter set forth in this Section. On each such Adjustment Date, the Base Rent shall be adjusted to the fair market base rental rate of the Premises, in relation to comparable (in quality, size, and value) industrial facilities in the Gateway Airport submarket ("**Fair Market Base Rent**").

4.4.2 Lessor's determination of such Fair Market Base Rent for the Premises shall be delivered to Lessee no later than Ninety (90) calendar days prior to the Adjustment Date. If Lessee disputes Lessor's determination of such Fair Market Base Rent, Lessee shall deliver written notice of such dispute, together with Lessee's determination of such Fair Market Base Rent, to Lessor within THIRTY (30) calendar days of Lessee's receipt of Lessor's determination. The Parties shall then attempt in good faith to agree upon such Fair Market Base Rent. If the Parties fail to agree within FIFTEEN (15) business days, they shall, within SEVEN (7) calendar days thereafter, mutually appoint an appraiser to determine the Fair Market Base Rent. Said appraiser shall have at least FIVE (5) years of full-time commercial appraisal experience and be a member of the Appraisal Institute or comparable professional organization. Within SEVEN (7) calendar days of the appointment of the appraiser, the Parties shall submit to the appraiser, with a copy to the other Party, their respective determinations of the Fair Market Base Rent and any/all substantiated information. Within TWENTY (20) business days thereafter, the appraiser shall review each Party's submittal and shall select one Party's submittal as representing the most reasonable approximation of such Fair Market Base Rent. The appraiser shall promptly notify the Parties of its decision, which shall be final and binding upon Lessor and Lessee. The appraiser's fees and expenses shall be paid by the Party whose submittal was not selected.

4.4.3 If the Parties are unable to agree upon an appraiser pursuant to Section 4.4.2 within such Seven (7) calendar days, then within three (3) business days after expiration of the 7-day period, Lessor

and Lessee shall each (a) appoint an appraiser with the above qualifications, and (b) give notice to the other identifying that Party's appraiser. Not later than SEVEN (7) calendar days after both appraisers have been appointed, Lessor and Lessee shall each submit to each appraiser, with a copy to the other Party, their respective determinations of the Fair Market Base Rent and any/all substantiated information. Within TWENTY-ONE (21) calendar days after receipt of both Parties' proposals, the appraisers shall review the submissions and shall select one Party's submittal as representing the most reasonable approximation of such Fair Market Base Rent. The appraisers shall promptly notify the Parties of their decision, which shall be final and binding upon Lessor and Lessee. Each Party shall be responsible for the fees and expenses of their own selected appraiser.

4.4.4 If the appraisers selected pursuant to Section 4.4.3 do not agree as to which Party's proposal is closest to the actual Fair Market Base Rent, then not later than ten (10) business days after the appraisers have notified the Parties of this fact, unless both Lessor and Lessee direct otherwise, the appraisers shall jointly select an arbitrator who shall determine which proposal is the closest to the actual Fair Market Base Rent. The arbitrator must have the same qualifications stated for an appraiser under subsection 4.4.2 above. The arbitrator shall conduct an arbitration under the provisions of the commercial arbitration rules of the American Arbitration Association. The arbitrator shall decide only which Fair Market Base Rent submission is closest to the actual Fair Market Base Rent for the Premises. The arbitrator's decision shall be binding on all Parties and shall apply retroactively as of the Adjustment Date. The arbitrator shall make a final decision within THIRTY (30) calendar days of the arbitrator's appointment. The arbitrator's fees and expenses shall be paid by the Party whose submittal was not selected.

4.5 **Airport Rates and Charges Schedule**. Lessee or its subtenants, as applicable and including its contractors, agents, etc., shall pay all fees identified in the most current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at the time of receipt of any covered service or use of any covered facilities, unless specifically outlined in this Lease. The current *Airport Rates and Charges Schedule* and *Airport Fees, Services and Rental Rates Schedule* are included as **EXHIBIT B** and are subject to change without prior notice to or approval of Lessee. Lessee acknowledges and agrees that Lessor may amend the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at any time at Lessor's sole discretion. No fee shall apply to the use of the Premises or access to the Premises.

4.6 **Payment**.

4.6.1 Unless otherwise specified herein, the first payment of Base Rent shall be paid to Lessor upon the Rent Commencement Date, for the period from the Rent Commencement Date until the end of the calendar month in which the Rent Commencement Date occurs, prorated on the basis of the number of such days to the total number of days in said month. Thereafter, all Base Rent payments shall be paid in monthly installments, in advance, on the first day of each calendar month. On each such date, Lessee shall pay the full Base Rent payment.

4.6.2 No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor's right to recover the balance of such payment or pursue any other remedy provided in this Lease or by law.

4.6.3 All payments (and reports, if any) required by this Section 4.6 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. SOSSAMAN ROAD
Mesa, Arizona 85212-6014

or such other address specified in writing by Lessor to Lessee.

4.7 **Finance Charges and Late Fees**. If Lessee fails to pay any installment of Base Rent or any other charge due and owing to Lessor in full on or before the applicable due date, Lessee shall be responsible for interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (but not to exceed the maximum interest rate permissible by law), from the due date until payment in full is made. In addition, in the event any installment of Base Rent or other charge owing to Lessor is paid more than TEN (10) calendar days after the due date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent Base Rent installment or other charge shall be due and payable in addition thereto.

4.8 **Taxes**. Lessee shall pay, prior to delinquency, any leasehold tax, sales tax, personal property tax, transaction privilege tax, license or permit fee, or any other tax or assessment imposed during the Term against the Premises or as the result of Lessee's occupancy of Premises or conduct of any activity at the Airport under authority of this Lease, including any such tax assessable on Lessor. Lessee shall pay such taxes and assessments directly to the taxing authority charged with collecting such taxes and assessments, provided that in the event that laws or judicial decisions result in the imposition of a real property tax or any other form of tax or imposition on the interest of Lessor and to the extent such taxes are reasonably attributable to the Premises or a portion thereof or the operation of Lessee's business, Lessee shall pay such amounts to Lessor in the manner set forth in SECTION 4.6. Such taxes to be paid directly to Lessor include, without limitation, payment of all rent taxes, i.e. taxes imposed specifically on the gross receipts in the form of rent received by Lessor.

4.9 **Survival**. Lessee's obligation to pay all amounts stated herein, together with any interest thereon and/or penalties therefor, shall survive the termination of this Lease.

5. PERFORMANCE GUARANTEE

5.1 **Security Deposit**.

5.1.1 On or before the Effective Date, Lessee shall pay to Lessor an amount equivalent to Thirty-Three Thousand, Eight Hundred Sixteen and 09/100 Dollars ($33,816.09), as a security deposit (the "Security Deposit") to insure the faithful performance of all of Lessee's obligations hereunder.

5.1.2 The Security Deposit, at the election of Lessor, may be applied in reduction of any loss and/or damage sustained by Lessor by reason of any Event of Default without the waiver of any other right or remedy available to Lessor at law, in equity or under the terms of this Lease. If any portion of the Security Deposit is so used or applied, Lessee shall, within FIVE (5) business days after written notice from Lessor, deposit with Lessor immediately available funds in an amount sufficient to restore the Security Deposit to its original amount. In the event of a sale or other transfer of the Premises by Lessor, Lessor shall transfer the remaining balance (if any) of the Security Deposit to Lessor's successor in interest, whereupon the transferor Lessor shall be released from liability to Lessee for the return of such Security Deposit. Unless this Lease is terminated as a result of Lessee's default whereupon Lessee shall immediately forfeit its Security Deposit to Lessor, upon termination, Lessor shall return to Lessee all portions of the Security Deposit which were not otherwise applied by Lessor as permitted above. Lessor shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

5.2 **Construction Payment and Performance Guarantees**.

5.2.1 Payment Guarantee. Notwithstanding and in addition to the Security Deposit, Lessee shall protect claimants supplying labor and materials in connection with any construction on the Premises, by providing, at Lessee's sole cost and expense and prior to commencement of construction of any improvements on the Premises, one of the following instruments, chosen at Lessee's discretion:

(a) Payment Bond. Lessee shall require the contractor to provide a labor and materials payment bond in the full contract amount to protect claimants supplying labor and materials in connection with the construction. The bond shall comply in all respects with the requirements of A.R.S. § 33-1003 as it may be amended or renumbered from time to time. The Parties agree that Lessee is not a public body, and the improvements to be constructed under this Lease by Lessee at Lessee's sole cost are not public buildings, public works or public improvements. The bond shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety. The bond and a copy of the contract shall be recorded in the office of the Maricopa County Recorder as required under A.R.S. § 33-1003, and a copy of the bond shall be provided to Lessor; or

(b) Letter of Credit. Such instrument ("**Letter of Credit**") shall be irrevocable, in an amount equal to the total amount of the construction contract(s) for the construction of the Improvements (as defined in SECTION 7 below) plus TEN PERCENT (10%) of such amount and be issued to Lessee by a financial institution ("**Bank**") reasonably acceptable to Lessor. The Letter of Credit shall have a term extending from the date of commencement of construction until the date which is TWENTY-FOUR (24) months thereafter, after which date it shall be renewed on a year-to-year basis until construction of the Improvements are completed, and final and unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Should Lessee utilize the Letter of Credit option hereunder, and should Lessee fail to pay any sum owing to contractors supplying labor and materials in connection with the construction then, in addition to any other remedies set forth in this Lease, Lessor shall be entitled to apply to the Bank, following a period of THIRTY (30) calendar days prior written notice to Lessee (which notice shall include a reasonably-detailed description of Lessee's failure to pay any sum owing), for release to Lessor (in accordance with the terms of the Letter of Credit) from the Letter of Credit of a dollar amount sufficient to pay amounts owing to contractors supplying labor and materials in connection with the construction and obtain final, unconditional lien waivers in connection therewith. Lessor's application shall contain evidence of the failure of payment and the estimated dollar amount needed to satisfy payment obligations. The terms of the Letter of Credit shall require prompt payment to Lessor for the amount set forth in Lessor's application upon satisfaction of the conditions set forth in the Letter of Credit. Upon and following any partial payment to Lessor, the Letter of Credit shall remain in full force for the remaining undisbursed amount of the Letter of Credit to accommodate further applications, if any, and shall not be subject to cancellation or revocation until fully drawn or otherwise released or satisfied upon completion of construction of the Improvements and final, unconditional lien waivers have been obtained from all contractors supplying labor and materials in connection with the construction. Lessor must approve the form and content of any Letter of Credit in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.

5.2.2 Performance Guarantee. In addition to the Security Deposit, Lessee's obligation to timely complete the Improvements shall be secured, at Lessee's sole cost and expense and prior to commencement of construction of said Improvements, by any one of the following instruments, chosen at Lessee's discretion:

(a) Performance Bond. Lessee shall require the contractor to provide a performance bond in the full contract amount conditioned upon the faithful performance of the contract in accordance with plans, specifications and conditions thereof. The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.; or

(b) Completion Bond. Lessee shall deliver to Lessor a completion bond in form and substance reasonably acceptable to Lessor pursuant to which Lessor shall have the unconditional, direct and unilateral right to draw upon or use such bond for completion of construction of the Improvements under SECTION 7.1 of this Lease if an Event of Default occurs and is continuing under SECTION 7.2 of this Lease.

The bond shall be in a form reasonably acceptable to Lessor; shall be issued by a surety company reasonably acceptable to Lessor and duly licensed for such undertaking in the state of Arizona; and shall be accompanied by a power of attorney disclosing the authority of the person executing it on behalf of the surety.

6. AIRPORT OPERATING AGREEMENT

If and to the extent that Lessee, including its subtenants, contractors, and agents, operates aircraft at or on the Airport, Lessee shall enter, or shall cause the applicable subtenant, contractor or agent operating aircraft at or on the Airport to enter, into an operating agreement with Lessor covering such operations prior to the commencement of any such operations. The current form of the *Airport Operating Agreement* is included in **EXHIBIT C** and is subject to change without prior notice or approval of Lessee. If any of Lessee's subtenants, subcontractors or agents operating aircraft at or on the Airport has not entered into its own *Airport Operating Agreement* and is operating under Lessee's *Airport Operating Agreement*, Lessee shall be responsible for such subtenant's contractors or agents compliance with Lessee's *Airport Operating Agreement*. Lessee shall be responsible for compliance by its subtenants, contractors and agents with the *Airport Rules and Regulations* and *Airport Minimum Standards*.

7. IMPROVEMENTS

7.1 **Construction by Lessee**. Lessee shall, at its sole cost and expense, construct improvements on the Premises that generally shall consist of one (1) or two (2) industrial buildings totaling an aggregate of approximately 96,060 square feet, with an estimated capital investment (inclusive of all hard costs and soft costs, including, without limitation, tenant improvement costs, development fees, engineering fees, and architectural fees) of SIXTEEN MILLION DOLLARS ($16,000,000.00) as generally depicted in **EXHIBIT F** (the "**Improvements**") and in accordance with a site plan prepared by Lessee and approved by Lessor's Design Review Committee, such approval not to be unreasonably withheld or delayed, and in compliance with all applicable governmental regulations, restrictions and building codes. Lessor and Lessee agree that Lessee shall be solely responsible for: (i) any required connection(s) between the Premises and the terminating point of the existing vehicular access way to the Premises, as reasonably required by Lessor; (ii) constructing all Improvements necessary to bring all utilities onto the Premises, including, without limitation, electrical, gas, water, sewer, cable and telephone utilities; (iii) installing all utility meters and water and sewer lines to service all Improvements constructed on the Premises; and (iv) constructing all Improvements necessary to connect the Premises to existing taxiways or taxilanes in accordance with and if allowable under all Airport and FAA rules, regulations and other requirements.

7.2 **Construction Milestones**. Lessee shall construct its Improvements pursuant to the following schedule (each of which events are herein called a "**Construction Milestone**"):

7.2.1 Lessee has submitted and Lessor has approved Lessee's initial Improvement design plans prior to the Effective Date hereof;

7.2.2 Lessee shall submit its Improvement construction plans to the City of Mesa for a construction permit no later than May 31, 2024;

7.2.3 Lessee shall commence construction of the Improvements within Sixty (60) calendar days after the issuance of all necessary construction permits and receipt of all approvals required for such, including any approvals required from the FAA, but no later than January 2, 2025, and Lessee shall provide contemporaneous written notice to Lessor of such. If Lessee fails to commence construction within SIXTY (60) calendar days after the issuance of all necessary construction permits and receipt of all approvals required for such, including any approvals required from the FAA, but subject to any applicable notice and cure periods provided for in SECTION 11, Lessor shall have the right to terminate this Lease by written notice to Lessee delivered at any time prior to commencement of construction. For purposes of this section "commencement

of construction" shall be the date on which Lessee has obtained it permits, has executed a contract for construction of the Improvements and has engaged in material work, such as grading or pouring of footings and slabs.

7.2.4 Lessee shall diligently prosecute construction of all Improvements and shall complete construction of all Improvements to be constructed by Lessee at and on the Premises, and shall have obtained a CofO (or its equivalent) from the City of Mesa therefor, no later than September 19, 2025.

7.2.5 If Lessee fails to complete construction by the date specified in Section 7.2.4, Lessee shall pay to Lessor an amount equal to Four Hundred Dollars and No/100 ($400.00) for each day that Lessee is late completing such construction (a "Late Completion Fee"), which payment by Lessee shall be in addition to any Base Rent due from Lessee hereunder. Lessee shall pay Lessor all Late Completion Fees to Lessor on the FIRST (1st) day of the month following the date on which such Late Completion Fee first accrues, until such time as all Late Completion Fees are paid in full. If Lessee is unable to meet any Construction Milestone due to Unavoidable Delay (as defined in SECTION 39), then the applicable Construction Milestone shall be extended by ONE (1) day for each day of such delay, as determined in Lessor's reasonable discretion.

7.3 **No Alterations**. Lessee shall not make any material improvements or alterations to the exterior of the Premises, any structural alterations, any alterations to any mechanical systems within the Premises, or any signage on the Premises during the Term of this Lease without the prior written permission of Lessor, which shall not be unreasonably withheld or delayed and, if and to the extent applicable, without the approval by Lessor's Design Review Committee. Lessee shall provide Lessor with electronic as-built drawings (or their equivalent) when any improvement or alteration is completed for which such drawings are reasonably required.

7.4 **Title to Alterations and Improvements**. Title to all improvements and alterations on the Premises (but not personal property or trade fixtures) shall automatically vest in Lessor upon the expiration or termination of this Lease, and Lessee agrees to execute and deliver to Lessor, within TEN (10) business days after Lessor's request therefor, a quitclaim deed or other instrument satisfactory to Lessor confirming that title to such improvements and alterations is vested in Lessor. This SECTION 7.4 shall survive the termination of this Lease.

7.5 **Mechanics' Liens**. Lessee shall keep the Premises and all improvements constructed by Lessee thereon free of any mechanic or materialmen's liens. In the event that any such lien is filed, Lessee shall, at its sole cost, cause such lien to be removed from the Premises by bonding or otherwise within THIRTY (30) calendar days of notice thereof.

7.6 **Permit Required**. Lessee shall be responsible for determining whether it is subject to local building/construction codes or permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa (the "**City**") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment or use. Lessee shall provide to Lessor a contemporaneous copy of Lessee's permit application and the associated plans and specifications.

7.7 **Damage or Destruction**. Lessee shall maintain insurance on all of Lessee's Improvements to the Premises, including any subsequent alterations and improvements thereto. In the event that all or any portion of Lessee's Improvements are destroyed or rendered unusable due to fire or other catastrophe, Lessee shall replace, repair, restore, modify or improve said Improvements, subject to the provisions of SECTION 7.6, using available insurance proceeds together with any additional funds from other available sources, or, alternatively, Lessee shall pay the replacement cost of the Improvements to Lessor.

8. MAINTENANCE.

8.1 **Lessee Responsibilities**. Lessee shall, at its sole cost and expense, keep the Premises and all improvements thereon in a neat and clean condition and in good order and repair throughout the Term, reasonable wear and tear excepted. Lessee shall prepare, maintain and follow a preventative maintenance schedule in keeping with industry-standard good practices for all mechanical, electrical plumbing, drain, piping, and air conditioning systems on the Premises. Lessee's maintenance of the Premises shall include, without limitation, as may be reasonably necessary, the inspection, servicing and repair of all improvements, including pest control, landscaping and grounds maintenance.

8.2 **Damage to Lessor Property**. Any real or personal property of Lessor damaged or destroyed by Lessee as a result of Lessee's use or occupancy of the Premises shall be promptly repaired or replaced by Lessee to the reasonable satisfaction of Lessor. In lieu of such repair or replacement, where required by Lessor, Lessee shall pay to Lessor an amount sufficient to compensate for the loss sustained by Lessor.

8.3 **Trash Removal**. Lessee shall at all times keep the Premises in a neat, clean, safe, sanitary and orderly condition and shall keep such area free of all trash and debris. Lessee shall be responsible for all trash removal from the Premises and Lessee shall deposit all trash and debris only at collection stations located on or in proximity to the Premises, in accordance with City code.

8.4 **Emergency Contact**. Within FIFTEEN (15) days of the Effective Date, Lessee shall provide Lessor with a list of names and telephone numbers for 24-hour emergency contact for the Premises. Lessee shall promptly provide Lessor with updated lists and changes as they occur.

9. ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS.

9.1 **Any Transfer of Lease Interest Requires Lessor Advance Written Approval**. In the event Lessee desires to transfer, assign, encumber, pledge or hypothecate any portion of its interest in this Lease or any right or interest hereunder (including, but not limited to as part of a mortgagor deed of trust or an assignment by means of a foreclosure or trustee's sale thereunder)(individually and collectively, "**Transfer**"), or sublet the Premises or any part thereof, except as otherwise set forth in SECTION 9.4.1 below, Lessee must obtain the prior written consent of Lessor, such consent not to be unreasonably conditioned, withheld or delayed. Lessor will not be deemed to have acted unreasonably in withholding consent to any proposed Transfer to an entity that does not have the financial ability to make the Base Rent payments required under this Lease and to otherwise satisfy its financial obligations under this Lease. In connection with Lessee's request for Lessor's approval of a Transfer, Lessee and or the proposed transferee shall provide to Lessor written financial assurances, including, but not limited to financial statements, business plans and other information related to the financial condition and plans of any proposed transferee. Lessee understands and agrees to these terms and conditions regarding any proposed Transfer, and that any violation of this SECTION 9, may irreparably harm Lessor as the requirements set forth herein are directly related to Lessor's (and any Lessee's) legal and financial obligations to the Federal Aviation Administration. This SECTION 9 shall remain valid and enforceable even in the event of amendment to or repeal of FAA regulations, so long as this SECTION 9 does not directly conflict therewith.

9.2 **Lessee's Required Advance Notice to Lessor of Proposed Transfer**. In order for Lessor to consider approval of a Transfer, Lessee must: (i) notify Lessor in writing at least FORTY-FIVE (45) days prior to such proposed transfer; (ii) deliver to Lessor, at the time of Lessee's notice, current financial statements of Lessee and the proposed transferee (along with transferee's business plans) that are reasonably acceptable to Lessor; and (iii) the transferee assumes and agrees in writing to perform Lessee's obligations under this Lease. However, nothing herein shall be construed as Lessor providing its consent to any Transfer or relieving Lessee of any legal, financial or other obligation under the Lease, regardless of Lessor's acceptance or refusal to accept such proposed transfer of Lease.

9.3 **Deemed Transfers**. For the purposes of this Lease, a Transfer shall be deemed to include the following: (i) if Lessee is a corporation, partnership, limited liability company or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Lease; provided, however, if Lessee is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Lessee's stock shall not constitute a Transfer requiring Lessor's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Lessee. For purposes of this Lease, "control" shall mean possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of a majority of the voting securities of the entity.

9.4 **Subletting**.

9.4.1 Lessee may sublease all or portions of the Premises if the following conditions are met:

(a) The sublease (including any amendments or modifications thereto) is substantially in the form attached hereto as Exhibit E, or in any other form that is approved in advance and in writing by Lessor, such consent not to be unreasonably conditioned, withheld or delayed (except for changes that do not materially impact Lessor's rights and interests).

(b) Rent for subleased premises shall not be less than fair market value unless otherwise approved in writing by Lessor.

(c) The sublease(s) and sublessee(s) shall at all times be subject to the terms and conditions of this Lease.

(d) The permitted and prohibited uses of the Premises under any sublease shall be the same as that permitted and prohibited under this Lease. Sublessees shall agree in the sublease not to engage in any prohibited use.

(e) The term of any sublease shall not extend beyond the stated expiration of this Lease.

(f) Except for the payment of a security deposit, the sublessee under such sublease shall not pay rent more than one (1) month in advance of its due date under the sublease.

9.4.2 Upon request from Lessee and any sublessee, Lessor shall enter into a Non-Disturbance and Attornment Agreement (in form and substance reasonably acceptable to Lessor, Lessee, sublessee and any applicable Leasehold Mortgagee (as defined in Section 22.2)) so long as (i) the conditions of Section 9.4.1 have been met; (ii) the sublessee is not then in default beyond an applicable notice and cure period under the sublease and there is no existing Event of Default under this Lease; and (iii) the sublessee does not have a history of five (5) or more documented events of noncompliance with the Airport Rules and Regulations or Airport Minimum Standards. All legal fees incurred by Lessor in connection with any reasonably necessary legal counsel review and approval of a Non-Disturbance and Attornment Agreement shall be reimbursed in advance by Lessee.

9.4.3 Lessee shall not permit any sublessee unescorted access to the secured areas of the Airport unless and until the sublessee has obtained its own valid Airport security clearance and media from Lessor. Lessee acknowledges that it may take THIRTY (30) calendar days or more to process sublessee for security clearance and media.

9.4.4 Lessee shall submit a copy of each fully executed sublease to Lessor as soon as possible, but no later than Five (5) business days after execution.

10. IDENTIFICATION SIGNS.

Lessee may install on the building in which the Premises is located, a sign or signs identifying its business on the exterior of the Premises; provided, however, that the general type, size, and location of such sign(s) shall conform to Lessor's Comprehensive Sign Plan, be approved in writing by Lessor, such approval not to be unreasonably conditioned, withheld or delayed, in advance of installation and be subject to any signage rules, codes and/or regulations of any governmental authority.

11. DEFAULT; TERMINATION BY LESSOR.

11.1 **Events of Default**. Each of the following shall constitute a material default of this Lease by Lessee (an "**Event of Default**"):

11.1.1 Failure to pay any installment of Base Rent or other amount due from Lessee hereunder, or required by any other agreement between the Parties, provided that Lessee does not cure such failure within Ten (10) business days after delivery by Lessor of a written notice of such failure.

11.1.2 Failure to perform any of its other obligations under this Lease, provided that Lessee does not cure such failure within Thirty (30) calendar days after delivery by Lessor of a written notice of such default; and further provided, however, if a cure of the default reasonably requires more than Thirty (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued, not to exceed one hundred twenty (120) days.

11.1.3 Failure of Lessee to pay any monetary obligation or reimbursement due from the "101-103 Lessee" as required by any of the REA. No. 1, REA No. 2, or Utility Easement (all as defined in SECTION 42 below), provided that Lessee does not cure such failure within TEN (10) business days after delivery by Lessor of a written notice of such failure.

11.1.4 Failure to perform any of the other non-monetary obligations of the "101-103 Lessee" as required by any of the REA. No. 1, REA No. 2, or Utility Easement, provided that Lessee does not cure such failure within THIRTY (30) calendar days after delivery by Lessor of a written notice of such default; and further provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued, not to exceed ONE HUNDRED TWENTY (120) days.

11.1.5 The filing of any mechanic's, materialmen's or other lien or any kind against the Premises because of any act or omission of Lessee which lien is not discharged, by bonding or otherwise, within Thirty (30) calendar days of receipt of actual notice thereof by Lessee.

11.1.6 The Transfer or attempted transfer of any interest in the Lease to any transferee, other than in accordance with Sections 9 and 22 hereof, without Lessor's advance written authorization, which Lessor may withhold in its sole and absolute discretion.

11.2 **Lessor's Remedies**. Upon the occurrence of an Event of Default under this Lease, Lessor may, without prejudice to any other rights and remedies available to a Lessor at law, in equity or by statute, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

11.2.1 Terminate this Lease and re-enter and take possession of the Premises; or

11.2.2 Without terminating this Lease, re-enter and take possession of the Premises; or

11.2.3 Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for Base Rent, re-entry for condition broken, and any and all notices to quit, or other formalities of any nature to which Lessee may be entitled, are hereby specifically waived to the extent permitted by law; or

11.2.4 With or without terminating this Lease, Lessor may re-let the Premises or any portion thereof.

11.3 **No Implied Termination**. Lessor shall not be deemed to have terminated this Lease unless Lessor shall have notified Lessee in writing that it has so elected to terminate this Lease. Lessee hereby waives all claims based on Lessor's reentering and taking possession of the Premises, or removing and storing the property of Lessee, and shall save Lessor harmless from all losses, costs or damages occasioned thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

11.4 **Lessor's Current Damages**. Upon the occurrence and during the continuance of an Event of Default, Lessor is authorized to make such repairs, refurbishments or improvements to the Premises as may be necessary for the purpose of attempting to re-let the Premises, and the reasonable costs and expenses incurred in respect of such repairs, redecorating, refurbishments and improvements shall be paid by Lessee to Lessor within TEN (10) business days after receipt of Lessor's statement. If Lessor exercises any of the remedies stated above, Lessor shall be entitled to recover from Lessee all actual damages incurred by Lessor by reason of the Event of Default, which shall include, without limitation, (i) the equivalent of the present value amount of the Base Rent and all other payments which would be payable under this Lease by Lessee for the remainder of the Term as if this Lease were still in effect, less (ii) the net proceeds of any re-letting by Lessor after deducting all of Lessor's reasonable expenses in connection with such re-letting, which shall include, without limitation, repossession costs, repairs, redecorating, refurbishments or improvements to the Premises, brokerage commissions, attorneys' fees, and legal expenses. Lessee shall pay such current damages to Lessor, in the amount set forth in the preceding sentence ("**Deficiency**"), in monthly installments on the days on which the Base Rent would have been payable under this Lease as if this Lease were still in effect. Lessor agrees to mitigate damages to the extent required by applicable law.

11.5 **Lessor's Final Damages**. At any time after an Event of Default, whether or not Lessor shall have collected any monthly Deficiency as set forth above, Lessor shall be entitled to recover (without duplication) from Lessee, and Lessee shall pay to Lessor, promptly on demand, as Lessor's final damages for the applicable Event of Default, the sum of (a) the then present worth (at a discount of SIX PERCENT (6%) per annum) of (i) the aggregate of the Base Rent and all other amounts to be paid by Lessee hereunder for the unexpired portion of the Term of this Lease (assuming this Lease had not been terminated), less (ii) the amount of Base Rent and any losses that could have been reasonably avoided, plus (b) reasonable repossession costs, reasonable Lessor's expenses in connection with any attempts it may have made to re-let the Premises (which shall include, without limitation, repairs, refurbishments or improvements to the Premises and brokerage commissions), reasonable attorneys' fees, reasonable legal expenses, and all other damages incurred by Lessor as a result of such Event of Default.

11.6 **No Waiver by Lessor**. No waiver by Lessor of any breach or default by Lessee in the performance of its obligations under this Lease shall be deemed to be a waiver of any subsequent default by Lessee in the performance of any such obligations, and no express waiver shall affect an Event of Default in a manner other than as specified in said waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval shall not be deemed to waive or render unnecessary Lessor's consent or approval to or of any subsequent similar acts by Lessee.

11.7 **Content of Default Notice**. Any default notice tendered to Lessee hereunder shall be deemed to be sufficient if it is reasonably calculated to put Lessee on inquiry as to the nature and extent of such default, and is made in accordance with SECTION 19 herein.

11.8 **Limitation on Exercise of Termination Remedy by Lessor**. Notwithstanding anything to the contrary in SECTION 11.2 hereinabove, if an Event of Default occurs, Lessor shall not have the remedy of terminating this Lease or of taking possession of the Premises unless: (i) the Event of Default consists of a failure to pay Base Rent or other amounts owed to Lessor; or (ii) Lessor has no other remedy that is adequate to protect Lessor's interests. Other remedies that are available to Lessor include self-help and recovery of damages, and nothing in this SECTION 11 shall limit the exercise of any such other remedy.

11.9 **Subordination of Landlord's Lien**. Lessor hereby agrees from time to time to subordinate to one or more Leasehold Mortgagees all statutory or common law landlord's lien rights with respect to property or assets of Lessee located on the Premises, including, without limitation, Lessor's rights under Arizona Revised Statutes Sections 33-361 and 362 and other similar laws. Upon written request from Lessee, Lessor agrees to promptly execute and deliver such commercially reasonable landlord subordination agreement and access agreement that any Leasehold Mortgagee may request of Lessor. Lessee shall reimburse Lessor for reasonable third-party costs, including reasonable attorneys' fees, incurred by Lessor in connection with the review and negotiation of any such agreement within THIRTY (30) calendar days after receipt of an invoice from Lessor.

11.10 **Punitive and Speculative Damages**. Notwithstanding anything herein to the contrary, neither Lessee nor Lessor will be liable for punitive or speculative damages under this Lease.

12. RESERVED

13. INDEMNIFICATION

13.1 **Lessee's Indemnity**. To the fullest extent permitted by law, Lessee hereby agrees to defend, indemnify and hold harmless Lessor and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessor" for purposes of this SECTION 13.1) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any accident, injury or actual damages occurring within the Premises during the Term; (ii) any negligent act or omission of Lessee or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessee" for purposes of this SECTION 13.1) on the Premises or the Airport and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessor; and/or (iii) the failure of Lessee to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims arising by reason of the acts or omissions of Lessor or its employees, contractors or agents.

13.2 **Lessor's Indemnity**. To the fullest extent permitted by law, Lessor hereby agrees to defend, indemnify and hold harmless Lessee and its members, elected or appointed officials, agents, contractors, subcontractors, boards, commissions and employees (hereinafter referred to collectively as the "Lessee" for purposes of this SECTION 13.2) for, from and against any and all third-party claims, causes of action, liability, suits, litigation (including reasonable attorney's fees and other costs of investigation and litigation), actions, losses, damages or claims of any nature whatsoever to the extent such arise out of or in connection with (i) any negligent act or omission or intentional misconduct by Lessor or its agents, employees, contractors, or subcontractors (hereinafter referred to collectively as "Lessor" for purposes of this SECTION 13.2) on the Premises, and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property or other damages or losses to Lessee, or (ii) the failure of Lessor to comply with any provisions of this Lease. This indemnification shall exclude responsibility for any damages and for claims

arising by reason of the acts or omissions of Lessee or its employees, contractors or agents.

14. ENVIRONMENTAL PROTECTION

14.1 **Definitions**. Unless the context shall clearly require otherwise, the terms defined in this SECTION 14.1 shall, for all purposes of this Lease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

14.1.1 Environmental Laws. The term "**Environmental Laws**" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 USC Section 9601 et seq.; the *Solid Waste Disposal Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; A.R.S. Title 49; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient (including indoor and outdoor) air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

14.1.2 Hazardous Material. The term "**Hazardous Material**" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Laws, per- and polyfluoroalkyl substances, and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils). For purposes of this definition, per- and polyfluoroalkyl substances shall include aqueous film-forming foams.

14.2 **Environmental Compliance**.

14.2.1 Lessee shall, at the Lessee's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting Lessee's activities on and property interest in the Premises during the period of Lessee's occupancy of thereof under this Lease. To the extent that Lessor, or any Lessor's employees, agents or contractors, conducts any activities on the Premises during the period of Lessee's occupancy, Lessor shall, at Lessor's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting any of Lessor's activities on the Premises.

14.2.2 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Lessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Laws. The Parties recognize and agree that Lessee may bring on the Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Lessee's permitted activities under this Lease, provided that such use shall comply fully with all applicable Environmental Laws. Lessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or by Lessor's agents, employees, contractors for any activity Lessor conducts on the Premises during Lessee's occupancy, without prior notification to and approval by Lessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Laws.

14.2.3 Intentionally Omitted.

14.3 **Indemnification**. To the fullest extent permitted by law, Lessee shall indemnify, defend (with

counsel reasonably acceptable to Lessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment, the presence of Hazardous Material on the Premises, Airport or neighboring properties, or violation of any Environmental Laws or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Lessee's activities or operations on the Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Lessee's obligations and liabilities under this SECTION 14.3 shall survive the termination of this Lease. The indemnification of Lessor by Lessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Lessor reserves the right to seek injunctive relief as may be permitted under law and equity. This SECTION 14.3 explicitly excludes Lessee's duty, liability or indemnity to Lessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Premises prior to the Effective Date, except and only to the extent known contamination is caused by or exacerbated by Lessee or unknown contamination is caused by or exacerbated by Lessee's negligence.

14.4 **Remediation**. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Lease caused or permitted by Lessee to be first brought on the Airport or Premises upon or after the Effective Date results in any Release on the Airport or Premises in violation of any Environmental Laws, Lessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Premises; provided that Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Lessee is not under administrative or court order related to such remediation action. Notwithstanding Lessor's approval pursuant to this SECTION 14.4, Lessor is not responsible for directing or managing any remediation action. The term "**Release**" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. Notwithstanding anything in this SECTION 14.4 to the contrary, Lessee shall have no obligation to remediate any contamination of any kind existing on the Premises or Airport prior to the Effective Date, except and only to the extent known contamination is caused by or exacerbated by Lessee or unknown contamination is caused by or exacerbated by Lessee's negligence.

14.5 **Governmental Submittals**. Lessee shall, at Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any Release of Hazardous Material by reasons of Lessee's activities or actions at the Airport which occur during the Term of this Lease, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

14.6 **Information Sharing**. Lessee shall immediately notify Lessor of any of the following: (i) Lessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a violation of Environmental Laws, and (ii) any significant change in Lessee's activities on the Premises that is reasonably likely to adversely change Lessee's obligations or liabilities under the Environmental Laws. In addition, Lessee agrees to provide Lessor with non-privileged copies of documents reflecting the physical condition of the Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the

Premises, to the extent that such investigations or claims are related to Lessee's activities thereon.

14.7 **Sublease**. Lessee shall insert provisions substantially identical to the provisions of this SECTION 14 in any sublease agreement or contract by which it grants a right or privilege to any person, firm, corporation or other entity under this Lease.

14.8 **Actions of Lessee**. The activities or actions of Lessee under this SECTION 14 shall include the activities or actions of Lessee's officers, directors, employees, agents, contractors, invitees and successors.

14.9 **CLEAN WATER ACT; NPDES PERMITS AND SWPPPS**. Without in any way limiting the foregoing, Lessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Lessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Lessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Lessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

14.10 **Reserved**.

14.11 **Protective Devices and Plans**. If Lessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Premises, Lessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Lessor with updates to the Questionnaire as they arise. Also, if the City so requires, Lessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Premises. Lessee shall post a notice in a prominent place on the Premises advising employees what actions to take and whom to call in the event of said discharge, and shall ensure that all employees of Lessee are trained with regard to the spill protection plan hereinafter referenced. Lessee also shall provide Lessor with immediate notice of any spill.

14.12 **Right to Enter Premises**. In addition to the rights afforded to Lessor in SECTION 18, this Lease specifically includes the right of the United States Government, the Environmental Protection Agency ("**EPA**"), ADEQ, Lessor, and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Premises upon reasonable notice to Lessee for purposes of: (i) inspecting Lessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Lessee shall have no claim against Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

14.13 **U.S. Air Force Use and Remedial Action**.

14.13.1 The Parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Premises, prior to the Effective Date, and have no obligation under this Lease to undertake the defense of any claim or action, whether in existence now

or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the Parties have no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this SECTION 14.13, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release.

14.13.2 Pursuant to Section VII.E.3 of the Deed (as defined herein), the U.S. AIR FORCE WARRANTS AND COVENANTS THAT ALL REMEDIAL ACTION NECESSARY TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT WITH RESPECT TO HAZARDOUS SUBSTANCES REMAINING ON THE AIRPORT, INCLUDING THE PREMISES, HAS BEEN COMPLETED PRIOR TO THE DATE OF THE DEED AND, FURTHER, ANY REMEDIAL ACTION FOUND TO BE NECESSARY AFTER THE DATE OF THE DEED SHALL BE CONDUCTED BY THE U.S. AIR FORCE; PROVIDED, HOWEVER, THAT THE FOREGOING COVENANT DOES NOT APPLY WHERE LESSOR OR LESSEE IS A POTENTIALLY RESPONSIBLE PARTY WITH RESPECT TO ANY PORTION OF THE PREMISES OR THE AIRPORT.

14.14 **Cleanup Requirements**. Lessee agrees that Lessor assumes no liability to Lessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Lessee's use of the Premises. Lessee shall have no claim against Lessor or the United States or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Lease or otherwise. Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by governmental authorities or Lessor shall, to the extent practicable, be coordinated with representatives designated by Lessee.

14.15 **Spill Protection Plan**. In the event Lessee undertakes any type of manufacturing, maintenance or other activities on the Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Lessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements, and shall be approved by all agencies that are obligated by law to approve such plan. Such plan shall be independent of Lessor's spill prevention and response plans, if any. Lessee shall not rely on use of Lessor or Lessor personnel or Lessor equipment in execution of its plan. Lessee shall file a copy of the plan and amendments thereto with Lessor's Environmental and Safety Coordinator within THIRTY (30) calendar days of receipt of a CofO from the City. Notwithstanding the foregoing, should Lessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Lessee, or because Lessee was not, in the opinion of Lessor, conducting fire fighting, containment or timely cleanup actions, Lessee agrees to reimburse Lessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Lessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Lessor or its employees, agents or contractors.

14.16 **Wells**. Lessee shall not install any drinking water or other wells in any location on the Premises without the prior written approval of Lessor.

14.17 **Surface Disturbances**. After construction of Lessee's Improvements on the Premises as provided herein, Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of

the surface other than what is usual and customary for the anticipated uses without the prior written approval of Lessor, which shall not be unreasonably withheld, conditioned or delayed.

14.18 **Later Discovered Hazmat**. If any Hazardous Material is newly discovered on a portion of the Premises after the Effective Date that: (a) (i) were not placed on or introduced to the Premises by Lessee, and (ii) were present on the Premises prior to the Effective Date (collectively, "**Later-Discovered, Pre-Existing Hazmat**"); and (b) such Later-Discovered, Pre-Existing Hazmat will cause Unavoidable Delay in the construction of Improvements; Lessee shall immediately notify Lessor and cease development activity in the impacted area of the Premises, and Lessee shall have the right to either (a) conduct such investigations and remedial actions as necessary under applicable Environmental Laws and continue development activity as the remedial process allows (and reserve any rights it may have to seek whatever compensation it is entitled to recover), if Lessor does not agree, within SEVEN (7) business days of receiving notice contemplated under this SECTION, to promptly investigate and remediate the detected contamination in accordance with Environmental Laws, and on a schedule and in a manner that does not interfere with Lessee's development, use or construction plans, or (b) terminate this Lease upon written notice to Lessor.

15. PROTECTION OF WETLANDS

Lessee shall minimize the destruction, loss, or degradation of any wetlands located on the Premises. Lessor believes there are no wetlands existing on the Premises as of the Effective Date. However, before locating new construction in wetlands, if any exist, Lessee shall contact Lessor and the United States Army Corps of Engineers and obtain a permit or waivers under Section 404 of the Clean Water Act(or if such regulatory authority has been delegated to ADEQ, shall obtain the equivalent permit or waivers from ADEQ). For purposes of this SECTION 15, the term, "new construction," includes structures, facilities, draining, dredging, channeling, filling, diking, impounding, and related activities.

16. INSURANCE

16.1 **Coverage Required**. Lessee shall procure and maintain, or cause to be procured and maintained, the following types and amounts of insurance with respect to the Premises:

16.1.1 Builders Risk INSURANCE COVERING THE INSURED'S PREMISES AND ALL REPLACEMENTS AND/OR ADDITIONS THERETO FOR THEIR FULL INSURABLE VALUE ON A "REPLACEMENT COST" BASIS WITH AN ISO SPECIAL CAUSES OF LOSS FORM OR EQUIVALENT REQUIRED UNTIL COMPLETION OF CONSTRUCTION OF THE IMPROVEMENTS UPON THE PREMISES. Builder's Risk Insurance shall be in place during active construction of the Improvements. Lessor agrees that Builder's Risk Insurance shall be, upon acceptance of the Improvements by the City of Mesa and/or occupancy of the Improvements for the intended use, no longer required in the form of Builder's Risk Insurance and shall be replaced by Property coverage as placed upon completion of the construction of the Improvements. Lessor agrees to perform this transition without any lapse or gap in coverage.

16.1.2 Comprehensive General Liability - $5,000,000 PER OCCURRENCE COVERING THIRD PARTY BODILY INJURY AND PROPERTY DAMAGE ON AN OCCURRENCE BASIS IN AN AMOUNT NOT LESS THAN, INCLUDING COVERAGE FOR "PREMISES/OPERATIONS", "PRODUCTS AND COMPLETED OPERATIONS", "HOST LIQUOR" AND "BLANKET CONTRACTUAL LIABILITIES".

16.1.3 Commercial Auto Liability - $1,000,000 PER ACCIDENT COVERING ALL OWNED, NON-OWNED AND HIRE VEHICLES OPERATED ON THE AIRPORT THAT ARE ASSIGNED TO OR USED IN THE PERFORMANCE OF COMMERCIAL ACTIVITIES. If any hazardous materials are transported with Airport boundaries in conjunction with the operator's business

activities, and MSC-90 Endorsement is required.

16.1.4 Environmental Coverage - $2,000,000 PER CLAIM, COVERING THIRD PARTY BODILY INJURY AND PROPERTY DAMAGE ASSOCIATED WITH HAZARDOUS MATERIAL STORAGE FACILITIES, TANKS, PINING, ANCILLARY EQUIPMENT AND CONTAINMENT STRUCTURES, OR STRUCTURES THAT ARE USED, CONTROLLED, CONSTRUCTED OR MAINTAINED AT THE AIRPORT, AND INCLUDING EXPENSES FOR DEFENSE, RELEASE MITIGATION AND OFF-AND ON-SITE REMEDIATION.

16.1.5 Personal Property Coverage – COVERS ALL ESSENTIAL PERSONAL PROPERTY (PROPERTY ESSENTIAL TO CONTINUED BUSINESS OPERATIONS) AND ALL OPERATOR IMPROVEMENTS MADE TO BUILDINGS OR FACILITIES ON THE AIRPORT, INCLUDING ALL REPLACEMENTS AND./OR ADDITIONS THERETO, FOR THEIR FULL INSURABLE VALUE (ALL RISKS) ON A REPLACEMENT COST BASIS, AND REQUIRES AND ISO SPECIAL CAUSE OF LOSS FORM. Coverage shall be for risks of direct physical loss or damage, including the perils of Equipment Breakdown/Boiler & Machinery, with appropriate sub limits for Flood and Earth Movement. The limit shall be equivalent to at least full replacement cost value of personal property & improvements. Coverage shall be on a replacement cost basis. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Lessee's policy shall name Lessor as Loss Payee as their interest may appear.

16.1.6 Worker's Compensation INSURANCE, AS REQUIRED BY LAW, AND EMPLOYER'S LIABILITY INSURANCE IN THE AMOUNT OF $1,000,000 COVERING WORK-RELATED INJURIES TO EMPLOYEES AND OTHERS PERMITTED TO OPERATE OR OTHERWISE CONDUCT BUSINESS ON THE PREMISES.

16.2 **Form**. Each insurance policy obtained pursuant to this SECTION, except for *Worker's Compensation* and *Employer's Liability* policies, shall: (i) include Lessor as a certificate holder and additional insured via endorsement; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to Lessor not less than THIRTY (30) calendar days before such cancellation or modification takes effect; and (iii) contain a waiver of subrogation in favor of Lessor. Lessee shall not permit any insurance policy to be canceled or modified without Lessor's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A – VII or higher from the A.M. Best Company, or an equivalent rating and approved by Lessor.

16.3 **Certificates of Insurance**. Lessee shall deliver a certificate of insurance for each policy required along with an endorsement naming Phoenix-Mesa Gateway Airport Authority as additional insured, herein to Lessor, in standard Acord or equivalent form, prior to the Effective Date and shall continue to provide such certificates throughout the term of this Lease.

16.4 **Additional Insurance**. At any time during the term of this Lease, Lessor may, if in its reasonable determination the insurance coverage required by this SECTION 16 is no longer adequate, require Lessee to increase its coverage to commercially reasonable amounts.

16.5 **Blanket Insurance**. Lessee's insurance obligations under this Lease may be satisfied by means of "blanket" or excess policies.

16.6 **Insurance by Lessor**. In the event Lessee shall fail to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this SECTION. In such event, all costs of such insurance procured and maintained by Lessor on behalf of Lessee shall be the responsibility of Lessee and shall be fully reimbursed to Lessor within TEN

(10) business days after Lessor advises Lessee of the cost thereof.

17. SURRENDER OF POSSESSION.

17.1 **Condition of Property**.

17.1.1 Upon the expiration or earlier termination of this Lease, Lessee's right to occupy the Premises and exercise the privileges and rights granted thereunder shall cease, and Lessee shall peaceably surrender the same and leave the Premises broom clean and in good condition except for normal wear and tear. All trade fixtures, equipment, and other personal property installed or placed by Lessee on the Premises which are not permanently affixed thereto shall remain the property of Lessee, and Lessee shall have the right at any time during the term of this Lease, to remove the same from the Airport and Lessee shall repair, at its sole cost, any damage caused by such removal. Any property not removed by Lessee within FIFTEEN (15) calendar days of the expiration or earlier termination of this Lease, or revocation of Lessee's right to occupy the Premises, shall be deemed abandoned, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the cost of repairs to the Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Premises, as provided herein, and shall remit to Lessor payment for such costs within TEN (10) business days of Lessee's receipt of Lessor's invoice therefor.

17.1.2 Any trade fixtures, equipment or other property affixed to the Premises by Lessee shall, if required by Lessor, be permanently removed from the Premises by Lessee, at Lessee's expense, within Five (5) business days of Lease termination. Should Lessee fail to remove such trade fixtures, equipment or other property within said time, Lessor may remove and dispose of such trade fixtures, equipment or other property at Lessee's expense, and Lessee shall reimburse Lessor for the costs thereof within TEN (10) business days of receipt of Lessor's invoice therefor.

17.2 **Holding Over**. Lessee shall not remain in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Lessor. Should Lessee hold over without the express written consent of Lessor, such tenancy shall be at the sufferance of Lessor and not a renewal of the Term. In such case, the Base Rent and all other charges due pursuant to this Lease shall be payable at ONE HUNDRED FIFTY PERCENT (150%) of the amount payable during the last year of the Term, and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Lessee holds over, Lessee shall be liable for all of Lessor's direct and consequential damages, which shall include, without limitation, costs, fees, expenses, damages and attorneys' fees incurred by Lessor as a result of Lessee's holding over, and damages and expenses incurred by Lessor for its inability to deliver possession of the Premises to a new lessee.

18. INSPECTION BY LESSOR

Lessor may enter upon the Premises at reasonable times during Lessee's normal business hours and upon at least TWO (2) business days' prior written notice to Lessee (except in emergencies, in which event Lessor may enter immediately and shall notify Lessee promptly following such emergency entry) for any reasonable purpose, including, but not limited to, compliance with the terms and conditions of this Lease and the exercise of its governmental functions for such activities as fire protection or security. Lessee may accompany Lessor on any Lessor inspections and entries. Lessor shall take reasonable steps to avoid interrupting or disrupting the conduct of business of Lessee on the Premises.

19. NOTICES

19.1 All notices required or permitted under this Lease shall not be effective unless personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or by reputable commercial

overnight courier service, to the following addresses or at such address as either Party may advise the other from time to time:

TO LESSOR: Phoenix-Mesa Gateway Airport Authority
Attn: Business Development Department
5835 South Sossaman Road
Mesa, Arizona 85212

TO LESSEE: VTWV Gateway Industrial I, LLC
c/o Wetta Ventures, LLC
Attn.: David Wetta
3104 East Camelback Road #957
Phoenix, Arizona 85016

And to: VTWV Gateway Industrial I, LLC
c/o Van Tuyl Companies
Attn.: John Snyder
14747 N. Northsight Blvd., Suite 111-431
Scottsdale, Arizona 85260

19.2 Any notice shall be deemed to have been received Two (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered or if given by reputable commercial overnight courier service.

20. SEVERABILITY

Should a court of competent jurisdiction declare any provision of this Lease invalid, the remaining terms shall remain effective.

21. APPROVALS, CONSENTS AND NOTICES

All approvals, consents and notices called for in this Lease shall be in writing, signed by the appropriate Party, and may not be established solely by oral testimony.

22. LIENS AND MORTGAGES

22.1 **Fee Mortgagees**. Lessor may mortgage its fee interest in the Premises.**Mortgaging of the Leasehold**.

22.2.1 Definitions. "**Leasehold Mortgage**" shall mean any loan financing obtained by Lessee, as evidenced by any mortgage, deed of trust, assignment of leases and rents, financing statement, or other instrument and secured by Lessee's interest in this Lease and the leasehold estate created hereby, including any extensions, modifications, amendments, replacements, supplements, renewals, refinancing, and consolidation thereof. "**Leasehold Mortgagee**" shall mean the holder of a Leasehold Mortgage.

22.2.2 Leasehold Mortgage. Lessee, and any of its permitted successors and assigns, may encumber its interest in this Lease with Lessor's prior written consent, not to be unreasonably withheld, conditioned, or delayed, under any one or more Leasehold Mortgages, provided that all rights acquired under the Leasehold Mortgage(s) shall be subject to the provisions in this Lease and to all rights and interests of the Lessor herein. Lessee shall reimburse Lessor for all legal fees reasonably incurred by Lessor in connection with

legal counsel review and approval of Lessee's Leasehold Mortgage and associated documents. If, from time to time, Lessee or Lessee's permitted successors or assigns encumbers this Lease with a Leasehold Mortgage, and if the Leasehold Mortgagee delivers to Lessor: (a) an executed counterpart of such Leasehold Mortgage; (b) any assignment thereof; (c) written notice of the Leasehold Mortgagee's name and address; and (d) the pertinent recording data for the Leasehold Mortgage, Lessor agrees that from and after the date of receipt by Lessor of such notice and for the duration of such Leasehold Mortgage, the provisions of this SECTION 22 shall apply. There shall be no material modification in the Leasehold Mortgage or related documentation without Lessor's prior written consent.

22.3 **Termination of Lease**. There shall be no cancellation, surrender, or modification of this Lease by Lessor or Lessee without the prior written consent of Leasehold Mortgagee. Notwithstanding the foregoing (but subject to Leasehold Mortgagee's rights set forth in SECTION 22.6 and SECTION 22.7 hereof), nothing herein shall be deemed to prohibit Lessor from terminating this Lease in accordance with its terms.

22.4 **Notices to Leasehold Mortgagees**. If serving Lessee with any notice of default or termination, Lessor shall simultaneously send a copy of such notice to Leasehold Mortgagee. Leasehold Mortgagee may remedy or cause to be remedied Lessee's default under this Lease and Lessor shall accept performances by, or at the instigation of, Leasehold Mortgagee as if it had been done by Lessee. Any notice required to be given to Leasehold Mortgagee shall be given in the same manner as sent to Lessee, addressed to Leasehold Mortgagee at the address and to the attention of the person designated by such Leasehold Mortgagee under SECTION 22.2 hereof.

22.5 **Curative Rights of Leasehold Mortgagees**. Leasehold Mortgagee shall have an additional period of THIRTY (30) calendar days to remedy or cause to be remedied any default of which it receives notice pursuant to SECTION 22.4, provided such Leasehold Mortgagee shall reimburse Lessor, at the time of so remedying the default, for all reasonable costs and expenses of Lessor for maintaining, protecting, insuring, and operating the Premises during the additional THIRTY (30) calendar day period.

22.6 **Limitation Upon Termination Rights of Lessor**. If Lessor elects to terminate this Lease because of an Event of Default, Leasehold Mortgagee may postpone and extend the date of termination for not more than SIX (6) months after the timing specified in SECTION 22.5 hereof if the Leasehold Mortgagee: (a) has cured, or has caused to be cured, any then-existing money or non-monetary Event of Default (with the exception of Lessee's non-monetary defaults of such a nature that they cannot be cured by Leasehold Mortgagee); and (b) pays the Base Rent and other charges due under this Lease. Leasehold Mortgagee shall take steps necessary to acquire Lessee's interest and estate in this Lease by foreclosure of its Leasehold Mortgage, or otherwise, and shall prosecute such action to completion with diligence. If at the end of the period identified in this SECTION 22.6 Leasehold Mortgagee shall be actively engaged in steps to acquire Lessee's interest in the Lease, and all Events of Default have been cured (with the exception of Lessee's non-monetary Events of Default of such a nature that they cannot be cured by Leasehold Mortgagee), the time for Leasehold Mortgagee to comply with the provisions of this SECTION 22.6 shall be extended for such period as shall be reasonably necessary to complete these steps with reasonable diligence and continuity. In no event shall Leasehold Mortgagee have any obligation to cure any default of Lessee under this Lease.

22.7 **Mortgagee Lease**. Lessor agrees that if this Lease is terminated based on any Event of Default, or if Lessee rejects the Lease in a bankruptcy proceeding, subject to the rights herein granted to Leasehold Mortgagee, Lessor will enter into a lease (the "**Mortgagee Lease**") of the Premises with the Leasehold Mortgagee for the remainder of the Term effective as of the date of termination, at the same Base Rent and on the same terms, provisions, covenants, and agreements as contained in this Lease, provided;

22.7.1 Leasehold Mortgagee shall request Lessor execute such a Mortgagee Lease within thirty (30) calendar days after the date of termination and shall, within Sixty (60) calendar days after its receipt from Lessor of a written statement of all amounts then due to Lessor under this Lease, pay to Lessor all such

amounts (with the exception of amounts due by reason of Lessee's indemnification obligations set forth in Section 14);

22.7.2 Leasehold Mortgagee shall pay to Lessor at the time of the execution and delivery of the Mortgagee Lease: (a) any sums due under this Lease but for the termination; and (b) all reasonable attorney's fees and expenses actually incurred by Lessor;

22.7.3 Leasehold Mortgagee shall remedy any matters that Lessee was obligated to perform under the terms of this Lease; and

22.7.4 Leasehold Mortgagee, as replacement Lessee under the Mortgagee Lease, shall have the same right, title, and interest in and to the Premises and the right to use the Improvements thereon as Lessee had under this Lease.

22.8 **Agreement Between Lessor and Leasehold Mortgagee**. Lessor, upon request, shall execute, acknowledge, and deliver to Leasehold Mortgagee an agreement, by and among Lessor, Lessee, and Leasehold Mortgagee (provided the same has been previously executed by Lessee and Leasehold Mortgagee) agreeing to all of the provisions of this SECTION 22, in form and substance reasonably satisfactory to Leasehold Mortgagee and Lessor.

22.9 **Limitation on Liability of Leasehold Mortgagee**. Notwithstanding any other provision of this Lease, Lessor agrees that Leasehold Mortgagee shall in no manner or respect whatsoever be liable or responsible for any of Lessee's obligations or covenants under this Lease (nor shall any rights of such Leasehold Mortgagee be contingent on the satisfaction of such obligations or covenants), unless and until Leasehold Mortgagee becomes the owner of said leasehold estate by foreclosure, sale in lieu of foreclosure, or otherwise, in which event such Leasehold Mortgagee shall remain liable for such obligations and covenants only while it remains the owner of said leasehold estate.

22.10 **No Merger**. So long as any Leasehold Mortgage remains outstanding, the fee title and the leasehold estate created by this Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in either the Lessor or the Lessee or a third party, by purchase or otherwise.

23. GOVERNING LAW; ATTORNEY'S FEES

The laws of the State of Arizona shall govern the matters set forth in this Lease. Venue of any action brought under this Lease shall, at the option of Lessor, lie in Maricopa County, Arizona.

24. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

Lessee shall at all times comply with all Federal, state and local laws, ordinances, rules, and regulations which are applicable to its activities on the Airport, the Premises itself (including but not limited to the *Americans with Disabilities Act*), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Lessee shall at all times comply with the *Airport Minimum Standards* and *Airport Rules and Regulations*, as the same may be amended from time to time. Copies of the current *Airport Minimum Standards* and *Airport Rules and Regulations* are attached hereto as **EXHIBIT D**. Lessee acknowledges and agrees that Lessor may amend the *Airport Minimum Standards* and *Airport Rules and Regulations* at any time in Lessor's sole discretion. Lessee shall be responsible for controlling and preventing disruptive pedestrian and vehicle traffic associated with its activities on the Premises and at the Airport. Lessee also shall display to Lessor any permits, licenses, or other evidence of compliance with laws upon request.

25. CORPORATE AUTHORIZATION

In executing this Lease, Lessee represents and warrants to Lessor that if Lessee is a corporation, Lessee has obtained and been granted the full right, power and authority to enter into this Lease.

26. UTILITY LINES AND SERVICE CHARGES

26.1.1 Connections and Services. Lessee shall, at no cost or expense to Lessor, provide or arrange for any public utility, water and sewage lines, connections and services that are needed in connection with any building(s), structure(s) or other improvement(s) placed on the Premises by Lessee, or required for Lessee's activities thereon, and shall be responsible for the maintenance of such lines and connections from where they enter the Premises. If requested in advance to do so by Lessee, Lessor will grant reasonable rights-of-way on or across the Airport to suppliers of public utility services for the purpose of supplying Lessee with such services, but Lessor reserves the right to designate the lands along which such rights-of-way shall be granted so as to cause the least inconvenience in the operation of the Airport and other Airport tenants.

26.1.2 Payment. Lessee shall pay for all utilities, including trash collection, used in its operations at the Airport and the Premises. The charges and method of payment for each utility or service shall be determined by the appropriate supplier of the utility or service in accordance with applicable laws and regulations, on such basis as the appropriate supplier of the utility or service may establish.

26.1.3 Continued Use and Repair. Notwithstanding the execution of this Lease, Lessor retains the right to the continued use of such utility lines and services as are presently on the Premises and the right to repair the same when necessary in Lessor's sole discretion, including but not limited to, any utility easements on the Premises. Lessor shall conduct such repairs in such a manner and at such times as to not unreasonably interfere with Lessee's activities thereon.

27. RESERVATIONS TO LESSOR

The Premises are accepted "as is, where is" by Lessee, subject to any and all existing easements or other encumbrances. Lessor reserves the right to grant reasonable easements, rights-of-way, and permits, over, on, or across any portions of the Premises for commercially reasonable purposes; provided, that Lessor and the grantee, as applicable, shall not exercise such rights so as to unreasonably interfere with or disrupt Lessee's activities on the Premises, including the development of the Premises, to be determined in the reasonable judgment of Lessor and Lessee, and all such interference shall be minimized. Lessor shall provide Lessee reasonable notice of any plan to undertake the activities contemplated under this SECTION and shall coordinate with Lessee regarding the execution of such plans to minimize any interference with Lessee's or any subtenant's activities on the Premises. All work shall be in compliance with all applicable laws, including Environmental Laws, and the surface of the Premises shall be restored to its original condition, including any necessary remediation in accordance with Environmental Laws of any contamination associated with any Hazardous Material disturbed during any construction, at no cost to Lessee, upon the completion of any construction. Lessor agrees that any rights granted to any parties by reason of this clause shall contain provisions obligating such parties to, at a minimum, the same conditions applicable to Lessor under this SECTION 27, including but not limited to that the surface of the Premises and any Improvements shall be promptly restored to their original condition, at no cost to Lessee, promptly upon the completion of any construction.

28. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

28.1 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR

Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

28.2 Lessee agrees that: (I) NO PERSON SHALL BE EXCLUDED FROM PARTICIPATION IN, DENIED THE BENEFITS OF, OR BE OTHERWISE SUBJECTED TO DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, CREED, DISABILITY, AGE, SEX OR NATIONAL ORIGIN IN THE USE OF THE PREMISES; (II) THAT IN THE CONSTRUCTION OF ANY IMPROVEMENTS ON, OVER, OR UNDER THE PREMISES AND THE FURNISHING OF SERVICES THEREON, NO PERSON SHALL BE EXCLUDED FROM PARTICIPATION IN, DENIED THE BENEFITS OF, OR OTHERWISE BE SUBJECTED TO DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, OR NATIONAL ORIGIN; AND (III) THAT LESSEE SHALL USE THE PREMISES IN COMPLIANCE WITH ALL OTHER REQUIREMENTS IMPOSED BY OR PURSUANT TO 49 CFR PART 21, AS IT MAY BE AMENDED.

28.3 Lessee assures Lessor that it will comply with pertinent statutes, Executive Orders, and rules promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, age or handicap, be excluded from participating in any activity.

28.4 Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance therefrom.

28.5 Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Lessor and Lessee agree that Lessee has no responsibility whatsoever with respect to maintenance and repair of the landing area of the Airport, or any publicly owned facilities of the Airport.

28.6 This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States relative to the development, operation or maintenance of the Airport.

28.7 There is reserved unto Lessor, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, which shall include the right to cause in the airspace any noise inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in or through the airspace, and for the use of such airspace for landing on, taking off from, or operation on the Airport.

28.8 Lessee agrees to comply with the notification and review requirements covered in 14 CFR Part 77 in the event future construction of a building is planned for the Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

28.9 Lessee shall not erect or permit the erection of any structure or building, nor permit the growth of any tree on the Premises, or any other obstruction that exceeds height requirements contained in 14 CFR Part 77 or amendments thereto, or interferes with the runway and/or taxiway "line of sight" of the control tower. In the event these covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object at the expense of Lessee.

28.10 Lessee shall not make use of the Premises in any manner that might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

28.11 Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning 49 U.S.C. §40103(e) and 47107 (a)(4).

28.12 This Lease and all of the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

28.13 To the extent that Lessee conducts or engages in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users and charge reasonable and not unjustly discriminatory prices for each unit or service; except, however, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

28.14 Lessee shall conform to Lessor and FAA safety and security rules and regulations regarding use of the Airport air operations area including runways, taxiways, taxilanes and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; complete and pass an airfield safe driving instruction program when offered or required by Lessor; and be subject to penalties as prescribed by Lessor for violations of Airport safety and security requirements.

29. TITLE VI

29.1 Lessee agrees to comply with pertinent statues, Executive Orders and such rules as are promulgated or identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. Lessee understands and acknowledges that the FAA requires inclusion of and adherence to the terms and conditions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) ("**Title VI**") in all airport/aviation lease agreements where Lessor receives federal funding, including the Lease in this instance.

29.2 During the Term, Lessee, for itself, its assignees, and successors in interest agrees as follows:

29.2.1 Compliance with Regulations. Lessee will comply with the Title VI List of Pertinent Non-Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

29.2.2 Non-discrimination. Lessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

29.2.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding, or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Lessee of Lessee's obligations under this Lease and the Non-discrimination Acts And Authorities on the grounds of race, color, or national origin.

29.2.4 Information and Reports. Lessee will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to Lessor or the Federal Aviation Administration as appropriate, and will set forth what efforts it has made to obtain the information.

29.2.5 Sanctions for Noncompliance. In the event of Lessee's noncompliance with the Nondiscrimination provisions of this Lease, Lessor will impose such default remedies as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Lessee under the Lease until Lessee complies; and/or

(b) cancelling, terminating, or suspending the Lease, in whole or in part.

29.2.6 Incorporation of Provisions. Lessee will include the provisions subsections 29.2.1 through 29.2.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

29.3 The Lessee for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (a) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (b) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (c) that Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Non-Discrimination Acts and Authorities.

29.4 During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following (which Lessor is required to disclose and include in such Lease and other agreements, pursuant to FAA regulation):

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 Stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended

(prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq), (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 (2005));

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et *seq.*).

29.5 Lessee agrees that in the event improvements are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Department of Transportation (DOT) program or activity is intended, or for another purpose involving the providing of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended.

30. FEDERAL FAIR LABOR STANDARDS ACT

This Lease incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. Lessee has full responsibility to monitor compliance to the referenced statue or regulation. Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

31. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This Lease incorporates by reference the provisions of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Lessee retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

32. INCORPORATION OF QUITCLAIM DEED

Lessor owns the Airport pursuant to a Quitclaim Deed from the United States Government (the "**Deed**"), a copy of which is available to Lessee upon request and is hereby incorporated in its entirety. To the extent the Deed has terms, conditions, obligations, requirements or restrictions that apply to this Lease, Lessor, Lessee or any matter in connection herewith, Lessee agrees to be bound by all the terms, covenants and conditions of the Deed, including the following:

32.1 That this Lease is subject to all terms and conditions of the Deed; and

32.2 That in case of any conflict between the Deed and this Lease, the Deed shall control.

33. REQUIRED PROVISIONS OF QUITCLAIM DEED

33.1 Section VI (A)(5)(c) of the Deed requires that the following provisions be included in this Lease:

33.1.1 In furnishing services to the public, Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, or national origin, and Lessee shall otherwise provide such services on a fair, equal, and not unjustly discriminatory basis to all users thereof.

33.1.2 Lessee shall charge fair, reasonable, and not unjustly discriminatory prices for each unit for service; except, however, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

33.2 If the Premises are within any of the archaeological sites identified in Section VIII.A of the Deed, then, the provisions of Section VIII of the Deed shall be deemed incorporated in this Lease by this express reference to Section VIII of the Deed.

33.3 To the extent the Deed requires that other specific provisions thereof be inserted in this Lease by express reference to the Deed, this sentence shall constitute an express reference to all such applicable provisions of the Deed.

34. INTENTIONALLY OMITTED

35. DEFAULT BY LESSOR

In the event of any alleged breach by Lessor of its covenants contained in this Lease, Lessee shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Lease; provided, however, Lessee may not exercise any such right or remedy unless Lessee has notified Lessor by written notice of such alleged default, and Lessor has not cured such default within the THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot reasonably be cured within such THIRTY (30) calendar day period, Lessor has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary contained in this Lease, in no event shall Lessee be entitled to terminate this Lease or abate or offset any installment of Base Rent, or any other payments to be made by Lessee hereunder.

36. BROKERS

Lessor and Lessee each represents and warrants to the other Party that it has not had any dealings with any real estate brokers, finders or agents in connection with this Lease. Lessor and Lessee each agrees to indemnify, defend (with counsel selected by the other) and hold the other Party and other Party's nominees, successors and assigns harmless from any and all claims, costs, commissions, fees or damages arising from a breach of such Party's representation and warranty in this SECTION.

37. SALE BY LESSOR

Lessee agrees to look solely to Lessor's interest in the Premises for the recovery of any judgment from Lessor, it being agreed that neither Lessor nor the holders of the equity interests of Lessor, nor the members, partners, officers, directors or shareholders of Lessor shall be personally liable for any such judgment. In the event of any sale or other conveyance by Lessor of its interest in the Premises, Lessor shall be automatically freed and released from all personal liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Lessor shall be binding on the Lessor and its successors and assigns only during and in respect to the respective successive periods of ownership of the Premises.

38. ESTOPPEL CERTIFICATE

Lessee shall, without charge, at any time and from time to time hereafter, within TEN (10) business days after written request of Lessor to do so, certify, by written instrument duly executed and acknowledged by Lessee and certified to Lessor and to any prospective lender or purchaser: (a) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (b) as to the existence of any default hereunder to the best of Lessee's knowledge; (c) as to the date on which Lessee was obligated to commence paying Base Rent and all other charges hereunder and the expiration date of the Term; (d) as to whether the Lessee has assigned or transferred its interests or any portion thereof in this Lease; and (e) as to any other matters as may be reasonably requested. Lessor and any prospective purchaser or lender to whom the same was certified may rely upon any such certificate.

39. UNAVOIDABLE DELAY

In the event either Party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Lease to be performed by such Party ("**Required Act**"), and such delay or hindrance is due to Unavoidable Delay (as defined below), then the performance of such Required Act shall be excused for the period of delay and the time period for performance

of the Required Act shall be extended by the same number of days in the period of Unavoidable Delay. For purposes of this Lease, "**Unavoidable Delay**" shall mean, with respect to either Party, an unavoidable delay in the performance by such Party of any non-monetary conditions or obligations under this Lease due including but not limited to: (a) construction delay to the extent caused by the other Party, (b) legal proceeding brought by a non-Party with respect to the Improvements or any provision or requirement of this Lease which by its nature prohibits the Improvements from being commenced, continued and/or completed, (c) a Party not receiving a governmental permit, license, approval or inspection in time to meet a contractual time period imposed hereunder provided that Party, in good faith, was diligent in the application or request for and prosecution of the process to obtain that permit, license, approval or inspection, (d) flood, (e) epidemic, (f) quarantine restriction, (g) unusually severe weather not reasonably anticipated, (h) strike, (i) walkout, (j) lock-out, (k) war, (l) national emergency, (m) fire, (n) act of God, (o) act of terrorism, (p) natural disaster, (q) explosion, (r) default by the other Party hereunder in the performance of its obligations hereunder, (s) delay caused by the discovery, presences or actions necessary to investigate or remediate Hazardous Material under SECTION 14 (but excluding Hazardous Material attributable to the Party claiming Unavoidable Delay), or (t) other causes beyond such Party's control; provided that no Unavoidable Delay shall exist unless the Party claiming such Unavoidable Delay shall give written notice to the other Party of the occurrence of the Unavoidable Delay not later than FORTY-FIVE (45) days after the commencement of such Unavoidable Delay.

40. MISCELLANEOUS

40.1 **Personal Liability**. No member of or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease because of any breach thereof, or because of its execution or attempted execution.

40.2 **No Waiver**. No provision of this Lease may be waived or modified except by a writing signed by the Party against whom such waiver or modification is sought.

40.3 **Non-Waiver of Rights**. No waiver or default by Lessor of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Lessee, and Lessor shall not be restricted from later enforcing any of the terms and conditions of this Lease.

40.4 **Amendment**. This Lease contains all agreements of the Parties as of the date hereof with respect to any matter mentioned herein. No prior agreement, correspondence, or understanding pertaining to any such matter shall be effective to interpret or modify the terms hereof. Oral commitments or promises are not enforceable and shall not be binding or made part of this Lease. Any revisions or modifications to this Lease must be in writing and mutually accepted by persons with full and complete authority to bind the Party.

40.5 **Litigation Expenses**. In the event of litigation between Lessor and Lessee in connection with this Lease, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

40.6 **Headings**. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Lease or any term thereof.

40.7 **Entire Agreement**. This Lease, including exhibits attached hereto at the time of its execution, constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, understandings and agreements between the Parties concerning such matters.

40.8 **Memorandum of Lease**. Lessor or Lessee may record a short form or memorandum of lease ("**Memorandum of Lease**") at the requesting Party's expense, substantially in the form attached to this Lease as **Exhibit G**. At Lessor's or Lessee's request, the Parties shall execute a memorandum of lease in recordable form giving notice of such non-monetary terms as Lessee may reasonably request. If Lessee elects to record a Memorandum of Lease and Lessor requests in writing the removal of same upon the expiration or earlier termination of this Lease, Lessee shall (at Lessee's expense) remove the recorded Memorandum of Lease from the title records.

41. INCORPORATION OF RECITALS

The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

42. RECIPROCAL CROSS ACCESS EASEMENT AND UTILITY AGREEMENTS

42.1 The Premises is encumbered by a Declaration of Reciprocal Access Easement recorded on March 16, 2023, Recording No. 20230132401, Official Records of Maricopa County ("REA No. 1"), which REA No. 1 provides for cross access by and between the Premises and adjacent lots 104 and 105. Lessee acknowledges receipt of the REA No. 1 and understands, agrees and acknowledges that, notwithstanding anything herein to the contrary, Lessor's leasing of the Premises to Lessee is subject to the provisions of the REA No. 1; access, ingress and egress to and from the Premises or portions thereof are subject to the REA No. 1; this Lease is deemed a "101-103 Lease" and the "Initial 101-103 Lease" for the "101-103 Parcel;" and Lessee is deemed the "101-103 Lessee" and Lessee, as the "101-103 Lessee," is subject to and responsible to perform, as applicable, all covenants, restrictions, obligations and benefits of the "101-103 Lessee" including, without limitation, responsibility for "Easement Maintenance Expenses" as set forth in Section 2(b) of the REA No. 1 and responsibility for maintenance, repair and restoration of the Wall as set forth in Section 3 of the REA No. 1. This SECTION 42.1 does not limit, alter or amend the REA No. 1 in any respect.

42.2 The Premises will be encumbered by a Declaration of Reciprocal Access Easement in a form approved by the parties prior to the date hereof and which is intended to be executed and recorded in the Official Records of Maricopa County on or around the Effective Date ("REA No. 2"), which REA No. 2 provides for cross access by and between the Premises and adjacent lot 116-B. Lessee acknowledges receipt of the REA No. 2 and understands, agrees and acknowledges that, notwithstanding anything herein to the contrary, Lessor's leasing of the Premises to Lessee is subject to the provisions of the REA No. 2; access, ingress and egress to and from the Premises or portions thereof are subject to the REA No. 2; this Lease is deemed a "101-103 Lease" and the "Initial 101-103 Lease" for the "101-103 Parcel;" and Lessee is deemed the "101-103 Lessee" and Lessee, as the "101-103 Lessee," is subject to and responsible to perform, as applicable, all covenants, restrictions, obligations and benefits of the "101-103 Lessee" including, without limitation, responsibility for the "Construction Reimbursement" as set forth in Section 2(b) of the REA No. 2 and the "Easement Maintenance Expenses" as set forth in Section 3(b) of the REA No. 2. This SECTION 42.2 does not limit, alter or amend the REA No. 2 in any respect.

42.3 The Premises will be encumbered by a Declaration of Utility Easement in a form approved by the parties prior to the date hereof and which is intended to be executed and recorded in the Official Records of Maricopa County on or around the Effective Date ("Utility Easement"), which Utility Easement provides for a perpetual easement under the adjacent lot 116-B for the benefit of the Premises. Lessee acknowledges receipt of the Utility Easement and understands, agrees and acknowledges that, notwithstanding anything herein to the contrary, Lessor's leasing of the Premises to Lessee is subject to the provisions of the Utility Easement; this Lease is deemed a "101-103 Lease" for the "101-103 Parcel;" and Lessee is deemed the "101-103 Lessee" and Lessee, as the "101-103 Lessee," is subject to and responsible to perform, as applicable, all covenants, restrictions, obligations and benefits of the "101-103 Lessee" including, without limitation, the responsibility for the "Shared Connection Maintenance Expenses" as set forth in Section 3(a) of the Utility Easement. This

Section 42.3 does not limit, alter or amend the Utility Easement in any respect.

42.4 Nothing herein shall be interpreted as Lessor requiring Lessee (i) to exercise any rights of self-help under the REA No. 1, REA No. 2, or Utility Easement, respectively, whether such self-help rights relate to construction or maintenance, or (ii) to cure any breach by any other Parcel Tenant under the REA No. 1, REA No. 2, or Utility Easement.

43. EXISTING STORM DRAIN INFRASTRUCTURE

Lessee acknowledges that, among other matters of record, the Premises are subject to existing agreement(s) and easement(s) relating to storm drainage. Lessee acknowledges that it is required to conduct all necessary due diligence and investigations relating to such matters to determine feasibility of the Improvements and any conditions or adjustments necessary to Lessee's proposed and planned Improvements as a result of such matters, and submit all such findings, reports and information to Lessor and the City in its submittals required under SECTION 7.

EXECUTED to be effective on the date specified above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
a joint powers airport authority authorized by the State of Arizona

By: _____
Name: J. Brian O'Neill, A.A.E.
Title: Executive Director/CEO
Date: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____ by J. Brian O'Neill, A.A.E, as Executive Director/CEO of Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona, on behalf of the company.

_____
NOTARY PUBLIC

My Commission Expires:

LESSEE:

VTWV Gateway Industrial I, LLC, an Arizona limited liability company

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____)
) ss.
County of _____)

ACKNOWLEDGED before me this ___ day of _____, 2023, by _____, in [his/her/their] capacity as _____, of VTWV Gateway Industrial I, LLC, an Arizona limited liability company, for and on behalf of said company.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PREMISES

LOT 101:

BEING A PORTION OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,369.41 FEET;

THENCE NORTH 89 DEGREES 00 MINUTES 10 SECONDS EAST, 59.68 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, SAID POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 77 DEGREES 23 MINUTES 02 SECONDS WEST, 1,811.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07 DEGREES 10 MINUTES 54 SECONDS, HAVING A RADIUS OF 1811.00 FEET, 227.00 FEET;

THENCE NORTH 70 DEGREES 13 MINUTES 22 SECONDS EAST, 339.03 FEET TO A POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 69 DEGREES 14 MINUTES 19 SECONDS WEST, 1,915.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH AN CENTRAL ANGLE OF 08 DEGREES 59 MINUTES 01 SECOND, HAVING A RADIUS OF 1915.00 FEET, 300.26 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE;

THENCE SOUTH 79 DEGREES 16 MINUTES 57 SECONDS WEST, 322.22 FEET TO THE BEGINNING OF A TANGENT CURVE;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH AN CENTRAL ANGLE OF 88 DEGREES 07 MINUTES 20 SECONDS, HAVING A RADIUS OF 20.00 FEET, 30.76 FEET TO THE POINT OF BEGINNING.

LOT 102:

BEING A PORTION OF SECTION 31 AND 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,784.65 FEET;

THENCE SOUTH 89 DEGREES 00 MINUTES 10 SECONDS WEST, 79.79 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE, NORTH 49 DEGREES 40 MINUTES 42 SECONDS EAST, 338.42 FEET TO A NON-TANGENTIAL CURVE WHOSE CENTER BEARS SOUTH 59 DEGREES 16 MINUTES 03 SECONDS WEST, 1,915.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 09 DEGREES 58 MINUTES 16 SECONDS, HAVING A RADIUS OF 1915.00 FEET, 333.27 FEET;

LOT 103:

BEING A PORTION OF SECTION 31 AND 32, TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32:

THENCE NORTH 00 DEGREES 59 MINUTES 50 SECONDS WEST, ALONG AND WITH THE WEST LINE OF SAID SECTION 32, 1,784.65 FEET;

THENCE SOUTH 89 DEGREES 00 MINUTES 10 SECONDS WEST, 79.79 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, SAID POINT LYING IN A CURVE WHOSE CENTER BEARS SOUTH 63 DEGREES 29 MINUTES 29 SECONDS WEST, 1,811.00 FEET;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 11 DEGREES 37 MINUTES 32 SECONDS, HAVING A RADIUS OF 1811.00 FEET, 367.46 FEET TO THE POINT OF REVERSE CURVE;

THENCE ALONG AND WITH THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87 DEGREES 27 MINUTES 52 SECONDS, HAVING A RADIUS OF 20.00 FEET, 30.53 FEET TO A POINT OF TANGENCY, SAID POINT LYING ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF VELOCITY WAY PER MAP OF DEDICATION RECORDED IN BOOK 733 OF MAPS ON PAGE 39, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE, NORTH 49 DEGREES 19 MINUTES 50 SECONDS EAST, 333.21 FEET;

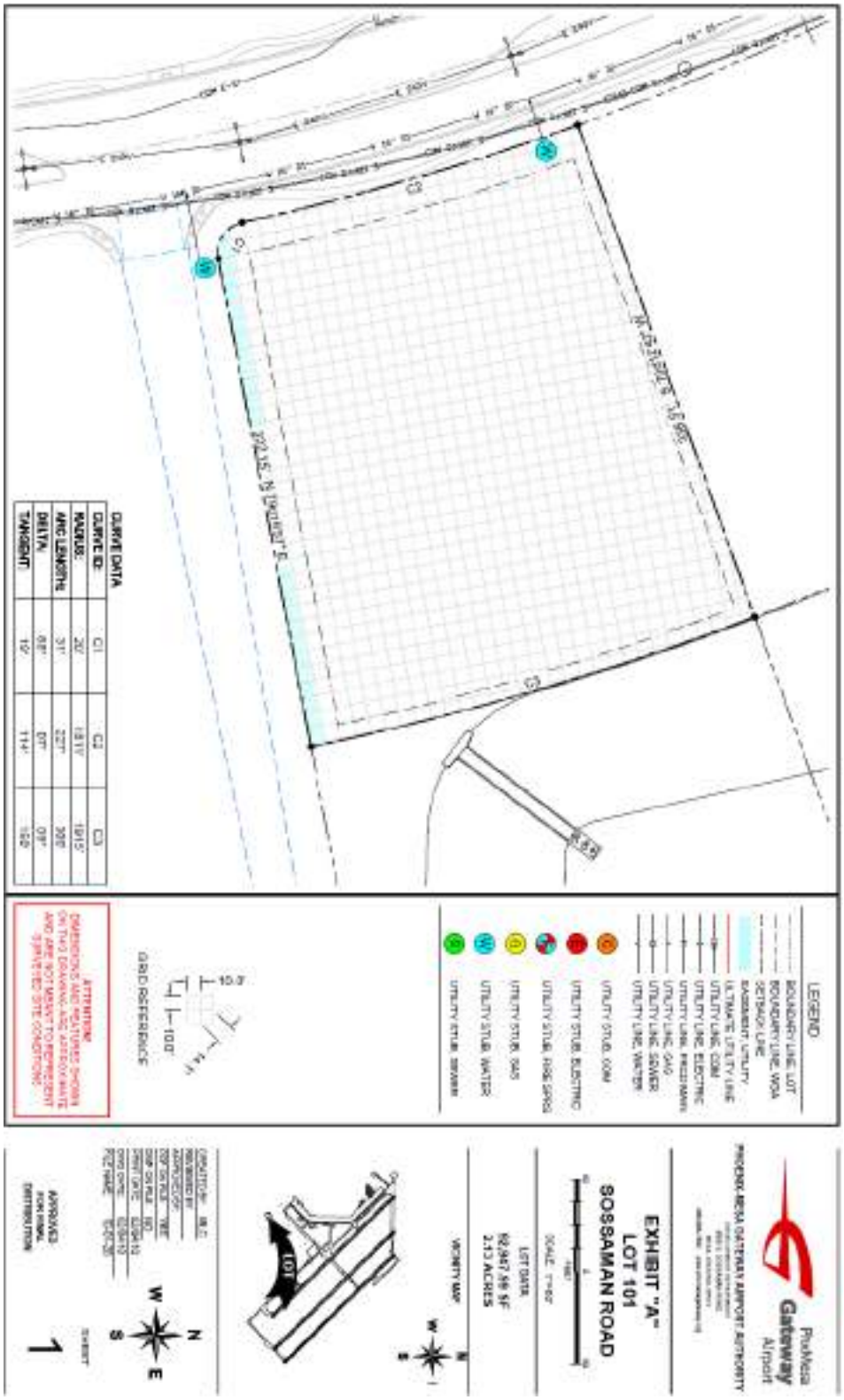
THENCE, SOUTH 44 DEGREES 22 MINUTES 51 SECONDS EAST, 300.63 FEET;

THENCE, SOUTH 05 DEGREES 27 MINUTES 40 SECONDS WEST, 121.36 FEET;

THENCE, SOUTH 49 DEGREES 40 MINUTES 42 SECONDS WEST, 338.42 FEET TO THE POINT OF BEGINNING.

EXHIBIT A-2

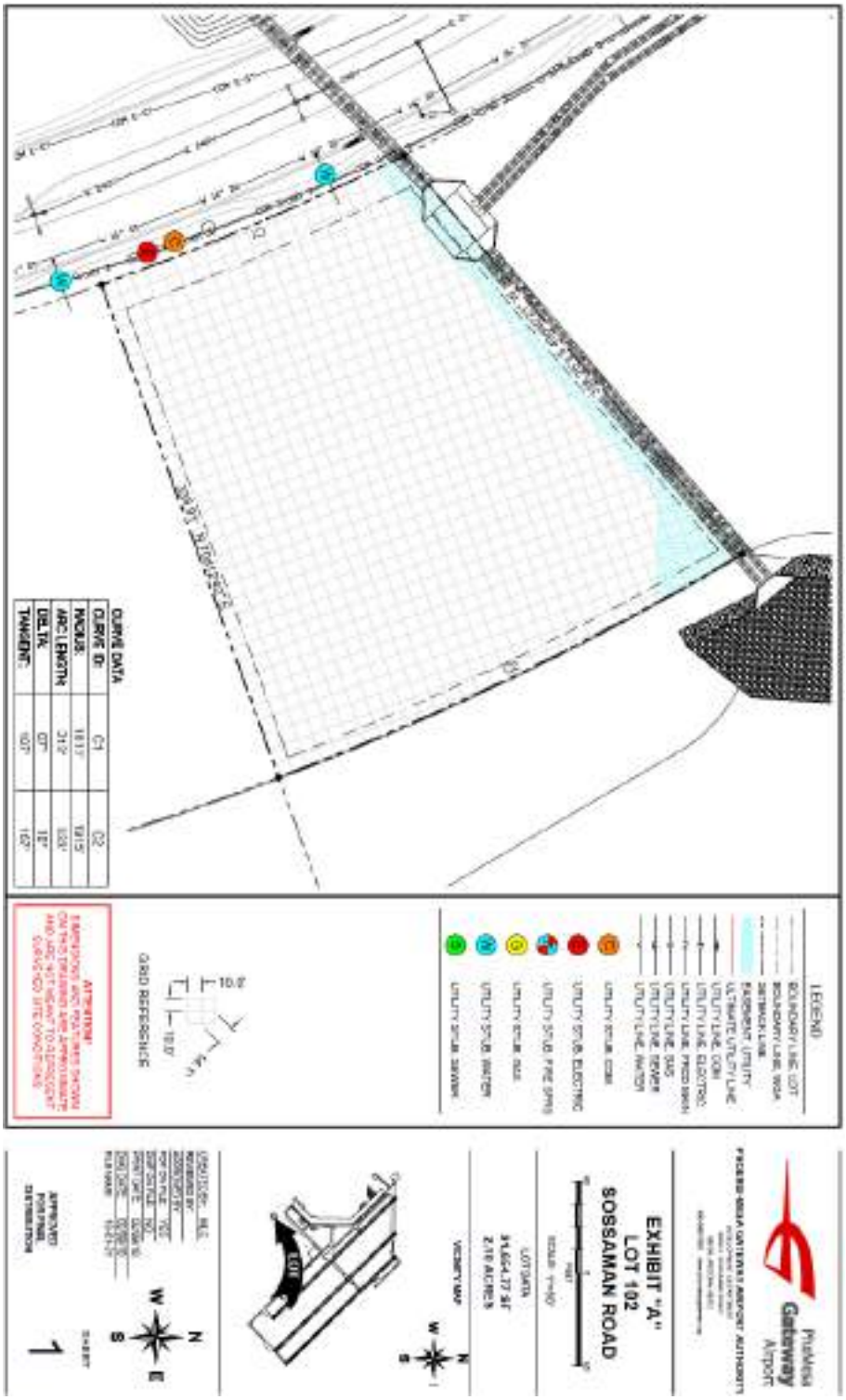
DEPICTION OF THE PREMISES



4885-5344-2963.4

EXHIBIT A-2

DEPICTION OF THE PREMISES (CONTINUED)



4885-5344-2963.4

EXHIBIT A-2

DEPICTION OF THE PREMISES (CONTINUED)

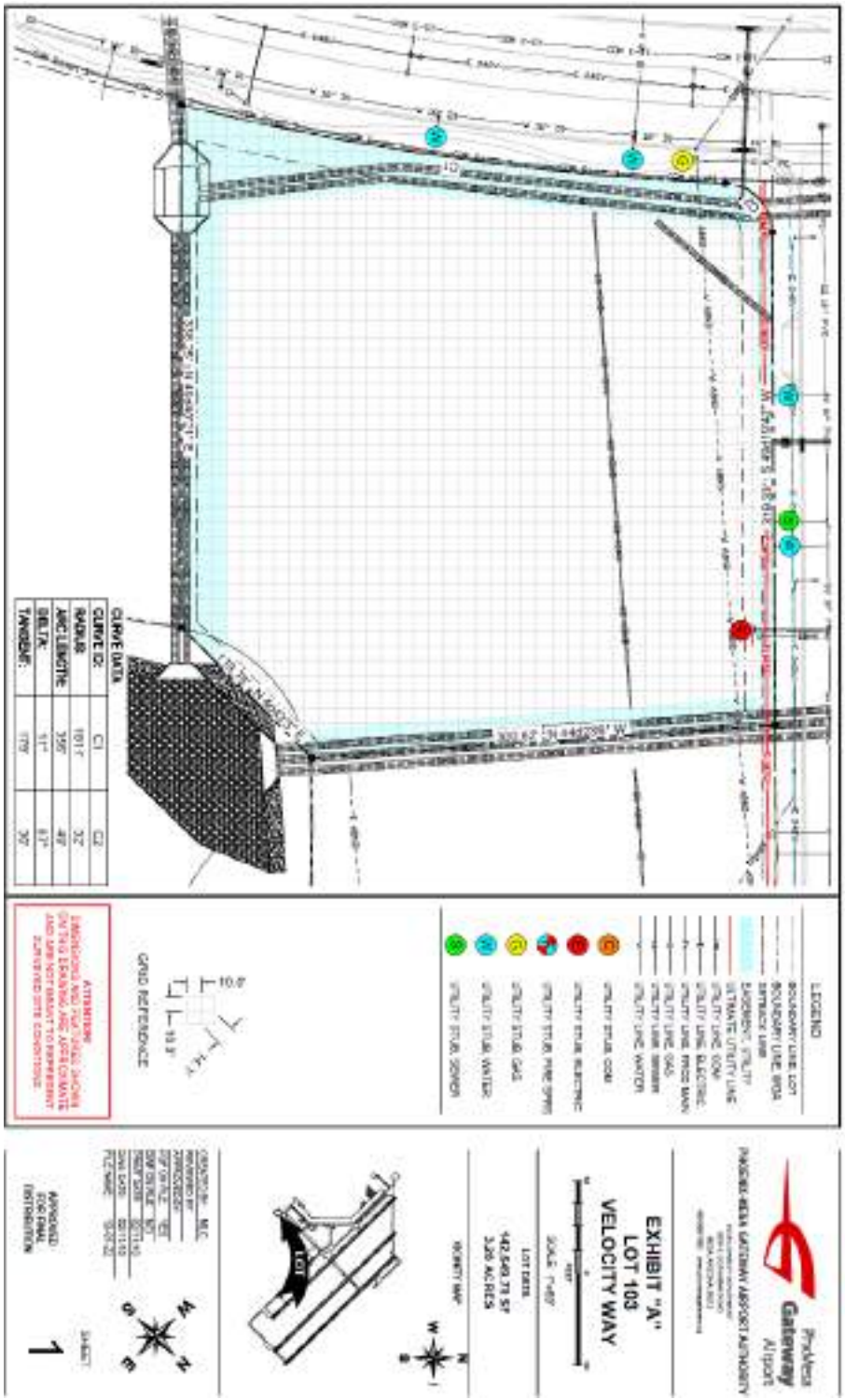


EXHIBIT B

AIRPORT RATES & CHARGES SCHEDULE

https://www.gatewayairport.com/policiesdocumentsandforms
Go to "Airport Rates and Charges"

AIRPORT FEES, SERVICES AND RENTAL RATES SCHEDULE

https://www.gatewayairport.com/policiesdocumentsandforms

Go to "Executive Director Section", "Airport Fees, Services and Rental Rates"

EXHIBIT C

AIRPORT OPERATING AGREEMENT

(Attached)

EXHIBIT D

AIRPORT MINIMUM STANDARDS

https://www.gatewayairport.com/policiesdocumentsandforms
GO TO "BOARD POLICIES" "AIRPORT MININUM STANDARDS"

AIRPORT RULES AND REGULATIONS

https://www.gatewayairport.com/policiesdocumentsandforms
GO TO "BOARD POLICIES" "AIRPORT RULES AND REGULATIONS"

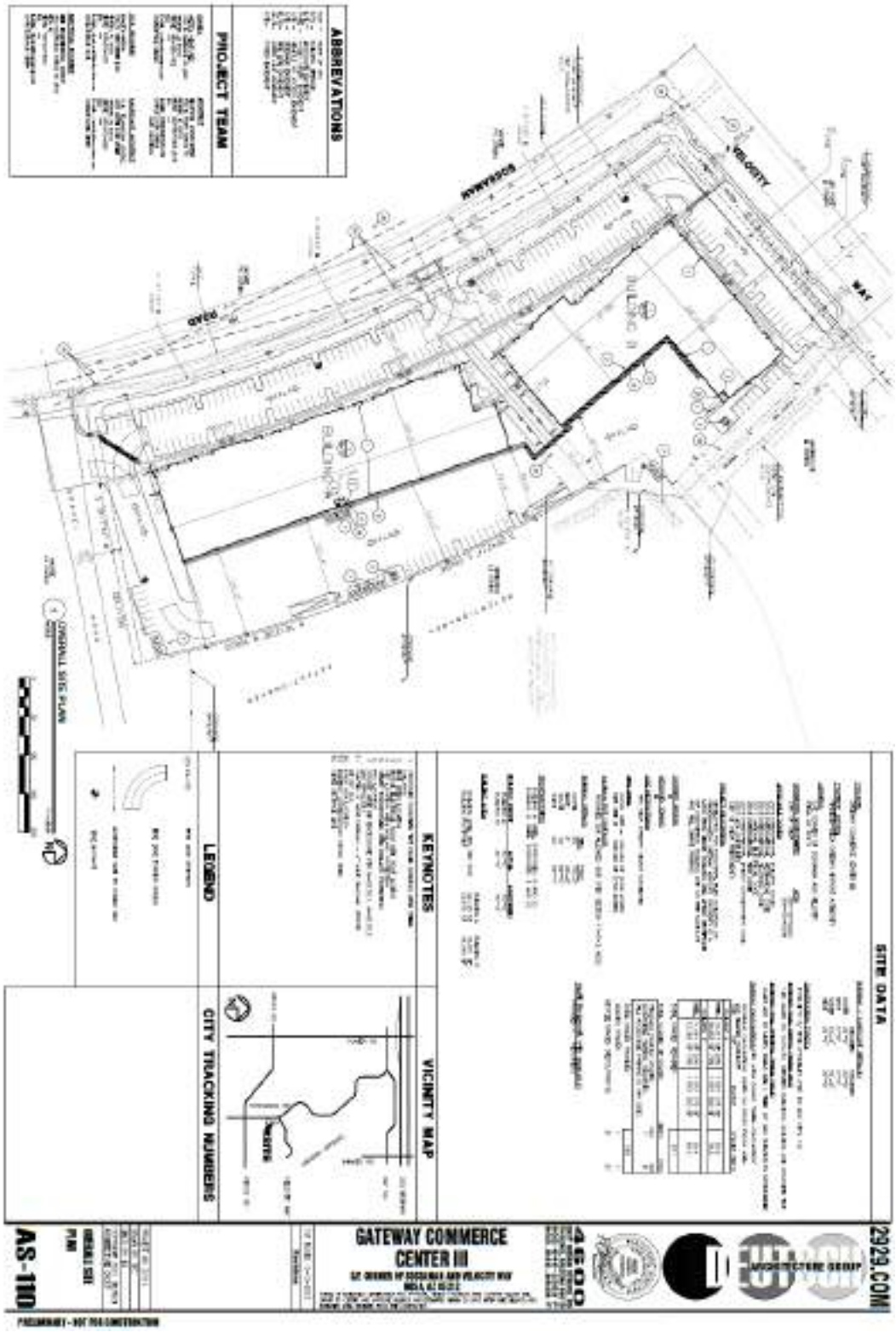
EXHIBIT E

APPROVED SUBLEASE TEMPLATE

(Attached)

EXHIBIT F

DEPICTION OF PROPOSED IMPROVEMENTS



4885-5344-2963.4

EXHIBIT G

MEMORANDUM OF LEASE

WHEN RECORDED,
RETURN TO:
<Name>
<Company>
<Address>
<City>, <State> <Zip>

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE ("**Memorandum**"), is made and executed as of the ____ day of _____, 20_____ ("**Effective Date**"), by and between **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers airport authority authorized and existing under the laws of the State of Arizona ("**Lessor**"), whose mailing address is Phoenix-Mesa Gateway Airport Authority, Attn: Business Development Department, 5835 South Sossaman Road, Mesa, Arizona 85212, and _____ ("**Lessee**"), whose mailing address is _____.

1. **LEASE AND PREMISES**. Lessor and Lessee entered into that certain Land Lease dated _____, 20_____ ("**Lease**"), covering that certain real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "**Premises**"). Subject to the covenants and conditions contained in the Lease, Lessor has leased to Lessee, and Lessee has leased from Lessor, the Premises.

2. **TERM**. The term of the Lease commenced on _____, 20__, and expires on _____, unless earlier terminated pursuant to the terms of the Lease.

3. **USE**. Lessee may use and occupy the Premises for development, construction and use of one (1) or two (2) multi-tenant industrial buildings totaling an aggregate of approximately 96,060 square feet and to lease such building or buildings in accordance with the Lease and for no other use.

4. **NO MODIFICATION**. This Memorandum shall not, under any circumstances, be deemed to modify or change any provisions of the Lease, the provisions of which shall in all instances prevail.

5. **COUNTERPARTS**. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document, provided that all parties are furnished a copy thereof reflecting the signature of all parties.

(*Signatures appear on the following page.*)

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum as of the Effective Date set forth above.

LESSOR:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, an Arizona joint powers airport authority

By:_____
J. Brian O'Neill, A.A.E.
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

ACKNOWLEDGED before me this ___ day of _____, 20__, by J. Brian O'Neill, in his capacity as the Executive Director/CEO of the Phoenix-Mesa Gateway Airport Authority.

_____
NOTARY PUBLIC

My Commission Expires:

_____

LESSEE:

_____

By:_____
<Signatory Name>, <Title>

STATE OF _____)
) ss.
County of _____)

ACKNOWLEDGED before me this ___ day of _____, 20__, by <Signatory Name>, in <his/her> capacity as <Title>, <Company Name>, a/an <State> <type of company>, for and on behalf of said <type of company>.

_____
NOTARY PUBLIC

My Commission Expires:

_____

EXHIBIT A TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION

[TO BE INSERTED]

Sublease Agreement

VTWV GATEWAY INDUSTRIAL I, LLC, an Arizona limited liability company -- Sublessor

and

_____, a_____ -- Sublessee

_____, Mesa, Arizona

Dated as of _____ ____, 202__

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Sublease Agreement

This Sublease Agreement is made and entered into as of the Effective Date by and between _____, LLC, a(n) _____ limited liability company, as Sublessor, and _____, a _____, as Sublessee.

Definitions

Capitalized terms used in this Sublease and not defined elsewhere have the meanings given them on the attached Exhibit A.

Basic Terms

The following Basic Terms are applied under and governed by the particular section(s) in this Sublease pertaining to the following information:

1.	**Primary Lease:**	Land Lease dated effective as of _____, 2023 between Prime Lessor, as lessor, and Sublessor, as lessee	
2.	**Prime Lessor**:	Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized and existing under the laws of the State of Arizona	
3.	**Subleased Premises:**	The Subleased Premises consist of approximately _____ rentable square feet located within the Building as depicted on the Site Plan. The common address of the Subleased Premises will be _____, Mesa, Arizona. (See Section 1.1)	
4.	**Building:**	An industrial building commonly known as _____, Mesa, Arizona, consisting of approximately _____rentable square feet.	
5.	**Sublease Term:**	___ months (See Section 1.3)	
6.	**Target Commencement Date:**	_____, 202__	
7.	**Basic Rent:**		
	Months	Annual Basic Rent/Annual Basic Rent per rentable square foot of the Subleased Premises (See Section 2.1)	Monthly Installments of Basic Rent
	Months 1 through 6 (See Section 2.1)	$_____/$_____	$0
	Months 7 through 12	$_____/$_____	$_____
	Month 13 through 24	$_____/$_____	$_____
	Months 25 through 36	$_____/$_____	$_____
	Months 37 through 48	$_____/$_____	$_____
	Months 49 through 60	$_____/$_____	$_____
8.	**Initial Sublessee's Share of Property Expenses Percentage:**	_____%	

9.	**Permitted Use:**	_____, in all cases subject to the Primary Lease all Laws
10.	**Security Deposit:**	$_____
11.	**Improvement Allowance:**	$_____ for Sublessee's Improvements (See Section 17.2)
12.	**Current Property Manager/Rent Payment Address:**	_____ _____ _____ Attn: _____ Telephone: _____ Email: _____
13.	**Address of Sublessor for Notices:**	_____ _____ _____ Attn: _____ Telephone: _____ Email: _____
	With a copy to:	_____ _____ _____ Attn: _____ Telephone: _____ Email: _____
	With a copy to:	_____ _____ _____ Attn: _____ Telephone: _____ Email: _____
	With a copy to:	Property Manager at the address described above in the Basic Terms.
14.	**Address of Sublessee for Notices:**	_____ _____ _____ _____ Attn: _____ Telephone: _____ E-Mail: _____

	With a copy to:	_____ _____ _____ _____ Attn: _____ Telephone: _____ E-Mail: _____
15.	**Broker(s):**	_____ (See Section 19.11)
16.	**Guarantor(s):**	_____ (if applicable) (See separate Guaranty of any Guarantor)

Article 1 -- Lease of Subleased Premises; Incorporation of Primary Lease and Sublease Term

1.1 Subleased Premises; Primary Lease. In consideration of the covenants and agreements set forth in this Sublease and other good and valuable consideration, Sublessor subleases the Subleased Premises to Sublessee and Sublessee subleases the Subleased Premises from Sublessor, upon and subject to the terms and conditions set forth in this Sublease and the applicable provisions of the Primary Lease. The approximate sizes of the Subleased Premises and Building are set forth in the Basic Terms. Pending determination as provided below, such figures will be used for determining Basic Rent and Sublessee's Share of Property Expenses Percentage. Prior to or upon Substantial Completion, Sublessor will deliver a certification to Sublessee of the respective rentable square footages of the Subleased Premises (based on the Issued for Construction Plans) and the Building. The size of the Subleased Premises will be determined from the exterior surface of exterior walls to the centerline of all walls common to the Subleased Premises of other sublessees in the Building. The size of the Building will be determined from the exterior surface of all exterior walls of the Building. The square footages so determined, together with the Basic Rent and Sublessee's Share of Property Expenses Percentage, will be specified in the Commencement Date Memorandum executed as provided in Section 1.2. Sublessor and Sublessee agree that the foregoing determinations will conclusively establish the size of the Subleased Premises and the Building for determining Rent and for all other purposes under this Sublease.

1.1.1 Incorporation of Primary Lease. The terms, covenants and conditions of the Primary Lease are incorporated herein by reference, except to the extent they are in conflict with or are deleted or modified by the provisions of this Sublease. Every term, covenant and condition of the Primary Lease binding upon or inuring to the benefit of Lessor shall, in respect of this Sublease, be binding upon or inure to the benefit of Sublessor and every term, covenant and condition of the Primary Lease binding upon or inuring to the benefit of Sublessor shall, in respect of this Sublease, be binding upon and inure to the benefit of Sublessee. Whenever the term "**Lessor**" appears in the Primary Lease, the word "**Sublessor**" shall be substituted therefor (to the extent such substitution is not in conflict with any of the terms, covenants or conditions of this Sublease); whenever the term "**Lessee**" appears in the Primary Lease, the word "**Sublessee**" shall be substituted therefor; and whenever the word "**Premises**" appears in the Primary Lease, the word "**Subleased Premises**" shall be substituted therefor. Notwithstanding the foregoing, the following numbered paragraphs of the Primary Lease shall not apply to this Sublease: §2 (Term), §4 (Rent), §5 (Performance Guaranty), §7.1 (Construction by Lessee) and §7.2 (Construction Milestones), and §9 (Assignment, Subletting and Other Transfers). In addition, if any of the terms, covenants or conditions of this Sublease shall conflict with any of the terms, covenants or conditions of the Primary Lease, then, as between Sublessor and Sublessee, the terms, covenants and conditions of this Sublease shall govern.

1.2 Term; Commencement. The Term of this Sublease is the period stated in the Basic Terms. The Term commences on the Commencement Date and expires at 5:00 p.m. on the last day of the last calendar month of the Term. Sublessor will tender possession of the Subleased Premises to Sublessee upon Substantial Completion of Sublessee's Improvements pursuant to Article 17. Promptly after the Commencement Date (and within 10 Business Days after Sublessor's presentation thereof), Sublessor and Sublessee will execute a "Commencement Date

Memorandum" in substantially the form of the attached Exhibit D. In no event shall the Term hereof, as same may be extended in accordance with the terms hereof, exceed the term of the Primary Lease.

1.3 Access Prior to Substantial Completion. Subject to this Section 1.3, beginning on or about _____, 202__ (or such later date as may be required in the event of Sublessee Delays or other Force Majeure), Sublessee will be allowed access to the warehouse portion of the Subleased Premises to install its racking and related trade fixtures in the Subleased Premises and to any proposed computer room to install wiring; provided, however, that (a) Sublessee must comply with and observe, all applicable Laws (including, without limitation, any required Certificate of Occupancy), all safety rules and procedures, and all other terms and conditions of this Sublease, (b) Sublessee will not interfere with the construction of Sublessee's Improvements or cause any labor dispute as a result of Sublessee's installations, (c) Sublessee assumes all risk of loss or damage to Sublessee's racking and related trade fixtures and to any and all personal property of Sublessee or its contractors, subcontractors, agents and employees, and (d) Sublessee will indemnify, defend, save and hold harmless the Sublessor Parties from and against any loss or damage to such racking, trade fixtures and other personal property, and all liability, loss or damage arising from any injury to the property of Sublessor, or its contractors, subcontractors or materialmen, and any death or personal injury to any person or persons to the extent arising out of such installations or the presence of Sublessee or its contractors, subcontractors, agents and employees on the Subleased Premises. Sublessor may, at any time, suspend Sublessee's rights to the aforesaid access prior to the Commencement Date if Sublessor determines that such access or any work being performed by or for Sublessee is interfering with the construction of Sublessee's Improvements, is creating security or safety risks or is otherwise not in conformance with the conditions of this Section 1.3. Beginning on the date that Sublessee commences any activities in the Subleased Premises pursuant to this Section 1.3, and continuing through the day before the Commencement Date, Sublessee will contribute to the payment of the utility charges at the Subleased Premises, if such charges are higher than would customarily be the case for contractors performing the construction of Sublessee's Improvements, or otherwise would have been the case, in the absence of such work by or for Sublessee. The parties will cooperate to arrive at an equitable allocation of any such charges. Such allocation will be generally designed to result in Sublessee's paying that portion of such utility charges attributable to Sublessee's activities at the Subleased Premises. In no event may Sublessee conduct business in the Subleased Premises during such early access period.

1.4 Quiet Enjoyment. So long as Sublessee pays all Rent as and when due and keeps, observes and fully satisfies all other covenants, obligations and agreements of Sublessee under this Sublease, Sublessor covenants and agrees that, from and after the Commencement Date, Sublessee may quietly hold, occupy and enjoy the Subleased Premises during the Term (24 hours per day, seven days per week), subject to the terms and conditions of this Sublease, free from molestation or hindrance by Sublessor or any person claiming by, through or under Sublessor.

1.5 Common Area. Sublessee will have the non-exclusive right, together with the other occupants and users of the Property, to use the Common Area during the Term for the purposes intended, subject to such reasonable rules and regulations as Sublessor may establish from time to time. Such right to use the Common Area is subject to all of the terms and conditions of this Sublease, including, without limitation, all Property Rules and other Laws.

1.6 Extension of Term. Provided that no Event of Default exists at the time of exercise, Sublessee may extend the Term of this Sublease for up to _____ consecutive periods of ____ years each. Sublessee must exercise each such right of extension by delivering written notice of Sublessee's exercise at least 12, but not more than 15, months prior to the expiration of the Term (as may have been extended). Each extension of the Term will be on the same terms, covenants and conditions as in this Sublease, other than Basic Rent. Basic Rent for the extension period will be the Fair Market Basic Rent determined in accordance with the terms and conditions of this Sublease. Sublessor will reasonably determine such Fair Market Basic Rent and deliver Sublessor's determination to Sublessee at least 11 months prior to the expiration of the then-current Term. In no event will the Fair Market Basic Rent for an extension of the Term be less than the Basic Rent payable by Sublessee for the Lease Year immediately prior to commencement of the applicable extension period. These extension rights are personal to Sublessee and may not be assigned or transferred in any manner except in connection with an approved Transfer under Article 13.

1.6.1 Rent Appraisal. If Sublessee disputes Sublessor's determination of the Fair Market Basic Rent for an extension of the Term, Sublessee will deliver notice of such dispute, together with Sublessee's proposed Fair Market Basic Rent, to Sublessor within five days after Sublessor's delivery of its determination. The parties will then attempt in good faith to agree upon the Fair Market Basic Rent. If the parties fail to agree within 15 days after

the delivery of Sublessee's notice of dispute, then either party will be entitled to give notice to the other electing to have the Fair Market Basic Rent selected by an appraiser as provided in this Section 1.6.1. Upon delivery and receipt of such notice, the parties will, within five days thereafter, mutually appoint the Deciding Appraiser. The Deciding Appraiser must have at least five years of full-time commercial appraisal experience with projects comparable to the Property and be a member of the American Institute of Real Estate Appraisers or a similar appraisal association. The Deciding Appraiser may not have any material financial or business interest in common with either Sublessor or Sublessee or their respective Affiliates. If Sublessor and Sublessee are not able to agree upon a Deciding Appraiser within such five days, each party will within the next five days thereafter separately select an appraiser meeting the criteria set forth above, which two appraisers will, within five days after their selection, mutually appoint a third appraiser meeting the criteria set forth above to be the Deciding Appraiser. Within 10 days after the appointment (by either method) of the Deciding Appraiser, Sublessor and Sublessee will submit to the Deciding Appraiser their respective determinations of Fair Market Basic Rent and any related information that Sublessor or Sublessee, as the case may be, wishes the Deciding Appraiser to consider. Within 30 days after such appointment of the Deciding Appraiser, the Deciding Appraiser will review each party's submittal (and such other information as the Deciding Appraiser deems necessary) and will select, in total and without modification, the submittal presented by either Sublessor or Sublessee as the Fair Market Basic Rent; provided, however, that in no event will the Fair Market Basic Rent for an extension of the Term be less than the Basic Rent payable by Sublessee immediately prior to commencement of the applicable extension period. Subject to the previous sentence, if the Deciding Appraiser timely receives one party's submittal, but not both, the Deciding Appraiser must designate the submitted proposal as the Fair Market Basic Rent for the applicable extension of the Term. Any determination of Fair Market Basic Rent made by the Deciding Appraiser in violation of the provisions of this Section 1.6.1 will be beyond the scope of authority of the Deciding Appraiser and will be null and void. If the determination of Fair Market Basic Rent is made by a Deciding Appraiser, Sublessor and Sublessee will each pay, directly to the Deciding Appraiser, 50% of all fees, costs and expenses of the Deciding Appraiser. Sublessor and Sublessee will each separately pay all costs, fees and expenses of their respective additional appraiser (if any) used to determine the Deciding Appraiser.

1.7 Subordination to Primary Lease. Except as otherwise expressly provided herein, this Sublease is subject and subordinate to the Primary Lease. A redacted copy of the Primary Lease is attached hereto as **Exhibit J** and made a part of this Sublease. Sublessee shall not be entitled to exercise any options to extend or renew the term of the Primary Lease. These options are expressly retained by Sublessor and may be exercised or waived by Sublessor in its sole and absolute discretion.

1.8 Access to Secured Areas. Notwithstanding anything to the contrary herein, Sublessee and any of Sublessee's agents, employees, representatives, and assigns, shall have no right of access to the secured areas of the airport, unless and until Sublessee has obtained its own valid airport security clearance and media from Prime Lessor. Sublessee acknowledges that it may take thirty (30) calendar days or more to process Sublessee and its agents, employees, representatives, assigns, and other parties thereto, if applicable, for security clearance and media.

Article 2 -- Rental and Other Payments

2.1 Basic Rent. Sublessee will pay Basic Rent in monthly installments to Sublessor, in advance, beginning on the Commencement Date and thereafter on the first day of each and every calendar month during the Term. Sublessee will make all Basic Rent payments by means of ACH or wire transfer of immediately available funds, using transfer instructions that Sublessor may from time to time provide in writing. In the absence of such instructions, Sublessee will make all Basic Rent payments to the Rent Payment Address specified in the Basic Terms or at such other place or in such other manner as Sublessor may from time to time designate in writing. Sublessee will make all Basic Rent payments without offset or deduction (except as expressly set forth in this sublease) and without any previous demand, invoice or notice for payment. Sublessor and Sublessee will prorate, on a per diem basis, Basic Rent for any partial month within the Term. Notwithstanding anything to the contrary set forth herein, in no event shall Basic Rent during the Term hereof be less than the fair market base rental rate for the Subleased Premises, as determined by Prime Lessor pursuant to the terms and provisions of the Primary Lease.

2.2 Additional Rent. Article 3 requires Sublessee to pay Sublessee's Share of Property Expenses as Additional Rent pursuant to estimates Sublessor delivers to Sublessee. Sublessee will make all such payments in accordance with Section 3.3 without offset or deduction and without any previous demand, invoice or notice for payment. Sublessee will pay all other Additional Rent described in this sublease within 30 days after receiving

Sublessor's invoice for such Additional Rent. Sublessee will make all Additional Rent payments to the same location and, except as described in the previous sentence, in the same manner as Basic Rent payments.

2.3 Delinquent Rental Payments. If Sublessor does not receive any installment of Basic Rent or any Additional Rent on the date the payment is due, Sublessee will pay Sublessor a late payment charge equal to 5% of the amount of the delinquent payment. Further, if Sublessor does not receive any installment of Basic Rent or any Additional Rent on the date the payment is due, Sublessee will pay Sublessor interest on the delinquent payment calculated at the Maximum Rate from the date the payment is due through the date the payment is made. The parties agree that such amounts represent a fair and reasonable estimate of the damages Sublessor will incur by reason of such late payment. Such charges will be considered Additional Rent and Sublessor's right to such compensation for the delinquency is in addition to all of Sublessor's rights and remedies under this sublease, at law or in equity.

2.4 No Accord and Satisfaction. No statement on a payment check from Sublessee or in a letter accompanying a payment check is binding on Sublessor. Sublessor may, with or without notice to Sublessee, negotiate such check without being bound to the conditions of any such statement. No acceptance by Sublessor of full or partial Rent during the continuance of any breach or default by Sublessee constitutes a waiver of any such breach or default. If Sublessee pays any amount other than the actual amount due Sublessor, receipt or collection of such partial payment does not constitute an accord and satisfaction. Sublessor may retain any such partial payment, whether restrictively endorsed or otherwise, without prejudice to Sublessor's right to collect the balance properly due. If all or any portion of any payment is dishonored for any reason, payment will not be deemed made until the entire amount due is actually collected by Sublessor. The foregoing provisions apply in kind to the receipt or collection of any amount by a lock box agent or other person on Sublessor's behalf.

2.5 Rent Tax. Sublessee will pay to Sublessor all Rent Tax (if any) due in connection with this sublease or the payment of Rent hereunder, which Rent Tax will be paid by Sublessee to Sublessor concurrently with each payment of Rent made by Sublessee to Sublessor under this sublease. Any Rent Tax will be considered as Additional Rent payable by Sublessee hereunder.

Article 3 -- Property Expenses

3.1 Payment of Property Expenses. Sublessee will pay, as Additional Rent and in the manner this Article 3 describes, Sublessee's Share of Property Expenses incurred at any time during the Term.

3.2 Estimation of Sublessee's Share of Property Expenses. Sublessor will deliver to Sublessee a written estimate of the following for each calendar year of the Term (or applicable portion thereof): (a) Property Expenses, (b) Sublessee's Share of Property Expenses, and (c) the annual and monthly Additional Rent attributable to Sublessee's Share of Property Expenses. Sublessor may re-estimate Property Expenses from time to time during the Term. In such event, Sublessor will revise the monthly Additional Rent attributable to Sublessee's Share of Property Expenses to an amount sufficient for Sublessee to pay the re-estimated amount over the balance of the calendar year. Sublessor will notify Sublessee at least 30 days prior to the effective date of any such re-estimate.

3.3 Payment of Estimated Sublessee's Share of Property Expenses. Sublessee will pay the amount Sublessor estimates as Sublessee's Share of Property Expenses under Section 3.2 in equal monthly installments, in advance, beginning on the Commencement Date and thereafter on the first day of each and every calendar month during the Term If Sublessor has not delivered a new estimate to Sublessee by the first day of January of the applicable calendar year, Sublessee will continue paying Sublessee's Share of Property Expenses based on Sublessor's estimates for the previous calendar year. When Sublessee receives Sublessor's estimates for the current calendar year, Sublessee will pay the estimated amount for such calendar year (less amounts Sublessee paid to Sublessor in accordance with the immediately preceding sentence) in equal monthly installments over the balance of such calendar year, with the number of installments being equal to the number of full calendar months remaining in such calendar year.

3.4 Confirmation of Sublessee's Share of Property Expenses. After the end of each calendar year within the Term, Sublessor will determine the actual amount of Sublessee's Share of Property Expenses for the expired calendar year and deliver to Sublessee a written statement of such amount. If the Term ends during a calendar year, Sublessor may (but is not obligated to) deliver such written statement prior to the end of the applicable calendar year, in which event such statement shall prorate Sublessee's Share of Property Expenses for the portion of the Term within

such partial calendar year. If Sublessee paid less than the amount of Sublessee's Share of Property Expenses specified in the statement, Sublessee will pay the difference to Sublessor as Additional Rent. If Sublessee paid more than the amount of Sublessee's Share of Property Expenses specified in the statement, Sublessor will, at Sublessor's option, either (a) refund the excess amount to Sublessee, or (b) credit the excess amount against Sublessee's next due monthly installment or installments of estimated Additional Rent. If Sublessor is delayed in delivering such statement to Sublessee, such delay does not constitute a waiver of either party's rights under this Section 3.4.

3.5 Sublessee's Inspection and Audit Rights. If Sublessee desires to audit Sublessor's determination of the actual amount of Sublessee's Share of Property Expenses for any calendar year, Sublessee must deliver to Sublessor written notice of Sublessee's election to audit within 60 days after Sublessor's delivery of the statement of such amount under Section 3.4, which notice will identify with reasonable specificity those items that are in dispute. If such notice is timely delivered, and provided that no Event of Default, or event that with the passage of time or the giving of notice would constitute an Event of Default, then exists under this sublease, Sublessee (but not any subsublessee or assignee) may, at Sublessee's sole cost and expense, cause a certified public accountant reasonably acceptable to Sublessor (and whose compensation is not incentive-based or otherwise dependent, in whole or in part, on the discovery of errors in the determination of Sublessee's Share of Property Expenses) to audit Sublessor's records relating to such amounts. Such audit will take place during regular business hours at a time and place reasonably acceptable to Sublessor (which may be the location where Sublessor or Property Manager maintains the applicable records). Sublessee's election to audit Sublessor's determination of Sublessee's Share of Property Expenses is deemed withdrawn unless Sublessee completes and delivers the audit report to Sublessor within 90 days after the date Sublessee delivers its notice of election to audit to Sublessor under this Section 3.5. If the audit report shows that the amount Sublessor charged Sublessee for Sublessee's Share of Property Expenses was greater than the amount this Article 3 obligates Sublessee to pay, then unless Sublessor reasonably contests the audit, Sublessor will refund the excess amount to Sublessee within 30 days after Sublessor receives a copy of the audit report. If the audit report shows that the amount Sublessor charged Sublessee for Sublessee's Share of Property Expenses was less than the amount this Article 3 obligates Sublessee to pay, then Sublessee will pay to Sublessor within 30 days after the completion of the audit, as Additional Rent, the difference between the amount Sublessee paid and the amount determined in the audit. Pending resolution of any audit under this Section 3.5, Sublessee will continue to pay to Sublessor all estimated amounts of Sublessee's Share of Property Expenses in accordance with Section 3.3. Sublessee may audit Sublessee's Share of Property Expenses only one time for any given calendar year. Sublessee must keep all information it obtains in any audit strictly confidential and may only use such information for the limited purpose this Section 3.5 describes and for Sublessee's own account.

3.6 Adjustment to Property Expenses. If less than all of the rentable area of the Building is occupied at any time during any calendar year pursuant to leases under which the terms and rents have commenced for such calendar year, Sublessor will reasonably and equitably adjust its computation of Property Expenses for such calendar year to include all components of Property Expenses that vary based on occupancy in an amount equal to Sublessor's reasonable estimate of the amount Sublessee would have paid for such components of Property Expenses had all of the rentable area of the Building been so occupied at all times during such calendar year. If at any time or from time to time any components of Property Expenses relate to (a) services or benefits that are received by Sublessee but not all other sublessees in the Building; (b) costs that are incurred by Sublessor on behalf of Sublessee but not all other sublessees in the Building; (c) costs that are incurred by Sublessor solely, or in disproportionate amounts, as a result of Sublessee's particular use or occupancy of the Subleased Premises or Property as compared to other sublessees in the Building; or (d) services, benefits or costs that are otherwise received or incurred in differing amounts by, for or as a result of Sublessee's particular use or occupancy of the Subleased Premises or Property as compared to other sublessees of the Building, then Sublessor may, in Sublessor's reasonable discretion, adjust Sublessor's computation of such components of Property Expenses to allocate such components of Property Expenses equitably among Sublessee and the other sublessees of the Building, as applicable, in amounts Sublessor reasonably determines to be proportionate to the amounts of such services, benefits and costs received by or incurred for or as a result of Sublessee and each such other sublessee.

3.7 Personal Property Taxes. Sublessee will pay, prior to delinquency, all taxes charged against Sublessee's Personal Property. Sublessee will use all reasonable efforts to have Sublessee's Personal Property taxed separately from the Property. If any of Sublessee's Personal Property is taxed with the Property, Sublessee will pay the taxes attributable to Sublessee's Personal Property to Sublessor as Additional Rent.

3.8 Sublessor's Right to Contest Property Taxes. Sublessor may, but is not obligated to, contest the amount or validity, in whole or in part, of any Property Taxes. If Property Taxes are reduced (or if a proposed increase is avoided or reduced) because Property Taxes are contested, Sublessor may include in its computation of Property Taxes the costs and expenses incurred in connection with such contest, including, without limitation, reasonable attorney's fees, up to the amount of any Property Tax reduction obtained in connection with the contest or any Property Tax increase avoided or reduced in connection with the contest, as the case may be. Sublessee may not contest Property Taxes.

Article 4 -- Sublessee's Use

4.1 Permitted Use. Sublessee will use the Subleased Premises only for the permitted use specified in the Basic Terms and may not use the Subleased Premises for any other purposes. Sublessee will not use the Property or permit the Property to be used in violation of any Laws or the Primary Lease or in any manner that would (a) violate any certificate of occupancy affecting the Property; (b) violate, invalidate or cause a loss of coverage under any insurance now or after the Effective Date in force with respect to the Property; (c) cause injury or damage to the Property or to the person or property of any other sublessee on the Property or interfere with the use and enjoyment of the Property by any other sublessee or occupant of the Property; or (d) cause diminution in the value or usefulness of all or any part of the Property (reasonable wear and tear excepted). Sublessee will not commit any nuisance or waste in, on or about the Subleased Premises or the Property. Sublessee will obtain and maintain, at Sublessee's sole cost and expense, all permits and approvals required under the Laws for Sublessee's use of the Subleased Premises. Sublessee will not vacate or abandon the Subleased Premises prior to 60 days before the expiration of the Term without Sublessor's prior written consent. If Sublessee's particular use or occupancy of the Subleased Premises or the Property (even though within the scope of Sublessee's permitted use) causes or requires Sublessor to incur any unusual or extraordinary costs or expenses (including, without limitation, costs for any (i) special governmental permits, (ii) special maintenance, monitoring, inspection or reporting requirements, (iii) additional insurance premiums, surcharges, policies or coverages, or (iv) other matters required solely as a result of Sublessee's particular use or occupancy of the Subleased Premises or Property), Sublessor may bill Sublessee directly therefor and Sublessee will pay all such costs and expenses as Additional Rent.

4.2 Acceptance of Subleased Premises. Except as expressly provided in Section 17.7 with respect to Sublessee's Improvements, (a) Sublessee acknowledges that neither Sublessor nor any agent, contractor or employee of Sublessor has made any representation or warranty of any kind with respect to the Subleased Premises, the Building or the Property, specifically including, without limitation, any representation or warranty of suitability or fitness of the Subleased Premises, the Building or the Property for any particular purpose; and (b) Sublessee's acceptance and occupancy of the Subleased Premises conclusively establishes Sublessee's acceptance of the Subleased Premises (including, without limitation, Sublessee's Improvements), the Building (including, without limitation, Sublessor's Improvements) and the Property in an "AS IS - WHERE IS" condition.

4.3 Laws/Property Rules. This sublease is subject and subordinate to all Laws. A copy of the current Property Rules is attached to this sublease as Exhibit E. Sublessor may revise the Property Rules from time to time in Sublessor's reasonable discretion.

4.4 Claims Arising From Sublessee's Use. Except for the Claims waived by Sublessor in Section 10.3.2, Sublessee will, to the fullest extent allowable under the Laws, indemnify, protect, defend (with counsel reasonably acceptable to Sublessor) and hold harmless the Sublessor Parties from and against all Claims arising from (a) any use of the Subleased Premises or Property by Sublessee that violates the terms of this sublease, (b) any breach or default by Sublessee in the performance of any of Sublessee's covenants or agreements in this sublease, (c) any act, omission, negligence or misconduct of Sublessee, (d) any accident, injury, occurrence or damage in or to the Subleased Premises, and (e) if caused in whole or in part by Sublessee, any accident, injury, occurrence or damage in, about or to the Property.

4.5 Increased Insurance. Sublessee will not do on the Property or permit to be done on the Subleased Premises anything that will (a) increase the premium of any insurance policy that Sublessor carries covering the Subleased Premises or the Property; (b) cause a cancellation of or be in conflict with any such insurance policy; (c) result in any insurance company's refusal to issue or continue any such insurance in amounts satisfactory to Sublessor; or (d) subject Sublessor to any liability or responsibility for injury to any person or property by reason of Sublessee's

operations in the Subleased Premises or use of the Property. Sublessee, at Sublessee's sole cost and expense, will comply with all rules, orders, regulations and requirements of insurers and of the American Insurance Association or any other organization performing a similar function. Sublessee will reimburse Sublessor, as Additional Rent, for any additional premium charges for such policy or policies resulting from Sublessee's failure to comply with the provisions of this Section 4.5.

4.6 Parking. Subject to this Section 4.6, Sublessor will make available on the Property a parking area or areas containing spaces for ____ automobiles and ____ semi-trailers, as generally designated on the Site Plan for the non-exclusive use of Sublessee, and its employees and invitees. All of such parking areas and the use thereof will be subject to Laws and such reasonable rules and regulations as Sublessor may from time to time institute. Sublessor reserves the right to designate areas of the appurtenant parking facilities where Sublessee, and its agents, contractors, employees, invitees or licensees, will park, and may exclude Sublessee, and its agents, contractors, employees, invitees or licensees, from parking in other areas as designated by Sublessor; provided, however, that Sublessor will not be liable to Sublessee for the failure of any sublessee or other person or entity, or their respective agents, contractors, employees, invitees or licensees, to abide by Sublessor's designations or restrictions. In no event is Sublessor liable for any loss, damage or theft of, to or from any vehicle at the Property.

4.7 Signage. Subject to this Section 4.7 and otherwise except as specifically approved in writing by Sublessor, Sublessee will not place, or permit to be placed or maintained, on any exterior door, wall or window of the Subleased Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door, or that can be seen through the glass, of the Subleased Premises. Sublessee further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or thing as may be approved, in good condition and repair at all times. Sublessee agrees at Sublessee's sole cost, that any Sublessee sign will be maintained in strict conformance with Sublessor's sign criteria, if any, as to design, material, color, location, size, letter style, and method of installation. All such signage will be subject to Sublessor's prior written consent as to design, material, color, location, size, letter style and method of installation, and must comply with the other requirements of this sublease and with all Laws.

Article 5 – Environmental Protection

5.1 Definitions. Unless the context shall clearly require otherwise, the terms defined in this Section 5.1 shall, for all purposes of this Sublease and of any agreement amendatory hereof or supplemental hereto, have the meanings herein specified, with the following definitions to be equally applicable to both the single and plural forms of any of the following:

5.1.1 Environmental Laws. The term "**Environmental Laws**" shall mean any one or all of the following, as the same are amended from time to time: the *Comprehensive Environmental Response, Compensation, and Liability Act*, 42 USC Section 9601 et seq.; the *Solid Waste Disposal Act*, 42 USC Section 6901, et seq.; the *Toxic Substances Control Act*, 15 USC Section 2601 et seq.; the *Safe Drinking Water Act*, 42 USC Section 300f et seq.; the Clean Water Act, 33 USC Section 1251 et seq.; the *Clean Air Act*, 42 USC Section 7401 et seq.; A.R.S. Title 49; and all regulations thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereafter enacted that deal with the regulation or protection of the environment, including the ambient (including indoor and outdoor) air, ground water, surface water, and land use, including substrata land, or that govern the use of hazardous materials, hazardous waste and hazardous substances and petroleum products.

5.1.2 Hazardous Material. The term "**Hazardous Material**" shall mean any toxic or hazardous material, substance or waste, or any pollutant or contaminant as defined or regulated pursuant to any Environmental Laws, per- and polyfluoroalkyl substances, and petroleum products. For purposes of this definition, petroleum includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing (e.g., distillate fuel oils, petroleum solvents and used oils). For purposes of this definition, per- and polyfluoroalkyl substances shall include aqueous film-forming foams.

5.2 Environmental Compliance.

5.2.1 Sublessee shall, at Sublessee's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting Sublessee's activities on and property interest in

the Subleased Premises during the period of Sublessee's occupancy of thereof under this Sublease. To the extent that Sublessor, or any of Sublessor's employees, agents or contractors, conducts any activities on the Subleased Premises during the period of Sublessee's occupancy, Sublessor shall, at Sublessor's own expense, comply with all present and hereafter enacted Environmental Laws, including any amendments thereto, affecting any of Sublessor's activities on the Subleased Premises.

5.2.2. Sublessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Airport by Sublessee's agents, employees, contractors or invitees in violation or threatened or suspected violation of any Environmental Laws. The parties recognize and agree that Sublessee may bring on the Subleased Premises and Airport and use Hazardous Material that is ordinarily and customarily used in the conduct of Sublessee's permitted activities under this Sublease, provided that such use shall comply fully with all applicable Environmental Laws. Sublessor shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Subleased Premises or by Sublessor's agents, employees, contractors for any activity Sublessor conducts on the Subleased Premises during Sublessee's occupancy, without prior notification to and approval by Sublessee (which shall not be unreasonably withheld), and any such use or presence shall be in compliance with Environmental Laws.

5.3 Indemnification. To the fullest extent permitted by law, Sublessee shall indemnify, defend (with counsel reasonably acceptable to Sublessor), protect and hold harmless Lessor and its employees and agents for, from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of the environment, the presence of Hazardous Material on the Subleased Premises, Airport or neighboring properties, or violation of any Environmental Laws or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity ("**Environmental Damages**") which are incurred or assessed as a result of any of Sublessee's activities or operations on the Subleased Premises or Airport. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the property, land, soil and underground or surface water as required under the law. Sublessee's obligations and liabilities under this Section 5.3 shall survive the termination of this Sublease. The indemnification of Sublessor by Sublessee as described above includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Sublessor reserves the right to seek injunctive relief as may be permitted under law and equity. This Section 5.3 explicitly excludes Sublessee's duty, liability or indemnity to Sublessor for any claims or Environmental Damages of any kind whatsoever arising from or in connection with any contamination of any kind existing on the Subleased Premises prior to the date hereof, except and only to the extent known contamination is caused by or exacerbated by Sublessee or unknown contamination is caused by or exacerbated by Sublessee's negligence.

5.4 Remediation. Without limiting the foregoing, if the presence of any Hazardous Material during the Term of this Sublease caused or permitted by Sublessee to be first brought on the Airport or Subleased Premises upon or after the Effective Date results in any Release on the Airport or Subleased Premises in violation of any Environmental Laws, Sublessee shall promptly take action to remediate the affected property at its sole expense as necessary to return the Airport or Subleased Premises to the condition existing prior to the introduction of any such Hazardous Material to the Airport or Subleased Premises; provided that Sublessor's and Primary Lessor's approval of such actions shall first be obtained, which approval shall not, except in an emergency, be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Airport and Sublessee is not under administrative or court order related to such remediation action. Notwithstanding Sublessor's and Primary Lessor's approval pursuant to this Section 5.4, neither Sublessor nor Primary Lessor is responsible for directing or managing any remediation action. The term "**Release**" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping. Notwithstanding anything in this Section 5.4 to the contrary, Sublessee shall have no obligation to remediate any contamination of any kind existing on the Subleased Premises or Airport prior to the Effective Date, except and only to the extent known contamination is caused by or exacerbated by Sublessee or unknown contamination is caused by or exacerbated by Sublessee's negligence.

5.5 Governmental Submittals. Sublessee shall, at Sublessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority ("**Government**") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or cleanup plan should be prepared and/or that a cleanup should be undertaken because of any Release of Hazardous Material by reasons of Sublessee's activities or actions at the Airport which occur during the Term of this Sublease, then Sublessee shall, at Sublessee's own expense, prepare and submit the required plans and financial assurances, and carry out the approved plans.

5.6 Information Sharing. Sublessee shall immediately notify Sublessor of any of the following: (i) Sublessee's receipt of any notification from any governmental entity either charging or informing Lessee that it will be charged with a violation of Environmental Laws, and (ii) any significant change in Sublessee's activities on the Subleased Premises that is reasonably likely to adversely change Sublessee's obligations or liabilities under the Environmental Laws. In addition, Sublessee agrees to provide Sublessor with non-privileged copies of documents reflecting the physical condition of the Subleased Premises, including but not limited to, environmental testing of soils and groundwater, and existing, non-privileged information reasonably requested by Sublessor to determine the applicability of the Environmental Laws to the Subleased Premises, or to assist in the response to any governmental investigation or claim of liability by third parties which is related to environmental contamination of the Subleased Premises, to the extent that such investigations or claims are related to Lessee's activities thereon.

5.7 Transfers. Sublessee shall insert provisions substantially identical to the provisions of this Article 5 in any sublease agreement or contract by which it Transfers rights or privileges under this Sublease.

5.8 Actions of Sublessee. The activities or actions of Sublessee under this Article 5 shall include the activities or actions of Sublessee's officers, directors, employees, agents, contractors, invitees and successors.

5.9 Clean Water Act; NPDES Permits and SWPPPs. Without in any way limiting the foregoing, Sublessee shall comply with all Environmental Laws regarding discharges to water and land, including, without limitation, obtaining and complying with an individual National Pollutant Discharge Elimination System (NPDES) permit, or requesting coverage under and complying with any applicable Multi-Sector General Permit ("**MSGP**"). If applicable, Sublessee shall also prepare and comply with a site-specific MSGP with an individual Storm Water Pollution Prevention Plan ("**SWPPP**") or any revisions to a SWPPP, with respect to Sublessee's operations or activities on the Premises or Airport. Proof of individual compliance shall be provided in the form of both the Sublessee's Notice of Intent ("**NOI**") that has been received by the Arizona Department of Environmental Quality ("**ADEQ**") and the individual Arizona Multi-Sector General Permit (AZMSGP) number associated with the NOI, within the times prescribed by law.

5.10 Protective Devices and Plans. If Sublessee is required by the City to estimate the possible constituents of sanitary sewer discharges in order that the City may define certain discharge limitations for the Subleased Premises, Sublessee shall complete and return an *Industrial Wastewater Discharge Questionnaire* ("**Questionnaire**") to the City and promptly provide Sublessor with updates to the Questionnaire as they arise. Also, if the City so requires, Sublessee shall install and maintain appropriate protective devices to prevent accidental discharge of any Hazardous Material into domestic or industrial drains on or near the Subleased Premises and elsewhere on the Airport, as appropriate, and for any other material for which a slug load discharge could pollute the Airport's storm water discharge or disrupt operations at the sewage treatment plant serving the Subleased Premises. Sublessee shall post a notice in a prominent place on the Subleased Premises advising employees what actions to take and whom to call in the event of said discharge, and shall ensure that all employees of Sublessee are trained with regard to the spill protection plan hereinafter referenced. Sublessee also shall provide Sublessor with immediate notice of any spill.

5.11 Right to Enter Premises. This Sublease specifically includes the right of the United States Government, the Environmental Protection Agency ("**EPA**"), ADEQ, Sublessor, Primary Lessor, and the Arizona Department of Occupational Safety and Health (ADOSH) to enter the Subleased Premises upon reasonable notice to Sublessee for purposes of: (i) inspecting Sublessee's compliance with environmental, occupational safety and health laws and regulations, whether or not such party is responsible for enforcing such laws; (ii) conducting environmental investigation or remediation, including, without limitation, performing tests and surveys, drillings, test-pitting, borings, compiling data and/or records, and other activities related to environmental investigation; and (iii) carrying

out remedial or removal actions as required or necessary under applicable laws, including, without limitation, installing monitoring wells, pumping wells and/or treatment facilities. Sublessee shall have no claim against Sublessor or Primary Lessor for any entries by the United States, EPA, ADEQ, Arizona ADOSH, or any officer, agent, employee or contractor thereof.

5.12 U.S. Air Force Use and Remedial Action.

5.12.1 The parties assume no liability or responsibility for environmental impacts and Environmental Damages or claims of any kind whatsoever caused by or resulting from the U.S. Air Force's use of Hazardous Material on any portion of the Airport, including the Subleased Premises, prior to the Effective Date, and have no obligation under this Sublease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any Hazardous Material or deposits of solid waste on or from any part of the Airport, including, but not limited to, the Premises, even if such claims or contamination are first discovered or made after the Effective Date. Further, the parties have no obligation under this Sublease to undertake environmental response, remediation, or cleanup relating to any contamination caused by or related to such use or release. For purposes of this Section 5.12.1, "defense" or "environmental response, remediation, or cleanup" shall include liability and responsibility for the costs of damage, penalties, legal and investigative services relating to such use or release.

5.12.2 Pursuant to Section VII.E.3 of the Quitclaim Deed from the United States Government to Primary Lessor, the U.S. Air Force warrants and covenants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Airport, including the Premises, has been completed prior to the date of the Deed and, further, any remedial action found to be necessary after the date of the Deed shall be conducted by the U.S. Air Force; provided, however, that the foregoing covenant does not apply where Primary Lessor, Sublessor or Sublessee is a potentially responsible party with respect to any portion of the Subleased Premises or the Airport.

5.13 Cleanup Requirements. Sublessee agrees that Sublessor assumes no liability to Sublessee should Hazardous Material cleanup or related requirements, whether imposed by law, regulatory agencies, the U.S. Air Force or Department of Defense cause delays or interferes with Sublessee's use of the Premises. Sublessee shall have no claim against Sublessor, Primary Lessor or the United States or any officer, agent, employee or contractor thereof on account of any such interference whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Federal Facilities Agreement (FFA) or the Installation Restoration Program (IRP) or under this Sublease or otherwise. Sublessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action conducted by governmental authorities or Sublessor shall, to the extent practicable, be coordinated with representatives designated by Sublessee.

5.14 Spill Protection Plan. In the event Sublessee undertakes any type of manufacturing, maintenance or other activities on the Subleased Premises involving the use or generation of any Hazardous Material regulated by Hazardous Material Laws, Sublessee shall have a plan for responding to Hazardous Material, fuel, and other chemical spills prior to commencement of activities on the Subleased Premises and other approved Airport locations. Such plan shall comply with all applicable requirements of said plan which shall be updated from time to time or as may be required to comply with changes in site conditions or applicable requirements, and shall be approved by all agencies that are obligated by law to approve such plan. Such plan shall be independent of Sublessor's spill prevention and response plans, if any. Sublessee shall not rely on use of Sublessor or Sublessor personnel or Sublessor equipment in execution of its plan. Sublessee shall file a copy of the plan and amendments thereto with Primary Lessor's Environmental and Safety Coordinator within thirty (30) calendar days of receipt of a CofO from the City. Notwithstanding the foregoing, should Sublessor provide any personnel or equipment, whether for initial fire response and/or spill containment, on the request of Sublessee, or because Sublessee was not, in the opinion of Sublessor, conducting fire fighting, containment or timely cleanup actions, Sublessee agrees to reimburse Sublessor for its actual costs in accordance with all applicable laws and regulations, except to the extent that Sublessor was responding to conditions caused by events occurring at the Airport (not including the Premises) or by the negligence or omission of Sublessor or its employees, agents or contractors.

5.15 Wells. Sublessee shall not install any drinking water or other wells in any location on the Subleased Premises without the prior written approval of Sublessor.

5.16 Surface Disturbances. After construction of Sublessee's improvements on the Subleased Premises, if any, as provided herein, Sublessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface other than what is usual and customary for the anticipated uses without the prior written approval of Sublessor and Primary Lessor, which shall not be unreasonably withheld, conditioned or delayed.

Article 6 -- Services and Utilities

6.1 Services and Utilities. Sublessee is solely responsible for obtaining all services and utilities that Sublessee desires in connection with Sublessee's use and occupancy of the Subleased Premises (including, without limitation, the installation of all electric and gas meters), at Sublessee's sole cost and expense. Sublessee is also solely responsible for paying directly to the applicable service or utility companies, prior to delinquency, all charges of every nature, kind or description for services and utilities furnished to the Subleased Premises or chargeable against the Subleased Premises (including, without limitation, any deposits required or charges imposed by any utility or service company as a condition precedent to furnishing or continuing to furnish utilities or services to the Subleased Premises), including, without limitation, all charges for water, sewer, heat, gas, light, garbage and rubbish removal (subject to Section 6.2), electricity, telecommunications, cable, power, or other public or private utilities and services and any charges or fees for present or future water or sewer capacity to serve the Subleased Premises. Sublessee will also pay all charges relating to any addition, extension, relocation, or other change in the facilities necessary to provide the Subleased Premises with any additional utilities and services. Sublessee will provide Sublessor, on a monthly basis, with copies of paid invoices (or other commercially reasonable evidence of payment) for all such utilities and services. No interruption in, or temporary stoppage of, any utility or service to the Subleased Premises will be deemed an eviction or disturbance of Sublessee's use and possession of the Subleased Premises, nor does any interruption or stoppage relieve Sublessee from any obligations under this sublease, render Sublessor liable for damages or entitle Sublessee to any Rent abatement.

6.2 Garbage and Rubbish Disposal. All garbage, rubbish, trash and refuse generated by or in connection with Sublessee's use of the Subleased Premises will be stored in covered, rodent proof containers within the Subleased Premises, and Sublessee will be responsible for the removal thereof from the Property. Sublessor will have the right to approve the contractor used by Sublessee for removal of Sublessee's garbage, rubbish, trash and refuse and, if Sublessor designates an independent contractor for such purpose, Sublessee will use such contractor to the exclusion of all other collection services, so long as the rates charged by such independent contractor are competitive. Sublessee will pay the charges for such service directly to such contractor. Sublessee, or its contractor, will not utilize dumpsters, trash compactors or other rubbish containers situated outside the Subleased Premises without the prior written consent of Sublessor, which Sublessor may withhold in its sole and absolute discretion. If such approval is granted, Sublessee will maintain such exterior dumpsters, compactors or containers and the surrounding area in good and slightly condition and in compliance with Laws. Sublessee acknowledges that the dumpster designated for use by the Subleased Premises may not be for Sublessee's exclusive use and may be shared with one or more other sublessees in the Building. Anything in this Section 6.2 to the contrary notwithstanding, Sublessor reserves the right during the Term to elect to provide trash removal services for the dumpsters allocated to the Subleased Premises, in which event Sublessor will engage a third party vendor to provide such services at competitive rates and will bill Sublessee from time to time for Sublessee's proportionate share thereof, as reasonably determined by Sublessor, which proportionate share will be Additional Rent hereunder.

6.3 Airport Rates and Charges Schedule. Sublessee, in accordance with §4.5 (Airport Rates and Charges Schedule) of the Primary Lease, shall pay all fees identified in the most current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at the time of receipt of any covered service requested by Sublessee at the Subleased Premises or use of any covered facilities by Sublessee, unless specifically outlined in this Sublease. The current *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* is included as **Exhibit K** and is subject to change without prior notice or approval of Sublessee. Sublessee further acknowledges and agrees that Prime Lessor may amend the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule* at any time at Prime Lessor's sole discretion, and that no fee shall apply to the use of the Subleased Premises or access to the Subleased Premises. All payments required by this

Section 7 shall be remitted to the following address by the due date(s) specified hereinabove or as otherwise set forth in the *Airport Rates and Charges Schedule* and/or *Airport Fees, Services and Rental Rates Schedule*:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

Article 7 -- Maintenance and Repair

7.1 Sublessor's Obligations. Sublessor will keep and maintain in good order, condition and repair, reasonable wear and tear excepted, (a) the footings, foundation, exterior surfaces of the exterior walls (excluding windows and plate glass) and roof of the Building, (b) that portion of the sprinkler/fire suppression and monitoring system equipment (such as the riser and electric pump, if applicable) serving the Building or Property generally, as well as the sprinkler heads and other portions of the sprinkler/fire monitoring system (even if located in the Subleased Premises), but excluding other portions of such system serving the Subleased Premises exclusively, (c) utility facilities serving the Subleased Premises from the boundary line of the Property (or other connection point with the main utility line) to the point of connection to the applicable meter serving the Subleased Premises, and (d) the Common Area. Sublessor will also perform any repairs or replacements to the Subleased Premises or Property necessitated by Casualty or Taking, subject to the provisions of Articles 11 and 12. Neither Basic Rent nor Additional Rent will be reduced, nor will Sublessor be liable, for loss or injury to or interference with Sublessee's property, profits or business arising from or in connection with Sublessor's performance of its obligations under this Section 7.1. The costs and expenses incurred by Sublessor in performing its obligations under this Section 7.1 will be included in Operating Expenses (but only to the extent not excluded under the definition thereof).

7.2 Sublessee's Obligations.

7.2.1 Maintenance of Subleased Premises. Except for Sublessor's obligations expressly set forth in Section 7.1, Sublessee, at its sole cost and expense, will keep and maintain the Subleased Premises in good, clean, sanitary, neat and fully operative condition and repair, reasonable wear and tear excepted. Sublessee's obligations under this Section 7.2.1 include, without limitation, maintenance and repair (including, without limitation, replacements) of all (a) non-structural interior portions, systems and equipment; (b) interior surfaces of exterior walls; (b) interior moldings, partitions and ceilings; (c) slabs, floors and structural columns; (d) windows, plate glass, and doors; (e) utility facilities serving the Subleased Premises from the point of connection to the applicable meter serving the Subleased Premises through all of the points of usage within the Subleased Premises; and (f) electrical, lighting, sprinkler, mechanical, plumbing, heating, ventilation, air conditioning, exhaust, smoke evacuation and similar systems, facilities, fixtures and components serving the Subleased Premises. Any repairs or replacements performed by Sublessee must be at least equal in quality and workmanship to the original work and be in accordance with all Laws. Sublessee will, at all times and at Sublessee's sole cost and expense, keep a preventative maintenance and repair contract in force and effect for the heating, ventilation and air conditioning system serving the Subleased Premises. Such contract (including, without limitation, the schedule and scope of services provided and the identity and capabilities of the contractor) must be approved by Sublessor in Sublessor's reasonable discretion.

7.2.2 Sublessee Damage. Notwithstanding anything to the contrary in Section 7.1 or elsewhere in this sublease, if any Sublessee Damage occurs Sublessor may, at Sublessor's option and in Sublessor's sole discretion, require Sublessee to (a) pay to or reimburse Sublessor for the actual reasonable cost of any repairs or replacements necessitated by such Sublessee Damage that are performed by Sublessor, and (b) perform, at Sublessee's sole cost and expense, any repairs or replacements necessitated by such Sublessee Damage that are not performed by Sublessor.

7.2.3 Notice to Sublessor. If Sublessee believes any maintenance or repair Sublessor is obligated under Section 7.1 to perform is needed at the Property, Sublessee will promptly provide written notice to Sublessor specifying in detail the nature and extent of any condition requiring maintenance or repair. Sublessor will not be deemed to have failed to perform its obligations under Section 7.1 with respect to any maintenance or repair unless Sublessee has provided such written notice and Sublessor has had a commercially reasonable time within which to respond to such notice and effect the needed maintenance or repair.

Article 8 -- Alterations

8.1 Sublessor Approval. Sublessee will not make any Major Alterations without Sublessor's prior written consent, which consent Sublessor may grant, withhold or condition in Sublessor's sole and absolute discretion. Sublessee will not make any other Alterations without Sublessor's prior written consent, which consent Sublessor will not unreasonably condition or withhold. Among other things, Sublessor's consent to any proposed Alterations may take into account the cost of Sublessor's insuring the same under Section 10.2.1, and to what extent (if any) Sublessor will require Sublessee to contribute to such cost directly (as opposed to doing so through Sublessee's Share of Property Expenses). Along with any request for Sublessor's consent, Sublessee will deliver to Sublessor plans and specifications for the Alterations, the names and addresses of all prospective contractors for the Alterations, and information regarding the Alterations as Sublessor may require in connection with its insuring the same under Section 10.2.1 and its determining the allocation of the cost of insuring the same as described above (which information Sublessee will update and confirm upon the completion of such Alterations). Any consent by Sublessor to Sublessee's proposed Alterations will be confirmed by Sublessor's completing and executing a "Sublessor Approval of Sublessee Plans" in substantially the form of the attached Exhibit F-5. If Sublessor consents to the proposed Alterations, Sublessee will, before commencing the Alterations or delivering (or accepting delivery of) any materials to be used in connection with the Alterations, deliver to Sublessor certificates evidencing the insurance coverages and copies of any bonds required by Section 8.2, copies of all necessary permits and licenses, and such other information relating to the Alterations as Sublessor reasonably requests. Sublessee will not commence the Alterations before Sublessor has, in Sublessor's reasonable discretion, provided Sublessor's written approval of the foregoing deliveries. At Sublessor's written request, Sublessee will cause the construction of, and payment for, the Alterations to be made through a construction escrow at a title company reasonably designated by Sublessor. At the time of its consent to any Alterations (if such consent is required under this Section 8.1), Sublessor will inform Sublessee whether Sublessee will be required to remove the Alterations at the expiration or earlier termination of this sublease. Sublessee will remove (a) any Alterations that Sublessor requires to be removed, at the expiration or earlier termination of this sublease, and (b) any Alterations that Sublessee constructs without obtaining Sublessor's consent, within 10 days after Sublessor's written request. No Alterations may adversely affect, or unreasonably interfere with the operations of, any other sublessees or occupants in the Building.

8.2 Sublessee Responsible for Cost and Insurance. Sublessee will pay the entire cost and expense of all Alterations, including, without limitation, for any painting, restoring or repairing of the Subleased Premises or the Property necessitated by the Alterations and a reasonable charge for Sublessor's review, inspection and engineering time. Sublessee will also obtain and require (a) demolition (if applicable) and payment and performance bonds in an amount not less than the full cost of the Alterations; (b) builder's "all risk" insurance in an amount at least equal to the replacement value of the Alterations; and (c) liability insurance insuring Sublessee and each of Sublessee's contractors against construction related risks in at least the form, amounts and coverages required of Sublessee under Article 10. The insurance policies described in clauses (b) and (c) of this Section 8.2 must name Sublessor, Sublessor's lender (if any) and Property Manager as additional insureds, specifically including completed operations.

8.3 Construction Obligations; Ownership of Alterations. Sublessee will notify Sublessor in writing 30 days prior to commencing any Alterations in order to provide Sublessor the opportunity to record and post notices of non-responsibility or such other protective notices available to Sublessor under the Laws. Sublessee will cause all Alterations to be constructed (a) promptly by contractors approved by Sublessor as provided above; (b) in a good and workmanlike manner; (c) in compliance with all Laws; (d) in a manner that will minimize interference with other sublessees' use and enjoyment of the Property; and (e) in full compliance with all of Sublessor's rules and regulations applicable to third party contractors, subcontractors and suppliers performing work at the Property (Sublessor's current rules and regulations in this regard are set forth on the attached Exhibit I). Sublessor may inspect construction of the Alterations. All Alterations (including, without limitation, all telephone, computer, security and other wiring and cabling located within the walls of and outside the Subleased Premises, but excluding Sublessee's Personal Property) become the property of Sublessor and a part of the Building immediately upon installation. Unless Sublessor requires Sublessee to remove the Alterations, Sublessee will surrender the Alterations to Sublessor upon the expiration or earlier termination of this sublease at no cost to Sublessor; provided, however, that in all cases, Sublessee will be required to comply with the restoration requirements set forth in Exhibit H attached hereto and made a part hereof.

8.4 Liens. Sublessee will keep the Property free from any mechanics', materialmen's', designers' or other liens arising out of any work performed, materials furnished or obligations incurred by or for Sublessee or any person or entity claiming by, through or under Sublessee. Immediately after completing the Alterations, Sublessee will furnish Sublessor with contractor affidavits and full and final lien waivers covering all labor and materials expended and used in connection with the Alterations. If any liens are filed against the Property and Sublessee, within 15 days after such filing, does not release the same of record or provide Sublessor with a bond or other security satisfactory to Sublessor protecting Sublessor and the Property against such liens, Sublessor may, without waiving its rights and remedies based upon such breach by Sublessee and without releasing Sublessee from any obligation under this sublease, cause such liens to be released by any means Sublessor deems proper, including, without limitation, paying the claim giving rise to the lien or posting security to cause the discharge of the lien. In such event, Sublessee will reimburse Sublessor, as Additional Rent, for all amounts Sublessor pays (including, without limitation, reasonable attorneys' fees and costs).

8.5 Indemnification. To the fullest extent allowable under the Laws, Sublessee releases and will indemnify, protect, defend (with counsel reasonably acceptable to Sublessor) and hold harmless the Sublessor Parties and the Property from and against any Claims in any manner relating to or arising out of any Alterations or any other work performed, materials furnished or obligations incurred by or for Sublessee or any person or entity claiming by, through or under Sublessee.

8.6 Alterations Required by Laws. If any governmental authority requires any Alteration to the Property or the Subleased Premises as a result of Sublessee's particular use of the Subleased Premises or as a result of any Alteration to the Subleased Premises made by or on behalf of Sublessee, or if Sublessee's particular use of the Subleased Premises subjects Sublessor or the Property to any obligation under any Laws, Sublessee will pay the cost of all such Alterations or the cost of compliance, as the case may be. If any such Alterations are Major Alterations, Sublessor will have the right to make the Major Alterations, provided that Sublessor may first require Sublessee to deposit with Sublessor an amount sufficient to pay the cost of the Major Alterations (including, without limitation, reasonable overhead and administrative costs). Subject to the immediately preceding sentence, Sublessee will make the Alterations at Sublessee's sole cost and expense in accordance with this Article 8.

Article 9 -- Rights Reserved by Sublessor

9.1 Sublessor's Entry. Sublessor and its authorized representatives may at all reasonable times and upon reasonable notice to Sublessee enter the Subleased Premises to (a) inspect the Subleased Premises; (b) show the Subleased Premises to prospective purchasers, mortgagees and, within the last 12 months of the Term, sublessees; (c) post notices of non-responsibility or other protective notices available under the Laws; or (d) exercise and perform Sublessor's rights and obligations under this sublease. Sublessee acknowledges and agrees that Sublessor's entry pursuant to clause (d) may require that Sublessee temporarily vacate all or a portion of the Subleased Premises and/or temporarily relocate items of Sublessee's Personal Property, all as Sublessor may determine is reasonably necessary to properly exercise such rights or perform such obligations. Sublessor may in the event of any emergency enter the Subleased Premises without notice to Sublessee. Sublessor's entry into the Subleased Premises is not to be construed as a forcible or unlawful entry into, or detainer of, the Subleased Premises or as an eviction of Sublessee from all or any part of the Subleased Premises. Sublessee will also permit Sublessor to erect, install, use, maintain, replace and repair pipes, cables, conduits, plumbing and vents, and telephone, electric and other wires or other items, in, to and through the Subleased Premises if Sublessor determines that such activities are necessary or appropriate for properly operating and maintaining the Building.

9.2 Control of Property. Sublessor reserves all rights respecting the Property and Subleased Premises not specifically granted to Sublessee under this sublease, including, without limitation, the right to (a) change the name or street address of the Building; (b) designate and approve all types of signs, window coverings, lighting and other aspects of the Subleased Premises that may be visible from the exterior of the Subleased Premises; (c) grant any party the exclusive right to conduct any business or render any service in the Property, provided such exclusive right does not prohibit Sublessee from any permitted use for which Sublessee is then using the Subleased Premises; (d) install and maintain pipes, ducts, conduits, wires and structural elements in the Subleased Premises that serve other parts or other sublessees of the Property; (e) approve the weight, size and location of safes and other heavy equipment and articles in and about the Subleased Premises and the Property and to require all such items to be moved into and out of the Property and the Subleased Premises only at such times and in such manner as Sublessor will direct in writing;

and (f) retain and receive master keys or pass keys to the Subleased Premises and all doors in the Subleased Premises. Notwithstanding the foregoing, Sublessor is not responsible for the security of persons or property on or about the Property and Sublessor is not and will not be liable in any way whatsoever for any criminal activity or any breach of security on or about the Property.

9.3 Common Area. Sublessor may, at Sublessor's sole and exclusive discretion, make changes to the Common Area. Sublessor's rights regarding the Common Area include, without limitation, the right to (a) restrain unauthorized persons from using the Common Area; (b) temporarily close any portion of the Common Area; (c) change the shape and size of the Common Area; (d) add, eliminate or change the location of any improvements located in the Common Area and construct buildings or other structures in the Common Area; and (e) impose and revise Property Rules concerning use of the Common Area, including, without limitation, any parking facilities comprising a portion of the Common Area. Notwithstanding the foregoing, Sublessor will not exercise such rights in a manner that unreasonably interferes with Sublessee's access to and use of the Subleased Premises.

9.4 Right to Cure. If Sublessee fails to perform any of Sublessee's obligations under this sublease Sublessor may, but is not obligated to, perform any such obligation on Sublessee's part without waiving any rights based upon such failure and without releasing Sublessee from any obligations hereunder. Sublessee must pay to or reimburse Sublessor for, as Additional Rent, all expenditures reasonably made and obligations reasonably incurred by Sublessor pursuant to this Section 9.4.

Article 10 -- Insurance

10.1 Sublessee's Insurance. Sublessee will maintain Sublessee's Insurance at all times during the Term and during any early occupancy period, at Sublessee's sole cost and expense.

10.1.1 Liability Insurance. Sublessee will maintain commercial general liability insurance providing coverage at least as broad as the current ISO form on an "occurrence" basis, with minimum limits of $3,000,000 each occurrence and $5,000,000 general aggregate. Sublessee's liability insurance will (a) name Sublessor, Property Manager and the other Sublessor Parties as additional insureds with respect to all matters arising out of the occupancy or use of the Subleased Premises or Property by Sublessee; (b) be primary to any other insurance maintained by the Sublessor Parties; and (c) include contractual liability coverage. Such insurance may have a reasonable deductible but may not include self-insured retention in excess of $25,000 (unless Sublessor otherwise reasonably consents, in writing, on the basis of Sublessee's tangible net worth). If Sublessee's liability insurance is provided under a blanket policy, the above coverage limits must be made specifically applicable to the Subleased Premises on a "per location" basis.

10.1.2 Umbrella Liability Insurance. Sublessee will maintain umbrella liability insurance over the primary general liability, automobile liability and employers' liability insurance policies with minimum limits of $5,000,000 each occurrence and $5,000,000 general aggregate (per project).

10.1.3 Property Insurance. Sublessee will maintain a policy or policies of special cause of loss (special form) property insurance (or an equivalent form acceptable to Sublessor) insuring all of Sublessee's Personal Property to the extent of its full replacement cost and including, without limitation, vandalism, malicious mischief, mechanical breakdown and sprinkler leakage endorsements, the proceeds of which will, so long as this sublease is in effect, be used for the repair or replacement of such Sublessee's Personal Property so insured. All of Sublessee's Personal Property is located at the Property at Sublessee's sole risk, and Sublessor is not liable for any Casualty to Sublessee's Personal Property or for any other damage, theft, misappropriation or loss thereto or thereof.

10.1.4 Other Insurance. Sublessee will maintain (a) business automobile liability insurance covering owned, hired and non-owned vehicles with limits of $1,000,000 combined single limit per accident, (b) workers compensation in statutory amounts and employers liability insurance, which insurance will comply with Sublessee's obligations to its employees under the laws of the state in which the Subleased Premises are located and which employers liability insurance will afford limits not less than $1,000,000 per accident, $1,000,000 per employee for bodily injury by disease, and $1,000,000 policy limit for bodily injury by disease, (c) business income and extra expense insurance with limits not less than 100% of all charges payable by Sublessee under this sublease for a period of 12 months, and (d) pollution liability insurance, if reasonably required by Sublessor given Sublessee's particular

use of the Subleased Premises. In addition, if insurance obligations generally required of sublessees in similar space in similar buildings in the area in which the Subleased Premises is located increase or otherwise change, Sublessor may similarly change Sublessee's insurance obligations under this sublease.

10.1.5 Primary Lease Insurance Requirements. Sublessee shall cause its insurance carriers to include any clauses or endorsements in favor of Sublessor, Prime Lessor and any additional parties which Sublessor is required to provide pursuant to the provisions of the Primary Lease.

10.1.6 General Insurance Requirements. Each policy of Sublessee's Insurance shall be written with a company or companies reasonably satisfactory to Sublessor, having a policyholder rating of at least "A" and be assigned a financial size category of at least "Class VIII" as rated in the most recent edition of "Best's Key Rating Guide" for insurance companies, and authorized to engage in the business of insurance in the state in which the Subleased Premises are located. Sublessee will deliver an appropriate ACORD Form certificate or other evidence of insurance satisfactory to Sublessor with respect to each policy of Sublessee's Insurance (i) prior to any use or occupancy of the Subleased Premises by Sublessee, (ii) not later than 10 days prior to the expiration of any current policy or certificate, and (iii) at such other times as Sublessor may reasonably request. All such policies shall require a 30-day notice of cancellation or non-renewal to the Sublessor, Property Manager, and Sublessor's mortgage lender (if requested by Sublessor) and such other Sublessor Parties as Sublessor may request. Upon the 10th anniversary of the Commencement Date and every 10 years thereafter and at the beginning of each extension term, if any, Sublessee shall cause such coverages and liability limits to be increased as Sublessor may reasonably require in view of inflation and other relevant factors.

10.2 Sublessor's Insurance. Sublessor will at all times during the Term maintain the insurance this Section 10.2 requires.

10.2.1 Property Insurance. Sublessor will maintain insurance on the Property providing coverage comparable to that provided by a standard ISO special causes of loss form property insurance policy in an amount not less than the full replacement cost of the Building (less foundation, grading and excavation costs). Such insurance will include, without limitation, coverage for Sublessee's Improvements and any Alterations that Sublessee constructs (or causes to be constructed) within the Subleased Premises; provided, however, that Sublessor will not be obligated to insure those Alterations, if any, of which Sublessee has failed to notify Sublessor, in writing, or with respect to which Sublessee has failed to provide Sublessor with written information, in each case as required under Section 8.1. Sublessor may, at its option, obtain such additional coverages or endorsements as Sublessor reasonably deems appropriate. Sublessor may maintain such insurance in whole or in part under blanket policies. Such insurance will not cover or be applicable to any of Sublessee's Personal Property.

10.2.2 Liability Insurance. Sublessor will maintain commercial general liability insurance for bodily injury, personal injury, and property damage occurring at the Property with such liability limits as Sublessor deems necessary or appropriate. Such liability insurance will protect only Sublessor and, at Sublessor's option, Sublessor's lender and some or all of the Sublessor Parties, and does not protect Sublessee or replace or supplement the liability insurance this sublease obligates Sublessee to carry.

10.3 Waivers and Releases of Claims and Subrogation.

10.3.1 Sublessee's Waiver and Release. To the fullest extent allowable under the Laws, and except for Sublessee's Unreleased Casualty Claims, Sublessee, on behalf of Sublessee and its insurers, waives, releases and discharges the Sublessor Parties from all Claims for any Casualty to the Subleased Premises, Property or Sublessee's Personal Property, and any resulting loss of use or business interruption, regardless of whether such Casualty is caused by the negligent acts or omissions of any person or entity (including, without limitation, Sublessor or Sublessee). Sublessee will look only to any insurance coverage Sublessee may elect to maintain (regardless of whether Sublessee actually obtains any such coverage or whether such coverage is sufficient) with respect to the Claims that Sublessee is waiving, releasing and discharging under this Section 10.3.1. Any property insurance Sublessee maintains must permit or include a waiver of subrogation in favor of the Sublessor Parties consistent with the provisions of this Section 10.3.1. In addition, Sublessee acknowledges and agrees that it is the intent of the parties to this sublease, that to the fullest extent possible, all risk of loss with respect to any personal property located at the Property shall be assumed by the party in the best position to insure against such loss, and that, as between Sublessor

and Sublessee, Sublessee shall bear the risk of loss with respect to all property located within the Subleased Premises whether owned by Sublessee or owned by any third-party (including, without limitation, property stored by Sublessee on behalf of a third-party). Accordingly, Sublessee shall, to the fullest extent allowable under the Laws (except to the extent caused by the willful misconduct of Sublessor) indemnify, protect, defend (with counsel reasonably acceptable to Sublessor) and hold harmless the Sublessor Parties from and against all Claims made by any third-party (a) arising from damage to any personal property located in the Subleased Premises (other than Sublessor's personal property) and/or (b) arising from damage to Sublessee's Personal Property located at the Property. The foregoing indemnifications shall apply even if such damage is caused by the negligence of Sublessor or a breach or default of this sublease by Sublessor. The terms of this Section 10.3.1 shall survive the expiration or early termination of this sublease.

10.3.2 Sublessor's Waiver and Release. To the fullest extent allowable under the Laws, and except for Sublessor's Unreleased Casualty Claims, Sublessor, on behalf of Sublessor and its insurers, waives, releases and discharges the Sublessee Parties from all Claims for any Casualty to the Property or Sublessor's Personal Property, and any resulting loss of use or business interruption, regardless of whether such Casualty is caused by the negligent acts or omissions of any person or entity (including, without limitation, Sublessor or Sublessee). Sublessor will look only to any insurance coverage Sublessor may elect to maintain (regardless of whether Sublessor actually obtains any such coverage or whether such coverage is sufficient) with respect to the Claims Sublessor is waiving, releasing and discharging under this Section 10.3.2. Any property insurance Sublessor maintains must permit or include a waiver of subrogation in favor of the Sublessee Parties consistent with the provisions of this Section 10.3.2.

10.3.3 Limitation on Waivers of Claims. The provisions of Sections 10.3.1 and 10.3.2 above, (a) do not limit the duty of Sublessor and Sublessee to perform their respective obligations under Article 5, Article 7 or Article 11, (b) apply only with respect to the Sublessor Parties and the Sublessee Parties and do not limit or waive, release or discharge any Claims that either Sublessor or Sublessee may have against any "third-party" person or entity (including, without limitation, any contractor, service provider, agent, licensee, or invitee that is not a Sublessor Party or a Sublessee Party) arising from any Casualty to the Subleased Premises, Property, Sublessee's Personal Property or Sublessor's Personal Property caused by any such third party, and (c) do not apply to Sublessee's liability under this sublease with respect to Sublessee Damage or to Claims arising out of Sublessee's failure to perform its duties and obligations under Article 5.

10.4 Sublessee's Failure to Insure. If Sublessee fails to provide Sublessor with evidence of insurance as required under Section 10.1, and if such failure is not cured by Sublessee within five days after Sublessor's request therefor, Sublessor may, but is not obligated to, obtain such insurance for Sublessor's benefit without waiving or releasing Sublessee from any obligation contained in or default under this sublease. Sublessee will pay to Sublessor, as Additional Rent, all costs and expenses Sublessor reasonably incurs in obtaining such insurance.

10.5 No Limitation. Sublessor's establishment of minimum liability insurance requirements for Sublessee in this sublease is not a representation by Sublessor that such limits are sufficient and does not limit Sublessee's liability under this sublease in any manner.

Article 11 -- Damage or Destruction

11.1 Tenantable Within 270 Days. If any Casualty renders the whole or any material part of the Subleased Premises untenantable and Sublessor determines (in Sublessor's reasonable discretion) that Sublessor can make the whole Subleased Premises (including, without limitation, Sublessee's Improvements and any Alterations, but not those Alterations, if any, that Sublessor is not obligated to insure under Section 10.2.1) tenantable within 270 days after the date of the Casualty, then Sublessor will notify Sublessee of such determination within 60 days after the date of the Casualty. Sublessor's notice will specify the anticipated date the Subleased Premises would be made tenantable. If based upon such anticipated date, the repairs will take longer than 30 days and less than 12 months will remain in the Term upon completion, either Sublessor or Sublessee may elect to terminate this sublease by notifying the other within 15 days after the date of Sublessor's notice, which termination will be effective 60 days after the date of such notice of termination. For all purposes of this Article 11, (a) the term "tenantable" means that the Subleased Premises (or the applicable portion thereof) are in a condition that will allow for the commercially reasonable conduct therein of Sublessee's normal business operations (in substantially the same manner as conducted immediately prior

to the Casualty); and (b) the 270-day threshold to achieve tenantability in the event of a Casualty will be increased by the additional time reasonably required for the procurement of all materials necessary for such achievement.

11.2 Not Tenantable Within 270 Days. If any Casualty renders the whole or any material part of the Subleased Premises untenantable and Sublessor determines (in Sublessor's reasonable discretion) that Sublessor cannot make the whole Subleased Premises (including, without limitation, Sublessee's Improvements and any Alterations, but not those Alterations, if any, that Sublessor is not obligated to insure under Section 10.2.1) tenantable within 270 days after the date of the Casualty, then Sublessor will notify Sublessee of such determination (including the anticipated date of restoration) within 60 days after the date of the Casualty. Sublessor may, in such notice, terminate this sublease effective on the date 60 days after the date of Sublessor's notice. If Sublessor does not so terminate this sublease, and provided the Casualty was not caused by Sublessee, Sublessee may terminate this sublease by notifying Sublessor within 15 days after the date of Sublessor's notice, which termination will be effective 60 days after the date of Sublessee's notice.

11.3 Property Substantially Damaged. If the Property is damaged or destroyed by any Casualty (regardless of whether the Subleased Premises is affected) and the damage reduces the value of the improvements on the Property by more than 50% (as Sublessor reasonably determines value before and after the Casualty), then notwithstanding anything to the contrary in Sections 11.1 or 11.2, Sublessor may, at Sublessor's option, by notifying Sublessee within 60 days after the Casualty, terminate this sublease effective on the date 60 days after the date of Sublessor's notice.

11.4 Insufficient Proceeds. If Sublessor does not receive sufficient insurance proceeds (including the amount of any policy deductible) to repair all damage to the Subleased Premises (including, without limitation, Sublessee's Improvements and any Alterations, but not those Alterations, if any, that Sublessor is not obligated to insure under Section 10.2.1) or the Property caused by any Casualty, or if Sublessor's lender does not allow Sublessor to use sufficient proceeds to repair all such damage, then notwithstanding anything to the contrary in Sections 11.1, 11.2 or 11.3, Sublessor may, at Sublessor's option, by notifying Sublessee within 60 days after the Casualty, terminate this sublease effective on the date 60 days after the date of Sublessor's notice.

11.5 Sublessor's Repair. If this sublease is not terminated under Sections 11.1 through 11.4 following any Casualty, then Sublessor will repair and restore the Subleased Premises (including, without limitation, Sublessee's Improvements and any Alterations that Sublessor is obligated to insure under Section 10.2.1) and the Property to as near their condition prior to the Casualty as is reasonably practicable with all commercially reasonable diligence and speed (subject to Sublessor's rights under Section 7.2.2 with respect to Sublessee Damage). Basic Rent and Sublessee's Share of Property Expenses for any period during which the Subleased Premises are untenantable as a result of the Casualty will not be abated and Sublessee will continue to pay Rent for the Subleased Premises. In no event is Sublessor obligated to repair or restore any Alterations that have not been previously disclosed to and approved by Sublessor, any special equipment or fixtures installed by Sublessee, or any other Sublessee's Personal Property. Sublessor will, if necessary, equitably adjust Sublessee's Share of Property Expenses Percentage to account for any reduction in the rentable area of the Subleased Premises or Building resulting from a Casualty.

11.6 Intentionally Omitted.

11.7 Exclusive Casualty Remedy. The provisions of this Article 11 are Sublessee's sole and exclusive rights and remedies in the event of a Casualty. To the extent permitted by the Laws, Sublessee waives the benefits of any Law that provides Sublessee any abatement or termination rights (by virtue of a Casualty) not specifically described in this Article 11.

11.8 Notice to Sublessor. If any Casualty to any portion of the Subleased Premises or Property occurs, Sublessee will immediately provide written notice of such Casualty to Sublessor. None of the obligations of Sublessor under this Article 11 will be deemed to have arisen unless and until Sublessor has received actual notice that the Casualty has occurred and has had a commercially reasonable time within which to respond to such notice. Sublessee is liable to Sublessor for any uninsured loss or other Claims Sublessor incurs if (a) Sublessee fails to timely report any Casualty to the Subleased Premises or (to the extent Sublessee has actual knowledge thereof) the Property or Sublessor's Personal Property to Sublessor, (b) Sublessor does not otherwise have actual knowledge of such Casualty,

and (c) the failure to timely report such Casualty results in Sublessor's property insurance carrier refusing to cover all or any portion of the loss.

Article 12 -- Eminent Domain

12.1 Termination of Sublease. If a Condemning Authority desires to effect a Taking of all or any material part of the Property, Sublessor will notify Sublessee and Sublessor and Sublessee will reasonably determine whether the Taking will render the Subleased Premises unsuitable for Sublessee's intended purposes. If Sublessor and Sublessee conclude that the Taking will render the Subleased Premises unsuitable for Sublessee's intended purposes, Sublessor and Sublessee will document such determination and this sublease will terminate as of the date the Condemning Authority takes possession of the portion of the Property taken. Sublessee will pay Rent to the date of termination. If a Condemning Authority takes all or any material part of the Building or if a Taking reduces the value of the Property by 50% or more (as reasonably determined by Sublessor), regardless of whether the Subleased Premises is affected and regardless of whether the Taking will render the Subleased Premises unsuitable for Sublessee's intended purposes, then Sublessor, at Sublessor's option, by notifying Sublessee prior to the date the Condemning Authority takes possession of the portion of the Property taken, may terminate this sublease effective on the date the Condemning Authority takes possession of the portion of the Property taken.

12.2 Sublessor's Repair Obligations. If this Sublease does not terminate with respect to the entire Subleased Premises under Section 12.1 and the Taking includes a portion of the Subleased Premises, this sublease automatically terminates as to the portion of the Subleased Premises taken as of the date the Condemning Authority takes possession of the portion taken and Sublessor will, at its sole cost and expense, restore the remaining portion of the Subleased Premises to a complete architectural unit with all commercially reasonable diligence and speed and will reduce the Basic Rent for the period after the date the Condemning Authority takes possession of the portion of the Subleased Premises taken to a sum equal to the product of the Basic Rent provided for in this sublease multiplied by a fraction, the numerator of which is the rentable area of the Subleased Premises after the Taking and after Sublessor restores the Subleased Premises to a complete architectural unit, and the denominator of which is the rentable area of the Subleased Premises prior to the Taking. Sublessor will also equitably adjust Sublessee's Share of Property Expenses Percentage for the same period to account for the reduction in the rentable area of the Subleased Premises or the Building resulting from the Taking. Sublessee's obligation to pay Basic Rent and Sublessee's Share of Property Expenses will abate on a proportionate basis with respect to that portion of the Subleased Premises remaining after the Taking that Sublessee is unable to use during Sublessor's restoration for the period of time that Sublessee is unable to use such portion of the Subleased Premises.

12.3 Sublessee's Participation. Sublessor is entitled to receive and keep all damages, awards or payments resulting from or paid on account of a Taking. Accordingly, Sublessee waives and assigns to Sublessor any interest of Sublessee in any such damages, awards or payments. Sublessee may prove in separate Taking proceedings and may receive a separate award for damages to or Taking of Sublessee's Personal Property and for moving expenses; provided however, that Sublessee has no right to receive any award for its interest in this sublease or for loss of leasehold.

12.4 Exclusive Taking Remedy. The provisions of this Article 12 are Sublessee's sole and exclusive rights and remedies in the event of a Taking. To the extent permitted by the Laws, Sublessee waives the benefits of any Law that provides Sublessee any abatement or termination rights or any right to receive any payment or award (by virtue of a Taking) not specifically described in this Article 12.

Article 13 -- Transfers

13.1 Restriction on Transfers. Sublessee shall not Transfer all or any portion of the Subleased Premises without the prior written consent of: (i) Sublessor, which consent may be unreasonably withheld or may be withheld in its sole and absolute discretion, and (ii) the Prime Lessor.

13.4 Sublessor's Consent Standards. For purposes of Section 13.1 and in addition to any other reasonable grounds for denial, Sublessor's consent to a Transfer will be deemed reasonably withheld if, in Sublessor's good faith judgment, any one or more of the following apply: (a) the proposed transferee does not have the financial strength to perform the Sublessee's obligations under this sublease; (b) the business and operations of the proposed

transferee are not of comparable quality to the business and operations being conducted by other sublessees in the Building; (c) either the proposed transferee, or any Affiliate of the proposed transferee, occupies or is negotiating with Sublessor to lease space in the Building or occupies or is negotiating with Sublessor to lease space in another building on the Property; (d) the proposed transferee does not have a good business reputation; (e) the use of the Subleased Premises by the proposed transferee would, in Sublessor's reasonable judgment, impact the Building or the Property in a negative manner; (f) if the subject space is only a portion of the Subleased Premises and the physical subdivision of such portion is, or would render the Subleased Premises, not regular in shape with appropriate means of ingress and egress and facilities suitable for normal renting purposes, or is otherwise not readily divisible from the Subleased Premises; (g) the Transfer would require Alteration to the Building or the Property to comply with applicable Laws; (h) the transferee is a government (or agency or instrumentality thereof); (i) a proposed transferee whose occupancy will require any variation in the terms and conditions of this sublease; (j) an Event of Default, or an event that with the passage of time or the giving of notice would result in an Event of Default, exists under this sublease at the time Sublessee requests consent to the proposed Transfer; or (k) the Prime Lessor does not approve the Transfer.

Article 14 -- Defaults; Remedies

14.1 Events of Default. The occurrence of any of the following constitutes an Event of Default by Sublessee under this sublease. Sublessor and Sublessee agree that the notices required by this Section 14.1 are intended to satisfy any and all notice requirements imposed by the Laws and are not in addition to any such requirements.

14.1.1 Failure to Pay Rent. Sublessee fails to pay Basic Rent, any monthly installment of Sublessee's Share of Property Expenses or any other Additional Rent amount as and when due.

14.1.2 Failure to Perform. Sublessee breaches or fails to perform any of Sublessee's non-monetary obligations under this sublease and such breach or failure is not cured within 15 days after Sublessor notifies Sublessee of Sublessee's breach or failure; provided that if Sublessee is not able through the use of commercially reasonable efforts to cure such breach or failure within a 15-day period, Sublessee's breach or failure is not an Event of Default if Sublessee commences to cure such breach or failure within the 15-day period and thereafter diligently pursues the cure and effects the cure within a period of time that does not exceed an additional 60 days after the expiration of the initial 15-day period. Notwithstanding the foregoing, Sublessee is not entitled to any cure period before a breach or failure of this sublease becomes an Event of Default if (a) the same breach or failure has previously occurred at least one time during the prior 12 months, or (b) the breach or failure cannot be cured by Sublessee within the time periods permitted above, or (c) the breach or failure would subject Sublessor or any of the Sublessor Parties to criminal liability, (d) Sublessee causes or allows a Transfer in violation of the terms of Article 13 hereof, (e) the breach or failure is otherwise described in Section 14.1.3 or 14.1.4 hereof, (f) Sublessee fails to maintain insurance (or to timely provide Sublessor with evidence of such insurance) as required under Article 10 hereof, or (g) Sublessee fails to timely deliver an estoppel certificate as required by Section 15.4 hereof.

14.1.3 Misrepresentation. The existence of any material misrepresentation or omission in any financial statements, correspondence or other information provided to Sublessor by or on behalf of Sublessee or any Guarantor in connection with (a) Sublessee's negotiation or execution of this sublease; (b) Sublessor's evaluation of Sublessee as a prospective sublessee at the Property; (c) any proposed or attempted Transfer; or (d) any consent or approval Sublessee requests under this sublease.

14.1.4 Other Defaults. The occurrence of any one or more of the following: (a) Sublessee's filing of a petition under any chapter of the Bankruptcy Code, or under any federal, state or foreign bankruptcy or insolvency statute now existing or hereafter enacted, or Sublessee's making a general assignment or general arrangement for the benefit of creditors; (b) the filing of an involuntary petition under any chapter of the Bankruptcy Code, or under any federal, state or foreign bankruptcy or insolvency statute now existing or hereafter enacted, or the filing of a petition for adjudication of bankruptcy or for reorganization or rearrangement, by or against Sublessee and such filing not being dismissed within 60 days; (c) the entry of an order for relief under any chapter of the Bankruptcy Code, or under any federal, state or foreign bankruptcy or insolvency statute now existing or hereafter enacted; (d) the appointment of a "custodian," as such term is defined in the Bankruptcy Code (or of an equivalent thereto under any federal, state or foreign bankruptcy or insolvency statute now existing or hereafter enacted), for Sublessee, or the appointment of a trustee or receiver to take possession of substantially all of Sublessee's assets (or Sublessee's assets

located at the Subleased Premises) or of Sublessee's interest in this sublease; or (e) the subjection of all or substantially all of Sublessee's assets located at the Subleased Premises or of Sublessee's interest in this sublease to attachment, execution or other judicial seizure. If a court of competent jurisdiction determines that any act described in this Section 14.1.4 does not constitute an Event of Default, and the court appoints a trustee to take possession of the Subleased Premises (or if Sublessee remains a debtor in possession of the Subleased Premises) and such trustee or Sublessee Transfers Sublessee's interest hereunder, then Sublessor is entitled to receive the same amount of Additional Rent as Sublessor would be entitled to receive if such a Transfer had occurred pursuant to Section 13.1.

14.1.4 Primary Lease Defaults. The taking of any action by Sublessee, or the failure of Sublessee to take any action, that causes a default under the Primary Lease.

14.2 Remedies. Upon the occurrence of any Event of Default, Sublessor may at any time and from time to time, without notice or demand and without preventing Sublessor from exercising any other right or remedy, exercise any one or more of the following remedies:

14.2.1 Termination of Sublessee's Possession/Re-Entry and Reletting Right. Terminate Sublessee's right to possess the Subleased Premises by any lawful means with or without terminating this sublease, in which event Sublessee will immediately surrender possession of the Subleased Premises to Sublessor. In such event, this sublease continues in full force and effect (except for Sublessee's right to possess the Subleased Premises) and Sublessee continues to be obligated for and must pay all Rent as and when due under this sublease. Unless Sublessor specifically states that it is terminating this sublease, Sublessor's termination of Sublessee's right to possess the Subleased Premises is not to be construed as an election by Sublessor to terminate this sublease or Sublessee's obligations and liabilities under this sublease. If Sublessor terminates Sublessee's right to possess the Subleased Premises, Sublessor is not obligated to, but may re-enter the Subleased Premises and remove all persons and property from the Subleased Premises. Sublessor may store any property Sublessor removes from the Subleased Premises in a public warehouse or elsewhere at the cost and for the account of Sublessee, and if Sublessee fails to pay the storage charges therefor as and when due Sublessor may deem such property abandoned and cause such property to be sold or otherwise disposed of without further obligation or any accounting to Sublessee. Upon such re-entry, Sublessor is not obligated to, but may relet all or any part of the Subleased Premises to a third party or parties for Sublessee's account. Sublessee is immediately liable to Sublessor for all Re-Entry Costs and must pay Sublessor the same within five days after Sublessor's notice to Sublessee. Sublessor may relet the Subleased Premises for a period shorter or longer than the remaining Term. If Sublessor relets all or any part of the Subleased Premises, Sublessee remains obligated to pay all Rent when due under this sublease; provided that Sublessor will, on a monthly basis, credit any Net Rent received for the current month against Sublessee's Rent obligation for the next succeeding month. If the Net Rent received for any month exceeds Sublessee's Rent obligation for the succeeding month, Sublessor may retain the surplus.

14.2.2 Termination of Lease. Terminate this sublease effective on the date Sublessor specifies in Sublessor's notice to Sublessee. Upon termination, Sublessee will immediately surrender possession of the Subleased Premises to Sublessor as provided in Article 16. Such termination will not extinguish any obligations that survive termination as provided elsewhere in this sublease. If Sublessor terminates this sublease, Sublessor may recover from Sublessee and Sublessee will pay to Sublessor on demand all damages Sublessor incurs by reason of Sublessee's default, including, without limitation, (a) all Rent due and payable under this sublease as of the effective date of the termination; (b) any amount necessary to compensate Sublessor for any detriment proximately caused Sublessor by Sublessee's failure to perform its obligations under this sublease or that in the ordinary course would likely result from Sublessee's failure to perform, including, without limitation, any Re-Entry Costs and the unamortized amounts of Sublessor's costs to construct Sublessee's Improvements and real estate commissions paid in connection with this sublease; (c) an amount equal to the amount by which (i) the present worth, as of the effective date of the termination, of the Rent for the balance of the Term remaining after the effective date of the termination (assuming no termination) exceeds (ii) the present worth, as of the effective date of the termination, of a fair market Rent for the Subleased Premises for the same period (as Sublessor reasonably determines the fair market Rent); and (d) Sublessee's Share of Property Expenses to the extent Sublessor is not otherwise reimbursed for such Property Expenses. For purposes of this Section 14.2.2, Sublessor will compute present worth by utilizing a discount rate of 6% per annum. Nothing in this Section 14.2.2 limits or prejudices Sublessor's right to prove and obtain damages in an amount equal to the maximum amount allowed by the Laws, regardless of whether such damages are greater than the amounts set forth in this Section 14.2.2.

14.2.3 Present Worth of Rent. Recover from Sublessee, and Sublessee will pay to Sublessor on demand, an amount equal to the sum of (a) all Rent past due (together with interest thereon at the Maximum Rate), plus (b) the then present worth, as of the date of such recovery, of the aggregate of the Rent and any other charges payable by Sublessee under this sublease for the then-unexpired portion of the Term. Sublessor will employ a discount rate of 6% per annum to compute present worth.

14.2.4 Other Remedies. Pursue any other remedy now or hereafter available to Sublessor under the laws or judicial decisions of the State. All rights and remedies of Sublessor under this sublease are cumulative and the exercise of any one or more remedies at any time or from time to time does not limit or preclude the further exercise by Sublessor of the same or any other rights or remedies at any time or from time to time.

14.3 Costs. Sublessee will reimburse and compensate Sublessor on demand and as Additional Rent for any actual loss Sublessor incurs in connection with, resulting from or related to any breach or default of Sublessee under this sublease, regardless of whether the breach or default constitutes an Event of Default, and regardless of whether suit is commenced or judgment is entered. Such loss includes all reasonable legal fees, costs and expenses (including paralegal fees, expert fees, and other professional fees and expenses) Sublessor incurs investigating, negotiating, settling or enforcing any of Sublessor's rights or remedies or otherwise protecting Sublessor's interests under this sublease. In addition to the foregoing, Sublessor is entitled to reimbursement of all of Sublessor's fees, expenses and damages, including, without limitation, reasonable attorneys' fees and paralegal and other professional fees and expenses, Sublessor incurs in connection with any bankruptcy or insolvency proceeding involving Sublessee including, without limitation, any proceeding under any chapter of the Bankruptcy Code; by exercising and advocating rights under Section 365 of the Bankruptcy Code; by proposing a plan of reorganization and objecting to competing plans; and by filing motions for relief from stay. Such fees and expenses are payable on demand, or, in any event, upon assumption or rejection of this sublease in bankruptcy.

14.4 Waiver of Re-Entry Claims. Sublessee waives and releases all Claims Sublessee may have resulting from Sublessor's re-entry and taking possession of the Subleased Premises pursuant to this Article 14 by any lawful means and removing, storing or disposing of Sublessee's property as permitted under this sublease, regardless of whether this sublease is terminated and, to the fullest extent allowable under the Laws, Sublessee releases and, to the fullest extent allowable under the Laws, will indemnify, protect, defend (with counsel reasonably acceptable to Sublessor) and hold harmless the Sublessor Parties from and against any and all Claims arising therefrom. No such re-entry is to be considered or construed as a forcible entry by Sublessor.

14.5 Sublessor's Default. Sublessor will not be in default under this sublease unless Sublessor breaches or fails to perform any of Sublessor's obligations under this sublease and the breach or failure continues for a period of 30 days after Sublessee notifies Sublessor in writing of Sublessor's breach or failure; provided that if Sublessor is not able through the use of commercially reasonable efforts to cure the breach or failure within such 30-day period, Sublessor's breach or failure is not a default as long as Sublessor commences to cure its breach or failure within the 30-day period and thereafter diligently pursues the cure to completion.

14.6 No Waiver. No failure by either Sublessor or Sublessee to insist upon the performance of any provision of this sublease or to exercise any right or remedy upon a breach or default hereof constitutes a waiver of any such breach or default. Any such waiver may be made only by a writing signed by the party providing the waiver. One or more waivers by a party is not to be construed as a waiver by that party of a subsequent breach or default of the same provision.

Article 15 -- Creditors; Estoppel Certificates

15.1 Subordination. This sublease, all rights of Sublessee in this sublease, and all interest or estate of Sublessee in the Property, are subject and subordinate to any Mortgage. Sublessee will, on Sublessor's demand, execute and deliver to Sublessor or to any other person Sublessor designates any instruments, releases or other documents reasonably required to confirm the self-effectuating subordination of this sublease as provided in this Section 15.1 to any Mortgage. The subordination to any future Mortgage provided in this Section 15.1 is expressly conditioned upon the Mortgage holder's agreement that as long as no Event of Default occurs under this sublease, the

holder of the Mortgage will not disturb Sublessee's rights of possession under this sublease. The lien of any existing or future Mortgage will not cover Sublessee's Personal Property.

15.2 Attornment. If any ground lessor, the holder of any Mortgage at a foreclosure sale or any other transferee acquires Sublessor's interest in this sublease, the Subleased Premises or the Property, Sublessee will attorn to and recognize such transferee or successor as Sublessor under this sublease. Sublessee waives the protection of any statute or rule of law that gives or purports to give Sublessee any right to terminate this sublease or surrender possession of the Subleased Premises upon the transfer of Sublessor's interest.

15.3 Mortgagee Protection Clause. Sublessee will give the holder of any Mortgage, by registered mail, a copy of any notice of default Sublessee serves on Sublessor, provided that Sublessor or the holder of the Mortgage previously notified Sublessee (by way of notice of assignment of rents and leases or otherwise) of the address of such holder. Sublessee further agrees that if Sublessor fails to cure such default within the time provided for in this sublease, then Sublessee will provide written notice of such failure to such holder and such holder will have an additional 30 days after the later of (a) receipt of such notice, or (b) the expiration of Sublessor's cure period, within which to cure the default. If the default cannot be cured within that additional 30-day period, then the holder will have such additional time as may be necessary to effect the cure if, within the 30-day period, the holder has commenced and is diligently pursuing the cure. If Sublessor, Sublessee and the holder of any Mortgage enter into any separate agreement regarding the matters addressed in Sections 15.1, 15.2 and this Section 15.3, then to the extent of any conflict between the provisions of such separate agreement and the provisions of Section 15.1, 15.2 or this Section 15.3 , the provisions of such separate agreement shall control.

15.4 Estoppel Certificates.

15.4.1 Contents. Upon Sublessor's written request, Sublessee will execute, acknowledge and deliver to Sublessor a written statement, addressed to any Estoppel Addressee designated by Sublessor, in form satisfactory to such Estoppel Addressee, certifying: (a) that this sublease (and all guaranties, if any) is unmodified and in full force and effect (or, if there have been any modifications, that this sublease is in full force and effect, as modified, and stating the modifications); (b) that this sublease has not been canceled or terminated; (c) the last date of payment of Rent and the time period covered by such payment; (d) whether there are then existing any breaches or defaults by Sublessor under this sublease known to Sublessee, and, if so, specifying the same; (e) specifying any existing claims or defenses in favor of Sublessee against the enforcement of this sublease (or of any guaranties); and (f) such other factual statements as any Estoppel Addressee may request. Sublessee will deliver the statement to Sublessor or any other Estoppel Addressee (as Sublessor may direct) within 10 Business Days after Sublessor's request. Each Estoppel Addressee may conclusively rely upon such statement as true and correct.

15.4.2 Failure to Deliver. If Sublessee does not timely deliver to Sublessor the statement referenced in Section 15.4.1, Sublessor and any lender, prospective lender, investor or purchaser may conclusively presume and rely that, except as otherwise represented by Sublessor, (a) the terms and provisions of this sublease have not been changed; (b) this sublease has not been canceled or terminated; (c) not more than one month's Rent has been paid in advance; and (d) Sublessor is not in default in the performance of any of its obligations under this sublease. In such event, Sublessee is estopped from denying the truth of such facts.

Article 16 -- Surrender; Holding Over; Failure to Surrender as Required

16.1 Surrender of Subleased Premises. At the expiration or earlier termination of this sublease, Sublessee will surrender the Subleased Premises to Sublessor in the condition and as otherwise required under this Section 16.1. Upon such surrender, Sublessee, at its sole cost and expense, will (a) deliver all keys to the Subleased Premises to Property Manager or to Sublessor at the place then fixed for Sublessee's payment of Basic Rent or as Property Manager or Sublessor otherwise directs, and inform Property Manager or Sublessor of all combinations on locks, safes and vaults, if any, that Sublessee is allowed to leave at the Property; (b) comply with all of the specifications and requirements (including, without limitation, the restoration requirements) set forth in Exhibit H, and otherwise cause the Subleased Premises to be in good order, condition and repair, reasonable wear and tear, Casualty (subject to Sublessor's rights with respect to Sublessee Damage) and Taking excepted; and (c) remove all of Sublessee's Personal Property from the Property and, if Sublessor so requires, all specified Alterations that Sublessee

placed on the Property and will promptly repair any damage to the Subleased Premises or the Property caused by such removal.

16.2 Holding Over; Failure to Surrender Subleased Premises as Required.

16.2.1 Holding Over. If Sublessee possesses the Subleased Premises after the Term expires or is otherwise terminated without executing a new lease and without Sublessor's written consent, (a) Sublessee is conclusively deemed to be occupying the Subleased Premises without claim of right as a sublessee at sufferance (but, at Sublessor's election, subject to all terms and conditions of this sublease), and (b) Sublessee will pay Sublessor a charge for each day of occupancy after expiration of the Term in an amount equal to 200% of Sublessee's then-existing Basic Rent (on a daily basis), plus all Additional Rent as described in this sublease.

16.2.2 Failure to Surrender Subleased Premises as Required. In the event that Sublessee fails to surrender the Subleased Premises, or any portion thereof, at the time, in the condition and otherwise in accordance with the requirements of Section 16.1, then Sublessee (a) releases Sublessor from, (b) will be liable to Sublessor for, and (c) to the fullest extent allowable under the Laws, will indemnify, protect, defend (with counsel reasonably acceptable to Sublessor) and hold harmless Sublessor from and against, any and all Claims resulting from such failure, including, without limitation, any Claims resulting from Sublessor's loss of, or any Claims made by, any actual or potential succeeding sublessee or occupant of the Subleased Premises due to or founded on any such failure. Further, all property of Sublessee not removed from the Subleased Premises or the Property as required under Section 16.1 will be conclusively deemed abandoned. Sublessor may thereupon remove all such abandoned property from the Property and cause its transportation and storage in a public warehouse or elsewhere at the sole cost and expense and for the account of Sublessee. If Sublessee fails to pay any of the storage charges therefor, Sublessor may cause such property to be sold or otherwise disposed of without further obligation or any accounting to Sublessee. Sublessor will not be liable for damage, theft, misappropriation or loss of any such property or in any other manner in respect thereto.

Article 17 -- Sublessor's Improvements; Sublessee's Improvements

17.1 Sublessor's Improvements. Sublessor will cause Sublessor's Improvements to be constructed, at Sublessor's sole cost and expense, in accordance with all Laws applicable thereto, as the same are in effect and enforced by governmental or other bodies having jurisdiction over such matters as of the Effective Date (other than with respect to Sublessee's use thereof and other than as Sublessor and Sublessee may otherwise agree); provided, however, that Sublessee will be solely responsible for all costs and expenses (as reasonably determined by Sublessor and its contractor) related to any Sublessee Delays.

17.2 Sublessee's Improvements. Sublessor will also cause Sublessee's Improvements to be constructed, albeit at Sublessee's sole cost and expense, subject to the Improvement Allowance as described in Section 17.2.2. Further, Sublessee will be solely responsible for (a) all costs and expenses related to any Change Orders, which costs and expenses will be determined and will be payable as provided in Section 17.3 hereof, (b) the design and installation of, and all costs and expenses related to, all furniture, fixtures, equipment and personal property that are not specified in the Outline Specifications for Sublessee's Improvements (including, without limitation, costs associated with the preparation and approval of Sublessee's racking plan and the installation of Sublessee's racking in the Subleased Premises) and all telephone, computer, data and other wiring and cabling, to be located in the Subleased Premises, and (c) all costs and expenses related to any Sublessee Delays, which costs and expenses will be determined in the same manner as the determination of Change Order Costs, and will be payable within 10 days after Sublessor's invoice to Sublessee.

17.2.1 Design; Compliance with Laws. Sublessee's Improvements will be designed as described in this Article 17. Sublessee's Improvements will automatically become the property of Sublessor and a part of the Building immediately upon installation. Subject to this Article 17, Sublessor will complete, or cause the completion of, the construction of Sublessee's Improvements in substantial accordance with all Laws applicable thereto; provided, however, that Sublessee will be solely responsible for the compliance of Sublessee's Improvements with all Laws with respect to Sublessee's use thereof, and also as Sublessor and Sublessee may agree with respect to any particular design requests of Sublessee. Among other things, Sublessor will be responsible for the compliance of Sublessee's Improvements (other than with respect to the items for which Sublessee is responsible and as aforesaid with respect to Sublessee's use and particular design requests) with the ADA, as the same are in effect and enforced by

governmental or other bodies having jurisdiction over such matters as of the Effective Date. All other compliance with Laws (including, without limitation, all other compliance with the ADA), in all cases as the same are from time to time in effect and enforced by the governmental or other bodies having jurisdiction over such matters, will be the sole responsibility of Sublessee.

17.2.2 Payment of TI Construction Costs; Improvement Allowance. Sublessor will credit an amount, not to exceed the Improvement Allowance, against Sublessee's obligation to pay the TI Construction Costs. Sublessor is not obligated to pay or incur any amounts that exceed the Improvement Allowance in connection with the TI Construction Costs. If the TI Construction Costs exceed the Improvement Allowance, then Sublessee will pay any and all of such excess to Sublessor in cash as Additional Rent within 10 Business Days after Sublessor's delivery of invoices therefor, from time to time. Further, if Sublessor reasonably estimates that the TI Construction Costs will exceed the Improvement Allowance (and Sublessor may make reasonable re-estimates from time to time), Sublessor may require Sublessee first to deposit with Sublessor a sum equal to Sublessor's reasonable estimate of the amount by which the TI Construction Costs may exceed the Improvement Allowance. Following the completion of Sublessee's Improvements, Sublessor (a) will determine the actual TI Construction Costs, (b) will reconcile the actual TI Construction Costs with the Improvement Allowance and payments and additional deposits (if any) theretofore made by Sublessee, and (c) will notify Sublessee, in writing, of such determination and reconciliation. In the event that such reconciliation shows that any additional deposits made by Sublessee hereunder in connection with Sublessee's Improvements were not applied to TI Construction Costs, then the excess (*i.e.*, the unapplied additional deposits) will be credited against either amounts owed by Sublessee to Sublessor for Change Orders or to the Basic Rent payments due hereunder from and after the Commencement Date (beginning with the first Basic Rent payment due after Sublessor's delivery of the aforesaid reconciliation notification), until the full amount of such excess has been so applied. In the alternative, at Sublessor's sole election, Sublessor will pay the full amount of such excess to Sublessee within 30 days after Sublessor's delivery of the aforesaid reconciliation notification. In the event that the reconciliation shows that the actual TI Construction Costs exceed the sum of the Improvement Allowance plus any additional deposits theretofore made by Sublessee in connection with Sublessee's Improvements, then Sublessee will pay the full amount of such excess to Sublessor within 30 days after Sublessor's delivery of the reconciliation notification.

17.2.3 Issued for Construction Plans; Confirmation of Approval of Issued for Construction Plans. Sublessor will provide Sublessee with proposed Issued for Construction Plans. Such proposed Issued for Construction Plans will be consistent with the Outline Specifications for Sublessee's Improvements and the Space Plan. Within five Business Days after Sublessor has delivered to Sublessee the proposed Issued for Construction Plans, Sublessee will notify Sublessor of any desired revisions thereto. All such revisions (if any) that Sublessee desires must be entirely consistent with the Outline Specifications for Sublessee's Improvements and the Space Plan. If Sublessee notifies Sublessor within the aforesaid five-Business Day period of Sublessee's approval of the proposed Issued for Construction Plans without requesting any revisions thereto, or if Sublessee fails to notify Sublessor within such five-Business Day period, then the proposed Issued for Construction Plans will automatically become the final Issued for Construction Plans hereunder. If Sublessee notifies Sublessor within the aforesaid five-Business Day period and requests revisions to the proposed Issued for Construction Plans that satisfy the conditions of this Section 17.2.3 but that do not constitute Change Orders (as reasonably determined by Sublessor), then Sublessor will revise the proposed Issued for Construction Plans in accordance with the request, and such revised Issued for Construction Plans will automatically become the final Issued for Construction Plans hereunder. If Sublessee notifies Sublessor within the aforesaid five-Business Day period and requests revisions to the proposed Issued for Construction Plans that satisfy the conditions of this Section 17.2.3 and that do constitute Change Orders (as reasonably determined by Sublessor), then Sublessor will notify Sublessee, in writing, as to the cost of and the anticipated delay in completing such revisions; provided, however, that any such revisions that reduce the scope of work of Sublessee's Improvements will not necessarily result in a cost reduction under the Change Order (as reasonably determined by Sublessor). Sublessee will then notify Sublessor, in writing, within two Business Days after its receipt of Sublessor's aforesaid notification as to which (if any) of the requested revisions Sublessee still desires. If Sublessee notifies Sublessor within the aforesaid two-Business Day period of its approval of some or all of the requested revisions (and the additional cost and delay thereof), then Sublessor will revise the proposed Issued for Construction Plans in accordance with the approval, and such revised Issued for Construction Plans will automatically become the final Issued for Construction Plans hereunder. If Sublessee fails to notify Sublessor of its approval or disapproval of some or all of the requested revisions (and the additional cost and delay thereof) within the aforesaid two-Business Day period, then Sublessee will be deemed to have withdrawn all of its requested revisions to the proposed Issued for Construction Plans (to the extent that such revisions constitute Change Orders as aforesaid), and the proposed Issued for Construction Plans will automatically become the

final Issued for Construction Plans hereunder. Further, even if Sublessee withdraws (or is deemed to have withdrawn) its requested revisions, Sublessee will nonetheless pay to Sublessor all of the actual design and related costs incurred in the pursuit of the requested revision and the delay resulting from such pursuit will be a Sublessee Delay, in each case to be set forth in a Change Order that Sublessor and Sublessee will execute. In addition to the formal mutual notification process described above, Sublessor and Sublessee will reasonably cooperate with each other on a less formal iterative process that may facilitate the completion of the Issued for Construction Plans more promptly and expeditiously. In all cases, whether under the formal process or the iterative process, and anything in this sublease to the contrary notwithstanding, all notifications and notices required under this Section 17.2.3 may be delivered to Sublessor's and Sublessee's respective Representatives, and all approvals may be granted and all Change Orders may be executed by Sublessor's and Sublessee's respective Representatives, as provided in Section 17.4. All delays in the finalization of the Issued for Construction Plans caused by Sublessee's request for any revisions to the proposed Issued for Construction Plans will constitute Sublessee Delays hereunder. When Sublessor and Sublessee have approved the final version of the Issued for Construction Plans pursuant to this Section 17.2.3, such approval will be simultaneously confirmed by Sublessor's and Sublessee's completing and executing (by their respective Representatives) an "Approval of Issued for Construction Plans" in substantially the form of the attached Exhibit F-3. The final version of the Issued for Construction Plans as approved by both Sublessor and Sublessee will supersede the Outline Specifications for Sublessee's Improvements except as to any non-construction matters described in the Outline Specifications for Sublessee's Improvements.

17.2.4 Change Orders for Issued for Construction Plans. In the event that any revisions to proposed Issued for Construction Plans constitute Change Orders under Section 17.2.3, then such Change Orders will be documented and confirmed in accordance with Section 17.3.1. Any such Change Orders may contain estimates as to the costs and delays with respect to the changes set forth therein, with the final cost figures and delays then to be set forth in a supplemental Change Order when the same have been finally determined.

17.3 Change Orders. With respect to Sublessee's Improvements, Sublessee may request Change Orders, so long as the same are reasonably acceptable to Sublessor. Anything in this sublease to the contrary notwithstanding, (a) Sublessee (and not Sublessor) will be responsible and liable hereunder for any delay in the construction of Sublessee's Improvements, or any portion thereof, and for any additional costs with respect thereto, to the extent that such delay or additional costs (*i.e.*, Change Order Costs) result from a Change Order; (b) no Change Order will be effected if it is not permitted by applicable building and zoning regulations or other Laws, as the same are then interpreted and enforced by the appropriate authorities having jurisdiction thereof; and (c) no Change Order will be effected unless and until Sublessee has complied with the requirements of Section 17.3.1.

17.3.1 Documentation and Confirmation of Change Orders. Except as expressly set forth in this sublease, Sublessee will confirm (by Sublessee's Representatives) any and all Change Orders under this sublease (including, without limitation, any and all revisions to proposed Issued for Construction Plans that constitute Change Orders under Section 17.2.3), any and all delays resulting from Change Orders (including, without limitation, delays due to Sublessee Delay, Force Majeure, or the revisions themselves that are the subject of the Change Orders), and any and all Change Order Costs, by executing a "Change Order" in substantially the form of the attached Exhibit F-4; provided, however, that Sublessee's confirmation of any and all Change Orders by any other means (including, without limitation, e-mail or other form of electronic or written confirmation) will be binding on Sublessee notwithstanding any failure to execute such attached form of "Change Order."

17.3.2 Change Order Payments. Sublessee will pay any and all Change Order Costs to Sublessor in cash as Additional Rent within 10 Business Days after Sublessor's delivery of invoices therefor, from time to time. Further, before Sublessor proceeds with any work that is the subject of a Change Order, Sublessee will deposit with Sublessor an amount equal to Sublessor's estimate of the Change Order Cost thereof; provided, however, that Sublessee may elect in writing to apply any then unallocated portion of the Improvement Allowance to any such deposit. Following the completion of Sublessee's Improvements, Sublessor (a) will determine the actual Change Order Costs of all Change Orders, (b) will reconcile such actual costs with the payments and deposits (or credits from unallocated portions of the Improvement Allowance) theretofore made by Sublessee, and (c) will notify Sublessee, in writing, of such determination and reconciliation. In the event that such reconciliation shows that the amount of any deposits theretofore made by Sublessee (together with payments and credits from unused portions of the Improvement Allowance) exceeds the actual Change Order Costs of all Change Orders, then the excess will be credited against the Basic Rent payments due hereunder from and after the Commencement Date (beginning with the first Basic Rent

payment due after Sublessor's delivery of the aforesaid reconciliation notification), until the full amount of such excess has been so applied. In the alternative, at Sublessor's sole election, Sublessor will pay the full amount of such excess to Sublessee within 30 days after Sublessor's delivery of the aforesaid reconciliation notification. On the other hand, in the event that such reconciliation shows that the actual Change Order Costs of all Change Orders exceed the amount of the deposits theretofore made by Sublessee (together with credits from any unused portion of the Improvement Allowance), then Sublessee will pay the full amount of such excess to Sublessor within 30 days after Sublessor's delivery of the aforesaid reconciliation notification; provided, however, that Sublessee may elect in writing to apply any then-unused portion of the Improvement Allowance to any such excess.

17.4 Sublessee's Representative; Sublessor's Representative. Sublessee designates _____ as Sublessee's Representative having authority to (a) approve the Issued for Construction Plans; (b) request or approve any Change Order; (c) give and receive all notices, consents, approvals and directions regarding Sublessee's Improvements; and (d) otherwise act for and bind Sublessee in all matters relating to Sublessee's Improvements (including, without limitation, all matters relating to budgets and schedules), and all construction matters relating to the Subleased Premises. Sublessor designates _____ as Sublessor's Representative having authority to (a) submit and approve the Issued for Construction Plans; (b) require or approve any Change Order; (c) give and receive all notices, consents, approvals and directions regarding Sublessee's Improvements; and (d) otherwise act for and bind Sublessor in all matters relating to Sublessee's Improvements (including, without limitation, all matters relating to budgets and schedules), and all construction matters relating to the Subleased Premises. Notwithstanding any provision of this sublease to the contrary, all notices, deliveries, demands, requests or other communications to or from each of Sublessee's Representative and Sublessor's Representative may be delivered and received verbally, telephonically, electronically or in writing, and will not be subject to the provisions of Section 19.1. Further, (y) all actions of Sublessee's Representative within the authority described in this Section 17.4 will be unconditionally binding on Sublessee (regardless of the cost impact thereof); and (z) all actions of Sublessor's Representative within the authority described in this Section 17.4 will be unconditionally binding on Sublessor (regardless of the cost impact thereof).

17.5 Substantial Completion. Sublessor will use commercially reasonable efforts to achieve Substantial Completion of Sublessee's Improvements on or before the Target Commencement Date, subject to delays caused by Sublessee Delays and other Force Majeure. At Sublessor's request, any such Sublessee Delays or Force Majeure will be documented and confirmed in a Change Order that Sublessor and Sublessee will execute.

17.6 Punch List. Not more than 20 days prior to the date on which Sublessor, in good faith, anticipates Substantial Completion of Sublessee's Improvements, Sublessor will notify Sublessee of the date of such anticipated date of Substantial Completion, and of a date on which Sublessor and Sublessee (or their respective representatives) will meet to inspect the Subleased Premises. Within two Business Days after that inspection Sublessor and Sublessee, acting reasonably and in good faith, will develop a "punch list" of any Sublessee's Improvements items that were either not properly completed or are in need of repair. Sublessor will complete (or repair, as the case may be) the items listed on the punch list within 60 days after the "punch list" has been developed, subject to delays caused by Sublessee Delays and other Force Majeure. If Sublessee does not inspect the Subleased Premises with Sublessor as reasonably requested by Sublessor prior to or upon Substantial Completion, Sublessee will be deemed to have accepted the Subleased Premises as delivered, subject to any punch list items Sublessor develops and Sublessee's rights under this Section 17.6.

17.7 Construction Warranty. Sublessor will exercise commercially reasonable efforts to obtain from Sublessor's general contractor a customary and reasonable form of one-year warranty against defective workmanship and materials regarding Sublessee's Improvements.

17.8 Sublessee Finish Work. All finish work and decoration desired by Sublessee, but which is not included within Sublessee's Improvements to be performed by Sublessor as set forth in the approved Issued for Construction Plans, will be designed, furnished and installed by Sublessee at Sublessee's sole expense. Sublessor is under no obligation to perform, inspect, or supervise any such work, and Sublessor will have no liability or responsibility whatsoever therefor.

17.9 Milestone Dates. In order for Sublessor to achieve the scheduled Commencement Date, Sublessee will be required to provide certain definitive information, documentation or other materials on certain specific dates. For all purposes under this sublease, any failure or delay of Sublessee, or those acting for or under Sublessee, to satisfy

any scheduled dates that are set forth in this sublease or of which Sublessee has been given reasonable advance written or oral notice will constitute a Sublessee Delay. Sublessor's execution of this sublease notwithstanding any such pre-existing failure or delay will not be considered to be an acquiescence therein or waiver thereof by Sublessor. In particular, Sublessee's failure to provide Sublessor with a commercially reasonable degree of detail regarding Sublessee's intended installations (such as a final racking layout, a final office layout, and final finish selections) sufficiently in advance of the time or times for Sublessor's intended performance of its obligations under this Article 17 (which time or times may be set forth in a notice to Sublessee's Representative), will be a Sublessee Delay.

Article 18 -- Security Deposit; Guaranty

18.1 Security Deposit. Concurrently with Sublessee's execution of this sublease, Sublessee will deposit with Sublessor the Security Deposit. If an Event of Default occurs, Sublessor may use, apply or retain the whole or any part of the Security Deposit for the payment of any Rent due or any other sum that Sublessor expends by reason of Sublessee's default. Sublessee is not entitled to any interest on the Security Deposit. It is expressly agreed that the Security Deposit is not an advance rental deposit or a measure of Sublessor's damages in the case of Sublessee's default. Upon application of all or any part of the Security Deposit, Sublessee must upon demand restore the Security Deposit to its original amount. No application of the Security Deposit by Sublessor will be deemed to have cured Sublessee's default. Sublessee waives all provisions of Law, now or hereinafter in force, which restrict the amount or types of claim that a sublessor may make upon a security deposit or imposes upon a sublessor (or its successors) any obligation with respect to the handling or return of security deposits. The Security Deposit will be released to Sublessee within 45 days after the surrender of the Subleased Premises to Sublessor subject to any deductions made by Sublessor pursuant to the terms of this sublease.

18.2 Guaranty. Sublessee will deliver to Sublessor, concurrently with Sublessee's execution and delivery of this sublease, one or more guaranty agreements in the form attached as Exhibit G hereto, duly executed by each of the Guarantors listed in the Basic Terms. Sublessee acknowledges that Sublessor would not enter into this sublease with Sublessee on the terms contained herein without the credit support provided by each Guaranty. Sublessee covenants and agrees to maintain each such Guaranty in full force and effect at all times during the Term. If any Guarantor becomes insolvent or otherwise unable to perform under its Guaranty, or if any other event of default occurs under any Guaranty, Sublessee will give Sublessor prompt written notice thereof. Sublessee will take such actions as Sublessor may request to obtain a cure of any Guaranty default and/or to replace such Guaranty with additional security satisfactory to Sublessor (which may include, without limitation and in Sublessor's discretion, additional guaranties, security deposits, letters of credit, or other security) sufficient to provide Sublessor with credit enhancement for this sublease at least equivalent in value to that provided as of the Effective Date. **[The necessity and the identity of a Guarantor remain open pending Sublessor's review of Sublessee's financial data]**

Article 19 -- Miscellaneous Provisions

19.1 Notices. All Notices must be in writing and must be sent by personal delivery, United States registered or certified mail (postage prepaid), by an independent, nationally recognized overnight courier service that guarantees next-day delivery, or by e-mail transmission, or by personal delivery, properly addressed to the addresses specified in the Basic Terms or at such other place as either party may designate to the other party by written notice given in accordance with this Section 19.1. Notices given by mail are deemed delivered within four Business Days after the party sending the Notice deposits the Notice with the United States Post Office. Notices delivered by courier are deemed delivered on the next Business Day after the day the party delivering the Notice timely deposits the Notice with the courier for overnight (next-day) delivery. Notices delivered by e-mail transmission (with proof of transmission) or by personal delivery are deemed delivered on the same day of delivery or transmission, or upon receipt or refusal of delivery. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

19.2 Transfer of Sublessor's Interest. If Sublessor Transfers (other than for collateral security purposes) its ownership interest in the Subleased Premises, the transferor is automatically relieved of all obligations on the part of Sublessor accruing under this sublease from and after the date of the Transfer, provided that (a) the transferee agrees in writing to assume such obligations, and (b) the transferor delivers or credits to the transferee any funds the transferor holds in which Sublessee has an interest (such as a security deposit). Sublessor's covenants and obligations in this sublease bind each successive Sublessor only during and with respect to its respective period of

ownership. However, notwithstanding any such Transfer, the transferor remains entitled to the benefits of Sublessee's releases and indemnity and insurance obligations (and similar obligations) under this sublease with respect to matters arising or accruing during the transferor's period of ownership.

19.3 Successors. Subject to the express provisions of this sublease, the covenants and agreements contained in this sublease bind and inure to the benefit of Sublessor, its successors and assigns, bind Sublessee and its successors and assigns and inure to the benefit of Sublessee and its permitted successors and assigns.

19.4 Captions and Interpretation. The captions of the articles and sections of this sublease are to assist the parties in reading this sublease and are not a part of the terms or provisions of this sublease. Whenever required by the context of this sublease, the singular includes the plural and the plural includes the singular.

19.5 Relationship of Parties. This sublease does not create, between the parties to this sublease, the relationship of principal and agent, or of partnership or joint venture, or any other association or relationship, other than that of sublessor and sublessee.

19.6 Entire Agreement; Amendment. The Basic Terms and all exhibits, addenda and schedules attached to this sublease are incorporated into and made a part of this sublease as though fully set forth in this sublease and together with this sublease contain the entire agreement between the parties with respect to the improvement and leasing of the Subleased Premises. All prior and contemporaneous negotiations, including, without limitation, any letters of intent or other proposals and any drafts and related correspondence, are merged into and superseded by this sublease. No subsequent alteration, amendment, change or addition to this sublease (other than to the Property Rules) is binding on Sublessor or Sublessee unless it is in writing and signed by the party against whom its enforcement is sought.

19.7 Severability. If any covenant, condition, provision, term or agreement of this sublease is, to any extent, held invalid or unenforceable, the remaining portion thereof and all other covenants, conditions, provisions, terms and agreements of this sublease will not be affected by such holding, and will remain valid and in force to the fullest extent permitted by law.

19.8 Sublessor's Limited Liability. Sublessee will look solely to Sublessor's interest in the Property for recovering any judgment or collecting any obligation from Sublessor or any other Sublessor Party. Sublessee agrees that neither Sublessor nor any other Sublessor Party will be personally liable for any judgment or deficiency decree. In no event is Sublessor or any Sublessor Party liable to Sublessee or any other person for consequential, indirect, special or punitive damages.

19.9 Survival. All of Sublessee's obligations under this sublease accruing prior to expiration or other termination of this sublease, or that this sublease contemplates are to survive termination, will survive the expiration or other termination of this sublease until fully paid and/or performed by Sublessee. Interest on surviving payment obligations will continue to accrue at the rates stated in this sublease until fully paid. Further, all of Sublessee's releases and indemnification, defense and hold harmless obligations under this sublease survive the expiration or other termination of this sublease until any possible Claims to which the same might apply have been absolutely barred by all applicable statutes of limitation.

19.10 Attorneys' Fees. If either Sublessor or Sublessee commences any litigation or judicial action to determine or enforce any of the provisions of this sublease, the substantially prevailing party in any such litigation or judicial action is entitled to recover all of its costs and expenses (including, without limitation, reasonable attorneys' fees, costs and expenditures) from the non-prevailing party.

19.11 Brokers. Sublessor and Sublessee each represents and warrants to the other that it has not had any dealings with any realtors, brokers, finders or agents in connection with this sublease (except as may be specifically set forth herein) and each releases and agrees to indemnify the other from and against any Claims based on the failure or alleged failure to pay any realtors, brokers, finders or agents (other than any brokers specified herein) and from any cost, expense or liability for any compensation, commission or changes claimed by any realtors, brokers, finders or agents (other than any brokers specified herein) claiming by, through or on behalf of it with respect to this sublease

or the negotiation of this sublease. Sublessor will pay any brokers named in the Basic Terms in accordance with the applicable agreements executed by Sublessor for the Property.

19.12 Sublessee's Waiver. To the fullest extent allowable under the Laws, Sublessee agrees that the Sublessor Parties are not liable to Sublessee or any other person for, and Sublessee releases the Sublessor Parties from and waives, any and all Claims resulting or arising, directly or indirectly, from (a) any existing or future breakage, defect, insufficiency, inadequacy, malfunction, interruption, failure, breakdown or similar problem in the Subleased Premises or on the Property; (b) any equipment, system or appurtenance becoming out of repair, malfunctioning or failing to function; or (c) any occurrence, event, situation, Casualty, activity, injury, emergency, condition or happening whatsoever at the Property, regardless of whether insured or insurable. This agreement, waiver and release applies regardless of whether the Claim arises (i) from personal injury, property damage, or otherwise; (ii) from the act, omission, negligence, fault or misconduct of other sublessees or occupants of the Property or any other person whatsoever; and/or (iii) from Force Majeure, or any other cause or reason whatsoever. Nothing in this Section 19.12, however, relieves Sublessor from any liability to Sublessee (A) for the breach of any obligation of Sublessor that is expressly set forth in this sublease; or (B) with respect to any remedy of Sublessee that may be specifically and expressly set forth elsewhere in this sublease.

19.13 Governing Law. This sublease is governed by, and must be interpreted under, the internal laws of the State. Any suit against Sublessor or Sublessee relating to this sublease must be brought in the county in which the Property is located or, if the suit is brought in federal court, in any federal court appropriate for suits arising in such county; Sublessor and Sublessee waive the right to bring suit against each other elsewhere.

19.14 Time is of the Essence. Time is of the essence with respect to the performance of every provision of this sublease in which time of performance is a factor.

19.15 Joint and Several Liability. All parties signing this sublease as Sublessee and any Guarantor(s) of this sublease are jointly and severally liable for performing all of Sublessee's obligations under this sublease.

19.16 Independent Obligations. Except for any right of offset or abatement that may be expressly and specifically set forth in this sublease, Sublessee's covenants and obligations to pay Rent are independent from any of Sublessor's covenants, obligations, warranties or representations in this sublease.

19.17 Sublessee's Authority. Sublessee and each individual signing this sublease on behalf of Sublessee represents and warrants that they are duly authorized to sign on behalf of and to bind Sublessee and that this sublease is a duly authorized, binding and enforceable obligation of Sublessee.

19.18 Force Majeure. Regardless of whether expressly set forth in this sublease with respect to any or more particular provisions hereof, if Sublessor is delayed in or prevented from performing any obligation under this sublease (excluding, however, the payment of money) by reason of Force Majeure, Sublessor's performance of such obligation will be excused for a period equal to the period of delay actually caused by the Force Majeure event.

19.19 Management. Property Manager is authorized to manage the Property. Sublessor appointed Property Manager to act as Sublessor's agent for leasing, managing and operating the Property. The Property Manager then serving is authorized to take actions and give notices and demands under this sublease on Sublessor's behalf.

19.20 Financial Statements. Sublessee will, without charge to Sublessor, at any time and from time to time within 10 days after written request by Sublessor, deliver to Sublessor copies of Sublessee's audited financial statement for the then most recently ended fiscal year of Sublessee, and for the preceding two fiscal years, including the certification of its auditor and any and all auditors' notes thereto, and the similar financial statement of any and all Guarantors. The aforesaid financial statements must be prepared according to generally accepted accounting principles consistently applied and must include, without limitation, Sublessee's (and, if applicable, Guarantors') balance sheet, income statement, cash flow statement, statement of sources and uses and such other statements reasonably requested by Sublessor. Such financial statements must also be certified by an independent certified public accountant or by Sublessee's (or Guarantor's, as the case may be) chief financial officer that the same are a true, complete and correct statement of Sublessee's (or Guarantor's) financial condition as of the date of such financial statements. Sublessor will use its reasonable commercial efforts to limit the number of times it requests the

information described in this Section 19.20 to not more than two times during any single year during the Term. Sublessor will be entitled to provide copies or otherwise disclose all such financials statements to actual or prospective lenders, purchasers, joint venture partners or other business associates, and their respective attorneys, accountants, brokers and other advisors.

19.21 No Recording; Digital Image. Sublessee will not record this sublease or any memorandum of this sublease. Sublessor and Sublessee agree to accept a digital image of this sublease, as executed, as a true and correct original and admissible for the purposes of state law, Federal Rule of Evidence 1002, and like statutes and regulations.

19.22 Nondisclosure of Lease Terms. The terms and conditions of this sublease constitute proprietary information of Sublessor that Sublessee will keep confidential. Sublessee's disclosure of the terms and conditions of this sublease could adversely affect Sublessor's ability to negotiate other leases and impair Sublessor's relationship with other sublessees. Accordingly, Sublessee will not, directly or indirectly, disclose the terms and conditions of this sublease to any other sublessee or prospective sublessee of the Property or to any other person or entity other than Sublessee's employees, accountants, attorneys, real estate consultants and agents who have a legitimate need to know such information (and who will also keep the same in confidence) unless, and only to the extent, any such disclosure is required by law or appropriate judicial order.

19.23 Construction of Lease and Terms. The terms and provisions of this sublease are the result of negotiations between Sublessor and Sublessee, each of which are sophisticated parties and each of which has been represented or been given the opportunity to be represented by legal counsel and/or other advisors of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this sublease are to be interpreted and construed in accordance with their usual and customary meanings, and Sublessor and Sublessee each waive the application of any rule of law that ambiguous or conflicting terms or provisions are to be interpreted or construed against the party who drafted the same. Sublessor's submission of this instrument to Sublessee in draft or final form for examination or signature does not constitute any reservation of, or agreement or option to lease, the Subleased Premises. When executed by Sublessee and delivered to Sublessor, this sublease will be construed as an offer from Sublessee to lease the Subleased Premises on the terms set forth in this sublease. Sublessee's offer to lease may be accepted, and a binding agreement between Sublessee and Sublessor created, only by Sublessor's execution of this sublease and delivery of the fully-executed Lease to Sublessee. Once so delivered by Sublessor, this sublease will be deemed effective as of the Effective Date.

19.24 Anti-Terrorism Representation. Neither Sublessee nor any of its affiliates or constituents nor, to the best of Sublessee's knowledge, any brokers or other agents of same, have engaged in any dealings or transactions, directly or indirectly, (i) in contravention of any U.S., international or other money laundering regulations or conventions, including without limitation, the United States Bank Secrecy Act, the United States Money Laundering Control Act of 1986, the United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Trading with the Enemy Act (50 U.S.C. § 1 et seq., as amended), or any foreign asset control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto, or (ii) in contravention of the Anti-Terrorism Order or on behalf of terrorists or terrorist organizations, including those persons or entities that are included on any relevant lists maintained by the United Nations, North Atlantic Treaty Organization, Organization of Economic Cooperation and Development, Financial Action Task Force, U.S. Office of Foreign Assets Control, U.S. Securities & Exchange Commission, U.S. Federal Bureau of Investigation, U.S. Central Intelligence Agency, U.S. Internal Revenue Service, or any country or organization, all as may be amended from time to time. Neither Sublessee nor any of its affiliates or constituents nor, to the best of Sublessee's knowledge, any brokers or other agents of same, (i) are or will be-conducting any business or engaging in any transaction with any person appearing on the U.S. Treasury Department's Office of Foreign Assets Control list of restrictions and prohibited persons, or (ii) are a person described in Section 1 of the Anti-Terrorism Order, and to the best of Sublessee's knowledge neither Sublessee nor any of its affiliates have engaged in any dealings or transactions, or otherwise been associated with any such person. If at any time this representation becomes false then it shall be considered a default under the Lease, and Sublessor shall have the right to exercise all of the remedies set forth in the Lease upon an Event of a Default or to terminate the Lease immediately.

19.25 Waiver of Jury Trial. UNLESS PROHIBITED BY LAW, SUBLESSOR AND SUBLESSEE WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY CLAIM, ACTION, PROCEEDING OR COUNTERCLAIM BY EITHER PARTY AGAINST THE OTHER OF ANY MATTERS ARISING OUT OF OR IN ANY WAY

CONNECTED WITH THIS SUBLEASE OR SUBLESSEE'S USE OR OCCUPANCY OF THE SUBLEASED PREMISES. SUBLESSOR AND SUBLESSEE ACKNOWLEDGE AND AGREE THAT (A) THIS IS AN INTEGRAL PART OF THE LEASE; (B) THE OTHER PARTY HERETO WOULD NOT ENTER INTO THIS SUBLEASE BUT FOR THE MUTUAL AGREEMENT TO THIS WAIVER; AND (C) NEITHER PARTY NOR ANYONE ACTING ON SUCH PARTY'S BEHALF HAS MADE ANY REPRESENTATION OR OTHER STATEMENT THAT THIS PROVISION WILL NOT BE ENFORCED TO THE FULLEST EXTENT PERMITTED BY LAW.

19.26 Counterparts; Electronic Transmission. This sublease may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. To facilitate execution of this sublease, the parties may execute and deliver counterparts hereof (or counterparts of the signature page or pages hereof) by facsimile or electronic transmission, and such facsimile or electronically transmitted counterparts will be binding and enforceable to the same extent as originals thereof.

Article 20 – Title VI

During the Term, Sublessee, for itself, its assignees, and successors in interest agrees as follows:

20.1 Compliance with Regulations. Subessee will comply with the Title VI List of Pertinent Non-Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

20.1 Non-Discrimination. Sublessee, with regard to the work performed by it during Lease, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

20.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding, or negotiation made by Sublessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Sublessee of Sublessee's obligations under this Sublease and the Non-discrimination Acts And Authorities on the grounds of race, color, or national origin.

20.4 Information and Reports. Sublessee will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Sublessor, Primary Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Sublessee is in the exclusive possession of another who fails or refuses to furnish the information, Sublessee will so certify to Sublessor, Primary Lessor or the Federal Aviation Administration as appropriate, and will set forth what efforts it has made to obtain the information.

20.5 Sanctions for Noncompliance. In the event of Sublessee's noncompliance with the Nondiscrimination provisions of this Sublease, Sublessor and/or Primary Lessor will impose such default remedies as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) withholding payments, if any, to Sublessee under the Sublease until Sublessee complies; and/or

(b) cancelling, terminating, or suspending the Sublease, in whole or in part.

20.6 Incorporation of Provisions. Sublessee will include the provisions of this Article 20 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations

and directives issued pursuant thereto. Sublessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Sublessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Sublessee may request Primary Lessor to enter into any litigation to protect the interests of Primary Lessor. In addition, Sublessee may request the United States to enter into the litigation to protect the interests of the United States.

[Signatures on following page]

Sublessor and Sublessee have caused this sublease to be executed and delivered by their respective duly authorized representatives.

Sublessor:

VTWV GATEWAY INDUSTRIAL I, LLC,
an Arizona limited liability company

By: _____
Name: _____
Its: _____

Effective Date: ____ ____, 202__

Sublessee:

_____, a _____

By: _____
Name: _____
Its: _____

Exhibit A -- Definitions

"**ADA**" means the accessibility requirements of Title III of the applicable provisions of the Americans with Disabilities Act of 1990, as amended.

"**Additional Rent**" means any charge, fee or expense (other than Basic Rent) payable by Sublessee under this sublease, however denoted.

"**Affiliate**" means, with respect to any person or entity, any other person or entity that, directly or indirectly, controls, is controlled by or is under common control with such person or entity. For purposes of this definition, "control" means possessing the power to direct or cause the direction of the management and policies of the entity.

"**Alteration**" means any change, alteration, addition or improvement to the Subleased Premises or Property.

"**Anti-Terrorism Order**" means Executive Order No. 13224 dated September 24, 2001, issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time to time.

"**Bankruptcy Code**" means the United States Bankruptcy Code as the same now exists and as the same may be amended, including, without limitation, any and all rules and regulations issued pursuant to or in connection with the United States Bankruptcy Code now in force or in effect after the Effective Date.

"**Basic Rent**" means the basic rent payable by Sublessee under this sublease, initially in the amounts specified in the Basic Terms.

"**Basic Terms**" means the terms of this sublease identified as the "Basic Terms" located before Article 1.

"**Building**" means that certain industrial/warehouse building now existing on the Land.

"**Business Days**" means any day other than Saturday, Sunday or a legal holiday in the State.

"**Casualty**" means any physical loss, destruction or damage to property that is caused by (a) fire, windstorm, hail, lightning, vandalism, theft, explosion, collision, accident, flood, earthquake, collapse, or any other peril (including, without limitation, malfunctions or failures of equipment, machinery, sprinkling devices, or air conditioning, heating or ventilation apparatus; occurrences or presence of water, snow, frost, steam, gas, sewage, sewer backup, odors, noise, hail or excessive heat or cold; broken or falling plaster, ceiling tiles, fixtures or signs; broken glass; or the bursting or leaking of pipes or plumbing fixtures); or (b) any other event, occurrence, peril or cause whatsoever, whether similar or dissimilar to the foregoing, whether foreseeable or unforeseeable, and regardless of whether covered or coverable by insurance. "Casualty" does not include (i) any waste or excessive or unreasonable wear and tear, (ii) any loss, destruction or damage arising or resulting from the placement, disposal or release of Hazardous Materials in, on, under, about, or from the Property by either Sublessor or Sublessee, or (iii) reasonable wear and tear to the Subleased Premises, Property or Sublessor's Personal Property resulting from the uses permitted under this sublease.

"**Certificate of Occupancy**" means a certificate of occupancy, governmental sign-off or other document, permit or approval (whether conditional, unconditional, temporary or permanent) that must be obtained by Sublessor from the appropriate governmental authority as a condition to the lawful initial occupancy by Sublessee of the Subleased Premises or any applicable portion thereof.

"**Change Order**" means a written order prepared by or on behalf of Sublessor, and approved in writing by Sublessee (acting through Sublessee's Representative), stating in detail the change in the work, and, if appropriate, the increase or decrease to the scope of work, and any anticipated change in the scheduled date for the construction thereof or any change in the cost thereof resulting therefrom; provided, however, that any change in the work generally described in the Outline Specifications for Sublessee's Improvements or the Space Plan, and any revisions in the Issued for Construction Plans (either as initially proposed or as finalized) that would effect a change from the work generally described in the Outline Specifications for Sublessee's Improvements or the Space Plan, or in the theretofore

finalized Issued for Construction Plans, will constitute a Change Order hereunder, regardless of whether Sublessee approves, in writing, a change order in regard thereto. In the event any Change Order is required (a) by any governmental agency with jurisdiction over the work, (b) as a result of field conditions that cannot be reasonably avoided, (c) to substitute reasonably equivalent materials to avoid unanticipated delays, strikes or shortages, then Sublessor will be authorized (without Sublessee's foregoing approval) to make such changes at Sublessee's sole cost and expense and will provide written notice to Sublessee, or (d) with respect to allowances set forth in the Outline Specifications for Sublessee's Improvements for items identified therein, then Sublessor will be authorized (without Sublessee's foregoing approval) to make such changes at Sublessee's sole cost and expense and will provide written notice to Sublessee.

"**Change Order Costs**" means the sum of (a) all actual so-called "hard" construction costs of the Change Orders, including, without limitation, the cost of all materials, labor, equipment, hoisting, insurance, taxes and permits related thereto (all of which will be documented and verifiable); (b) all actual so-called "soft" costs in connection with the Change Orders, including, without limitation, all architect's, engineer's and design fees, and all fees and costs relating to the review and approval thereof; (c) the actual cost of all on-site and off-site project management time and other general conditions (including, without limitation, the general contractor's fee) in connection with the Change Orders; and (d) a fee equal to 10% of all of the costs described in the foregoing clauses (a), (b) and (c), which fee will be in lieu of overhead and profit, any other construction management fees, and any other fees to Sublessor. All of the aforesaid actual costs will also include, without limitation, the aggregate of all interest costs actually incurred by Sublessor arising in connection with any resultant delays and any and all enforceable payment obligations under those contracts or modifications to contracts entered into by Sublessor or its subcontractors, that are necessary to effectuate the Change Order. Anything in this sublease to the contrary notwithstanding, Change Order Costs will include, without limitation, all costs (calculated and determined in accordance with the foregoing) that exceed the allowances set forth in the Outline Specifications for Sublessee's Improvements for certain items identified therein.

"**Claims**" means all claims, actions, demands, liabilities, damages, costs, penalties, forfeitures, losses or expenses including, without limitation, reasonable attorneys' fees and the costs and expenses of enforcing any obligation under this sublease. For purposes of all indemnification obligations under this sublease, the term "Claims" will mean only third-party Claims.

"**Commencement Date**" means the earliest of (a) Substantial Completion of Sublessee's Improvements in the Subleased Premises, (b) the date Sublessee commences business operations in the Subleased Premises, or (c) the date Substantial Completion of Sublessee's Improvements in the Subleased Premises would have occurred but for Sublessee Delay; provided, however, that the Commencement Date will not be earlier than the Target Commencement Date specified in the Basic Terms unless Sublessee commences business operations in the Subleased Premises before such Target Commencement Date.

"**Common Area**" means the parking area, driveways, landscaped areas, Building electrical/sprinkler room, and other areas of the Property outside of the Subleased Premises that Sublessor may designate from time to time as common area.

"**Condemning Authority**" means any person or entity with a statutory or other power of eminent domain.

"**Deciding Appraiser**" means an appraiser who will select the Fair Market Basic Rent in the manner set forth in Section 1.6.1.

"**Effective Date**" means the date set forth as such by Sublessor when Sublessor executes this sublease, as indicated on the signature page.

"**Estoppel Addressee**" means any one or more of Sublessor or any lender, prospective lender, investor or purchaser of all or any part of the Property.

"**Event of Default**" means the occurrence of any of the events specified in Section 14.1, or the occurrence of any other event that this sublease expressly labels as an "Event of Default."

"**Fair Market Basic Rent**" means the fair market base rental rate for the Subleased Premises for the applicable extension period in relation to comparable (in quality, location and size) space located in the Building and/or the _____, _____ submarket, with due consideration given to the following factors regarding the Subleased Premises and Sublessee, on the one hand, and the comparable space(s) and sublessee(s), on the other hand: (a) the financial condition of the sublessee; (b) the location, quality and age of the building(s); (c) the extent and quality of leasehold improvements (existing or to be provided) in the Subleased Premises; (d) rent abatements, if any; (e) the location of the Subleased Premises within the building; (f) the length of the term; (g) the nature and extent of services provided by the sublessor; (h) expense stops, if any; (i) any other concessions given; and (j) other pertinent factors.

"**Force Majeure**" means acts of God; strikes; lockouts; labor troubles; inability to procure, or unanticipated delays in the procurement of, materials; inclement weather; governmental laws or regulations; war or other national or state emergency (including, without limitation, plagues, epidemics, quarantines, pandemics, orders or other matters related to COVID-19, or any matters similar or related to any one or more thereof); casualty; orders, directives, restrictions, regulations, controls, actions or inactions of any legislative, administrative, judicial or other governmental body or department (including, without limitation, any inability or delays in obtaining required approvals, permits or governmental signoffs, which are beyond the reasonable expectation of the party seeking or requiring the same, and which do not directly result from the commercially unreasonable action, inaction or delay of such party); any licenses, permissions or authorities (despite commercially reasonable pursuit of such licenses, permissions or authorities); and other similar or dissimilar causes beyond Sublessor's reasonable control (including, without limitation, Sublessee Delays). Sublessor and Sublessee acknowledge and agree that (a) as of the Effective Date, a national or regional pandemic, quarantine and other conditions exist that are related to COVID-19; (b) the impact of such pandemic, quarantine and other conditions on the parties' respective rights and obligations under this sublease is not yet fully known; and (c) the execution and delivery of this sublease with the knowledge of such ongoing pandemic, quarantine and other conditions will in no way whatsoever preclude, impair or other adversely affect the relief to which Sublessor or Sublessee is entitled as a result of the same being a Force Majeure event (*i.e.*, just as though such ongoing pandemic, quarantine and other conditions had not existed as of the date of this sublease). Anything in this definition or elsewhere in this sublease to the contrary notwithstanding, Force Majeure will not (i) permit Sublessee to hold over in the Subleased Premises after the expiration or earlier termination of this sublease, or (ii) excuse, or extend any time period for the performance of, any of Sublessee's obligations to pay Rent, to comply with Articles 5 or 10, or not to interfere with another occupant's use, occupancy or enjoyment of its Subleased Premises at the Property.

"**Guarantor**" means any person or entity at any time providing a guaranty of all or any part of Sublessee's obligations under this sublease.

"**Guaranty**" means each guaranty agreement referenced in Section 18.2.

"**Improvement Allowance**" means the allowance provided by Sublessor to Sublessee to be applied to the cost of Sublessee's Improvements, as specified in the Basic Terms.

"**Issued for Construction Plans**" means the final issued for construction working drawings and specifications that Sublessor will initially prepare and submit to Sublessee, and that will be finalized in accordance with Section 17.2.3.

"**Land**" means that certain real property legally described on the attached Exhibit B.

"**Sublessor**" means only the owner or owners of the Property at the time in question.

"**Sublessor Parties**" means Sublessor, Property Manager, their Affiliates, any mortgage lender regarding the Property, and their respective officers, directors, partners, shareholders, members, managers and employees.

"**Sublessor's Improvements**" means those certain base building/shell improvements that are generally described in the Outline Specifications for Sublessor's Improvements and the Site Plan.

"**Sublessor's Personal Property**" means any trade fixtures, inventory, equipment, vehicles, or other personal property of any type or kind located at or about the Property that is owned or leased by, or is otherwise under the care, custody or control of, Sublessor or its agents, employees, contractors, or invitees.

"**Sublessor's Representative**" means the individual who is identified in Section 17.4 as being authorized to act on behalf of Sublessor for the purposes described in Section 17.4, and such other or different persons as Sublessor may hereafter identify in a written notice to Sublessee delivered in accordance with Section 19.1, as being authorized to act on behalf of Sublessor for the purposes described in Section 17.4.

"**Sublessor's Unreleased Casualty Claims**" means any uninsured loss or deductible amount Sublessor incurs as a result of any Casualty to the Subleased Premises, Property or Sublessor's Personal Property that is caused by the negligent acts or omissions of Sublessee, up to a maximum of $50,000 (to be increased 3% per year for inflation during the Term) for any single occurrence.

"**Laws**" means any law, regulation, rule, order, statute or ordinance of any governmental or private entity in effect on or after the Effective Date and applicable to the Property or the use or occupancy of the Property, including, without limitation, Environmental Laws, Property Rules and Permitted Encumbrances; provided, however, that with respect to Sublessor's construction obligations, "Laws" will mean only any applicable building code and the dimensional aspects of any applicable zoning ordinances, except as otherwise expressly provided herein.

"**Lease**" means this Multi-Sublessee Warehouse Lease Agreement, as the same may be amended or modified from time to time after the Effective Date.

"**Major Alterations**" means Alterations involving any modifications to, or effect on, (a) the structural, mechanical, electrical, plumbing, fire/life safety or heating, ventilating and air conditioning systems of the Building, or (b) any portion of the Property outside of the interior of the Subleased Premises.

"**Maximum Rate**" means interest at a per annum rate equal to four percentage points in excess of the "prime rate" of interest from time to time published in *The Wall Street Journal* (or, if it is not then in existence or not then publishing a "prime rate" of interest, its successor, or if neither is then in existence not then publishing a "prime rate" of interest, another reasonably comparable financial publication selected by Sublessor), from the date when the same is due until the same has been paid; provided, however, that if such rate exceeds the maximum interest rate permitted by law, such rate will be reduced to the highest rate allowed by law under the circumstances.

"**Mortgage**" means any mortgage, deed of trust, security interest or other security document of like nature that at any time may encumber all or any part of the Property and any replacements, renewals, amendments, modifications, extensions or refinancings thereof, and each advance (including future advances) made under any such instrument.

"**Net Rent**" means all Rent that Sublessor actually receives from any re-letting of all or any part of the Subleased Premises, after first deducting the Re-Entry Costs and any other amounts owed by Sublessee to Sublessor.

"**Notices**" means all notices, deliveries, demands or requests that may be or are required to be given, provided, demanded or requested by either party to the other as provided in this sublease, excluding communications by Sublessor regarding Sublessee's Improvements that are made to the "Sublessee Representative" appointed by Sublessee under Article 17.

"**Operating Expenses**" means, subject to the exclusions listed below, all costs, expenses and charges that Sublessor pays or incurs in connection with managing, maintaining, repairing and operating the Property, as reasonably determined by Sublessor, including, without limitation, the following:

(a) insurance premiums and deductible amounts under any insurance policy;

(b) electricity, water, sewer, gas and other utility charges;

(c) lawn care and landscaping;

(d) re-painting, re-striping, seal-coating, cleaning, sweeping, patching and repairing paved surfaces;

(e) snow removal;

(f) maintenance and repair of the Building and Common Areas;

(g) rubbish removal and other services provided to the Property;

(h) property association fees, dues, assessments and other payments under any Permitted Encumbrance (except Mortgages);

(i) wages, benefits and other related costs and expenses payable to and associated with persons at the level of manager and below whose duties are connected with managing, maintaining, repairing and operating the Property (but only for the portion of such persons' time allocable to the Property);

(j) uniforms, supplies, materials, lighting systems (including bulbs, poles and fixtures) and equipment used in connection with managing, maintaining, repairing and operating the Property;

(k) replacements required for the normal maintenance, repair and operation of the Property;

(l) reasonable management fees;

(m) capital improvements installed by Sublessor either (i) to comply with changes in Laws or the interpretation or enforcement thereof occurring after the Effective Date, or (ii) with a reasonable expectation of reducing energy costs or other Operating Expenses; provided that in computing Operating Expenses Sublessor will amortize the cost of such capital improvements (including reasonable charges for interest on the unamortized amount) over the shorter of (A) their useful life (as reasonably determined by Sublessor), and (B) five years;

(n) costs, expenses and charges incurred by Sublessor in connection with public rights of way or other public facilities, easements or other appurtenances to the Property; and

(o) such other costs, expenses and charges as may ordinarily be incurred in connection with managing, maintaining, repairing and operating an industrial/warehouse complex similar to the Property.

"Operating Expenses" do not include the following:

(aa) the cost of capital improvements to the Property, except as provided in clause (m) above;

(bb) marketing costs, leasing commissions and sublessee expenses Sublessor incurs in connection with leasing or procuring sublessees or renovating space for new or existing sublessees;

(cc) legal expenses incident to Sublessor's enforcement of any lease;

(dd) interest or principal payments on any Mortgage of Sublessor;

(ee) any expense for which Sublessor is directly reimbursed by another sublessee other than as an Operating Expense;

(ff) the cost of any repairs, restoration or other work for which Sublessor is directly reimbursed by insurance proceeds or Taking awards;

(gg) any amount paid for products or services to an entity that is an Affiliate of Sublessor, but only to the extent such amount exceeds the fair market value of such services and products;

(hh) the costs of any utilities that are separately metered to the Subleased Premises or to another sublessee's Subleased Premises;

(ii) any fines or penalties imposed on Sublessor for failing to timely perform its obligations under this sublease;

(jj) salaries of employees not related to the management, operation, repair or maintenance of the Property;

(kk) any rent payable under the Primary Lease or any other ground lease now or hereafter affecting the Property;

(ll) expenses resulting from any violation by Sublessor of the terms of any lease of space in the Building;

(mm) any bad debt loss, rental loss, or reserves for bad debts or rental loss;

(nn) costs (other than the cost of routine maintenance and monitoring) of remediation of Hazardous Materials that are in or on the Property as of the Effective Date and that are classified as Hazardous Materials under Laws in effect as of the Effective Date; or

(oo) any costs that would allow Sublessor a "double recovery" of any other costs for which Sublessor is directly reimbursed other than as an Operating Expense.

"**Outline Specifications for Sublessor's Improvements**" means those certain outline specifications set forth in the attached Exhibit F.

"**Outline Specifications for Sublessee's Improvements**" means those certain outline specifications set forth in the attached Exhibit F-1.

"**Permitted Encumbrances**" means all easements, declarations, encumbrances, covenants, conditions, reservations, restrictions and other matters now or after the Effective Date affecting title to the Property.

"**Subleased Premises**" means that certain space situated in the Building shown and designated on the Site Plan and described in the Basic Terms.

"**Property**" means, collectively, the Land, Building and all other improvements on the Land.

"Property Expenses" means the total amount of Property Taxes and Operating Expenses due and payable with respect to the Property.

"**Property Manager**" means the property manager named in the Basic Terms or any successor property manager Sublessor may appoint from time to time to manage the Property.

"**Property Rules**" means those certain rules set forth on the attached Exhibit E, as Sublessor may amend the same from time to time.

"**Property Taxes**" means any general real property tax, improvement tax, assessment, special assessment, reassessment, in lieu tax, levy, charge, penalty or similar imposition imposed by any authority having the direct or indirect power to tax, including, without limitation, (a) any city, county, state or federal entity, (b) any school, agricultural, lighting, drainage or other improvement or special assessment district, (c) any governmental agency, or (d) any private entity having the authority to assess the Property under any of the Permitted Encumbrances. The term "Property Taxes" includes, without limitation, all charges or burdens of every kind and nature Sublessor incurs in

connection with using, occupying, owning, operating, leasing or possessing the Property, without particularizing by any known name and whether any of the foregoing are general, special, ordinary, extraordinary, foreseen or unforeseen; any tax or charge for fire protection, street lighting, streets, sidewalks, road maintenance, refuse, sewer, water or other services provided to the Property. The term "Property Taxes" does not include Sublessor's state or federal income, franchise, estate or inheritance taxes. If Sublessor is entitled to pay, and elects to pay, any of the above listed assessments or charges in installments over a period of two or more calendar years, then only such installments of the assessments or charges (including interest thereon) as are actually paid in a calendar year will be included within the term "Property Taxes" for such calendar year.

"**Re-Entry Costs**" means all costs and expenses Sublessor incurs re-entering or reletting all or any part of the Subleased Premises after an Event of Default, including, without limitation, all costs and expenses Sublessor incurs (a) maintaining or preserving the Subleased Premises; (b) recovering possession of the Subleased Premises, removing persons and property from the Subleased Premises and storing such property (including court costs and reasonable attorneys' fees); (c) renovating or altering the Subleased Premises; and/or (d) reletting the Subleased Premises (including, without limitation, real estate commissions, advertising expenses and similar expenses paid or payable in connection with reletting all or any part of the Subleased Premises). "Re-Entry Costs" also includes the value of free rent and other concessions Sublessor gives in connection with re-entering or reletting all or any part of the Subleased Premises.

"**Rent**" means, collectively, Basic Rent and Additional Rent.

"**Rent Tax**" means any tax or excise on rents and all other sums and charges required to be paid by Sublessee under this sublease, any margin tax, gross receipts tax, transaction privilege tax or other tax, however described, that is levied or assessed by the United States of America, the State or any city, municipality or political subdivision thereof, against Sublessor in respect to the Basic Rent, Additional Rent or other charges payable under this sublease or as a result of Sublessor's receipt of such rents or other sums or charges accruing under this sublease; provided, that "Rent Tax" does not include any federal, state or local income tax or other tax, however denominated, that is applied to or measured by the net income of Sublessor.

"**Representative**" means either Sublessor's Representative or Sublessee's Representative, and "**Representatives**" means both Sublessor's Representative and Sublessee's Representative.

"**Security Deposit**" means the security deposit to be provided to Sublessor in the amount set forth in the Basic Terms.

"**Site Plan**" means the site plan set forth on the attached Exhibit C.

"**Space Plan**" means that certain space plan for Sublessee's Improvements set forth in Exhibit F-2 attached hereto and made a part hereof.

"**State**" means the State in which the Property is located.

"**Substantial Completion**" means either (a) the issuance of a Certificate of Occupancy (or all approvals required for the issuance thereof) for the Subleased Premises, thereby allowing Sublessee the lawful ability to occupy the Subleased Premises, or (b) if a Certificate of Occupancy is not required as a condition to Sublessee's lawful occupancy of the Subleased Premises, the substantial completion (subject to punch list items) of Sublessee's Improvements for the Subleased Premises, as confirmed in writing by Sublessor's architect; provided, however, that if either (a) or (b) is delayed or prevented because of any Sublessee Delays or work for which Sublessee is responsible to perform in the Subleased Premises, "Substantial Completion" means the performance, subject to punch list items, of all of Sublessor's work that is necessary for either (a) or (b) to occur (or would have been performed were it not for Sublessee Delays) and Sublessor has made the Subleased Premises available to Sublessee for the performance of Sublessee's work (or would have made the Subleased Premises so available were it not for Sublessee Delays).

"**Taking**" means the exercise by a Condemning Authority of its power of eminent domain on all or any part of the Property, either by accepting a deed in lieu of condemnation or by any other manner.

"**Target Commencement Date**" means the target date for Sublessor's delivery of the Subleased Premises to Sublessee with Sublessee's Improvements having been Substantially Completed, which target date is specified in the Basic Terms.

"**Sublessee**" means the sublessee identified in this sublease and such sublessee's permitted successors and assigns. In any provision relating to the conduct, acts or omissions of "Sublessee," the term "Sublessee" includes the sublessee identified in this sublease and such sublessee's agents, employees, contractors, invitees, successors, assigns and others using the Subleased Premises or on the Property with Sublessee's express or implied permission.

"**Sublessee Damage**" means any loss, destruction or damage to the Subleased Premises, Property or Sublessor's Personal Property caused by (a) gross negligence or reckless or intentionally wrongful acts, omissions or conduct of Sublessee, (b) any waste or excessive or unreasonable wear and tear caused or permitted by Sublessee, (c) any unauthorized modifications or Alterations caused or permitted by Sublessee; (d) Sublessee's installation or removal of any Alterations or Sublessee's Personal Property; (e) Sublessee's failure to surrender possession of the Subleased Premises in accordance with the requirements of Article 16 hereof; or (f) the negligent acts or omissions of Sublessee, but only to the extent of any uninsured loss or deductible amount Sublessor incurs as a result thereof, up to a maximum of $50,000 (to be increased 3% per year for inflation during the Term for any single occurrence).

"**Sublessee Delay**" means any delay caused or contributed to by Sublessee, including, without limitation, with respect to Sublessee's Improvements, Sublessee's failure to timely prepare or approve a space plan for Sublessee's Improvements, Sublessee's failure to timely prepare or approve the Issued for Construction Plans, any delay from any revisions Sublessee proposes to the approved Issued for Construction Plans, and any delay from a revision to the Issued for Construction Plans requested by Sublessee. A Sublessee Delay excuses Sublessor's performance of any obligation related thereto for a period equal to (a) the duration of the act, occurrence or omission that constitutes the Sublessee Delay, or (b) if longer, the period of delay actually caused by such Sublessee Delay.

"**Sublessee Parties**" means Sublessee, its Affiliates, and their respective officers, directors, partners, shareholders, members, managers and employees.

"**Sublessee's Improvements**" means those initial improvements to the Subleased Premises that are generally described in the Outline Specifications for Sublessee's Improvements and the Space Plan, subject to Article 17.

"**Sublessee's Insurance**" means the insurance that Sublessee is required to carry under Section 10.1.

"**Sublessee's Personal Property**" means any trade fixtures, racking, conveyer systems, inventory, equipment, vehicles, or other personal property of any type or kind located at or about the Property that is owned or leased by, or is otherwise under the care, custody or control of, Sublessee or its agents, employees, contractors, or invitees. For the sake of clarity, Sublessee's Personal Property includes, without limitation, any and all furniture, fixtures and equipment located in the Subleased Premises at any time, even if the same had previously been owned by a prior sublessee or occupant.

"**Sublessee's Representative**" means the individual who is identified in Section 17.4 as being authorized to act on behalf of Sublessee for the purposes described in Section 17.4, and such other or different persons as Sublessee may hereafter identify in a written notice to Sublessor delivered in accordance with Section 19.1, as being authorized to act on behalf of Sublessee for the purposes described in Section 17.4.

"**Sublessee's Share of Property Expenses**" means the product obtained by multiplying the amount of Property Expenses for the period in question by the Sublessee's Share of Property Expenses Percentage.

"**Sublessee's Share of Property Expenses Percentage**" means the percentage computed by (a) dividing the rentable square feet of the Subleased Premises by the total rentable square feet of the Building and (b) multiplying the quotient by 100, and is subject to adjustment from time to time based on corrective measurement of the Subleased Premises or the Building by Sublessor.

"**Sublessee's Unreleased Casualty Claims**" means any uninsured loss or deductible amount Sublessee incurs as a result of any Casualty to Sublessee's Personal Property that is caused by the negligent acts or omissions of

Sublessor or any Sublessor Party, up to a maximum of $50,000 (to be increased 3% per year for inflation during the Term) for any single occurrence.

"**Sublessee Users**" means the Sublessee Parties and Sublessee's agents, representatives, contractors, subcontractors, invitees, guests, clients, and any other persons or entities who use, occupy or enter upon the Subleased Premises or the Property in connection with Sublessee's use and occupancy of the Subleased Premises.

"**Term**" means the initial term of this sublease specified in the Basic Terms and, if applicable, any exercised extension period then in effect.

"**TI Construction Costs**" means the sum of (a) all actual, documented and verifiable costs, expenses, charges and payments incurred or made in connection with the planning, design and construction of Sublessee's Improvements, including, without limitation, (i) all so-called "hard" construction costs, including, without limitation, the costs of all materials, labor, equipment, hoisting, insurance (including, without limitation, any builders risk insurance regardless of whether Sublessor or its contractor provides such insurance), taxes, permits, and all other savings or other payments made under or pursuant to written construction, design build or other contracts, and (ii) all so-called "soft" costs, including, without limitation, all architects', engineers' and designers' fees and costs, and all other consulting fees and costs; (b) any Change Order Costs regarding Sublessee's Improvements; (c) the actual cost of all on-site and off-site project management time and other general conditions (including, without limitation, the general contractor's fee) in connection with the construction of Sublessee's Improvements; and (d) a fee equal to 10% of all of the costs described in the foregoing clauses (a), (b) and (c), which fee will be in lieu of overhead and profit, any construction management fees, and any other fees to Sublessor. Anything in this sublease to the contrary notwithstanding, the TI Construction Costs will also include, without limitation, (y) the aggregate of all interest costs actually incurred by Sublessor or its subcontractors arising in connection with any delays, and any and all enforceable payment obligations under contracts (or modifications thereto) entered into by Sublessor or its subcontractors, which contracts (or modifications) are necessary to effectuate any Sublessee's Improvements work or any specific Change Orders with respect thereto; and (z) all costs (calculated and determined in accordance with the foregoing) that exceed the allowances set forth in the Outline Specifications for Sublessee's Improvements for certain items identified therein.

"**Transfer**" means an assignment, transfer, sublease, license or conveyance (voluntarily, by operation of law or otherwise) of this sublease or the Subleased Premises or any right, title or interest in or created by this sublease or the Subleased Premises. The term "Transfer" also includes any assignment, transfer or conveyance (voluntarily, by operation of law or otherwise) of any ownership interest in Sublessee or any Guarantor that results or could result in a change of control of Sublessee or any Guarantor.

Exhibit B -- Legal Description of Land

Exhibit C -- Site Plan

Exhibit D -- Form of Commencement Date Memorandum

Commencement Date Memorandum

This Commencement Date Memorandum (**"Memorandum"**) is made and entered into as of _____, 20__, by and between _____, LLC, a(n) _____ limited liability company, as Sublessor, and _____, a _____, as Sublessee.

Recitals

A. Sublessor and Sublessee are parties to that certain Multi-Sublessee Warehouse Lease Agreement dated as of ____ ____, 202__ (**"Lease"**), relating to certain Subleased Premises (**"Subleased Premises"**) located in the building commonly known as _____, _____, _____ (**"Building"**).

B. All capitalized terms not otherwise defined in this Memorandum have the meanings given them in the Lease.

C. Sublessor and Sublessee desire to confirm the Commencement Date, the size of the Subleased Premises and Building, and Sublessee's Share of Property Expenses Percentage.

Acknowledgments

Pursuant to Section 1.2 of the Lease and in consideration of the facts set forth in the Recitals, Sublessor and Sublessee acknowledge and agree as follows:

1. The Commencement Date under the Lease is _____, 20__.

2. The Subleased Premises contain _____ rentable square feet.

3. The Building contains _____ rentable square feet.

4. The Sublessee's Share of Property Expenses Percentage is _____%.

[Signatures on following page]

Sublessor and Sublessee have each caused this Memorandum to be executed and delivered by their duly authorized representatives as of the day and date first written above. This Memorandum may be executed in counterparts, each of which is an original and all of which constitute one instrument.

Sublessor:

_____, LLC, a _____ limited liability company

By: _____
Name: _____
Its: _____

Sublessee:

_____, a _____

By: _____
Name: _____
Its: _____

Exhibit E -- Property Rules

The following Property Rules apply to and govern Sublessee's use of the Subleased Premises and Property. Capitalized terms have the meanings given in the Lease, of which these Property Rules are a part. Sublessee is responsible for all Claims arising from any violation of the Property Rules by Sublessee.

1. No awning or other projection may be attached to the outside walls of the Subleased Premises or Property. No curtains, blinds, shades or screens visible from the exterior of the Subleased Premises may be attached to or hung in, or used in connection with, any window or door of the Subleased Premises without the prior written consent of Sublessor. Such curtains, blinds, shades, screens or other fixtures must be of a quality, type, design and color, and attached in a manner, approved by Sublessor in writing.

2. No sign, lettering, picture, notice or advertisement that is visible from the exterior of the Subleased Premises or Property may be installed on or in the Subleased Premises without Sublessor's prior written consent, and then only in such manner, character and style as Sublessor may have approved in writing.

3. Sublessee will not obstruct sidewalks, driveways, parking areas or any other Common Area in and about the Property used in common with other sublessees.

4. Sublessee will not create or allow obnoxious or harmful fumes, odors, smoke or other discharges that may be offensive to the other occupants of the Property or neighboring properties, or otherwise create any nuisance.

5. The Subleased Premises may not be used for cooking (as opposed to heating of food), lodging, sleeping or for any immoral or illegal purpose.

6. Sublessee will not make excessive noises, cause disturbances or vibrations or use or operate any electrical or mechanical devices or other equipment that emit excessive sound or other waves or disturbances or that may be offensive to the other occupants of the Property, or that may unreasonably interfere with the operation of any device, equipment, computer, video, radio, television broadcasting or reception from or within the Property or elsewhere.

7. Sublessee assumes full responsibility for protecting its space from theft, robbery and pilferage, which includes keeping valuable items locked up and doors locked and other means of entry to the Subleased Premises closed and secured after business hours and at other times the Subleased Premises is not in use.

8. Unless, expressly permitted by Sublessor, no additional locks or similar devices may be attached to any door or window and no keys other than those provided by Sublessor may be made for any door. If more than two keys for one lock are desired by the Sublessee, Sublessor will provide the same upon payment by the Sublessee. Upon termination of this sublease or of Sublessee's possession, Sublessee will surrender all keys of the Subleased Premises and will explain to Sublessor all combination locks on safes, cabinets and vaults.

9. If Sublessee desires to install satellite dishes, antennae or similar equipment, Sublessee must first obtain Sublessor's written approval, and comply with Sublessor's instructions in their installation.

10. The water and wash closets, drinking fountains and other plumbing fixtures will not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, coffee grounds or other substances may be thrown therein.

11. Sublessee will not overload any utilities serving the Subleased Premises.

12. Sublessee will not locate or store any equipment, materials, supplies or other property outside of the interior of the Subleased Premises.

13. All loading, unloading, receiving or delivery of goods, supplies, furniture or other items will be made only through entryways provided for such purposes. No deliveries may be made that unreasonably impede or interfere with other sublessees or the operation of the Property.

14. Canvassing, soliciting, and peddling in or about the Property is prohibited and Sublessee will cooperate to prevent the same.

15. Sublessee will store all its trash and garbage in proper receptacles or other facilities for such purpose located in the areas designated therefor by Sublessor.

16. Sublessee will comply with all safety, fire protection and evacuation procedures and regulations established by Sublessor or any governmental agency.

17. Sublessee will not park or permit parking in any areas designated by Sublessor for parking by visitors to the Property or for the exclusive use of sublessees or other occupants of the Property.

18. Parking stickers or any other device or form of identification supplied by Sublessor as a condition of use of the parking facilities will remain the property of Sublessor. Such parking identification device must be displayed as requested and may not be mutilated or obstructed in any manner. Such devices are not transferable and any device in the possession of an unauthorized holder will be void. Sublessor may charge a fee for parking stickers, cards or other parking control devices supplied by Sublessor.

19. Parking is prohibited (a) in areas not striped for parking; (b) in aisles; (c) where "no parking" signs are posted; (d) on ramps; (e) in cross-hatched areas; (f) in loading areas; and (g) in such other areas as may be designated by Sublessor.

20. All responsibility for damage, loss or theft to vehicles and the contents thereof is assumed by the person parking their vehicle.

21. Sublessor reserves the right to refuse parking identification devices and parking rights to Sublessee or any other person who fails to comply with the Property Rules applicable to the parking areas. Any violation of such rule will subject the vehicle to removal, at such person's expense.

22. Sublessee will be responsible for the observance of all of the Property Rules by Sublessee (including, without limitation, all Sublessee Users).

23. Sublessor may, from time to time, waive any one or more of these Property Rules for the benefit of Sublessee or any other sublessee, but no such waiver by Sublessor will be construed as a continuing waiver of such Property Rule(s) in favor of Sublessee or any other sublessee, nor prevent Sublessor from thereafter enforcing any such Property Rule(s) against Sublessee or any or all of the sublessees of the Property.

24. These Property Rules are in addition to, and will not be construed to in any way modify or amend, in whole or in part, the other terms, covenants, agreements and conditions of the Lease. In the event of any conflict between these Property Rules and any express term or provision otherwise set forth in the Lease, such other express term or provision of the Lease is controlling.

Exhibit F -- Outline Specifications for Sublessor's Improvements

Exhibit F-1 -- Description of Sublessee's Improvements

Exhibit F-2 -- Space Plan for Sublessee's Improvements

Exhibit F-3 -- Form of Approval of Issued for Construction Plans for Sublessee's Improvements

Approval of Issued for Construction Plans for Sublessee's Improvements

Pursuant to that certain Multi-Sublessee Warehouse Lease Agreement dated _____, 20__ ("**Lease**") by and between _____, LLC ("**Sublessor**") and _____, LLC ("**Sublessee**"), and pursuant to Section 17.2.4 of the Lease and for all purposes of the Lease, each of Sublessor and Sublessee hereby confirms its approval of those certain Issued for Construction Plans that are specifically identified on Exhibit A attached hereto and made a part hereof.

Sublessor and Sublessee have caused this Approval of Issued for Construction Plans for Sublessee's Improvements to be executed and delivered by their respective duly authorized representatives.

Sublessor:

_____, LLC, a _____ limited liability company

By: _____
Sublessor's Representative

Date: _____, 20__

Sublessee:

_____, a _____

By: _____
Sublessee's Representative

Date: _____, 20__

Exhibit F-4 -- Form of Change Order

VanTrust
REAL ESTATE LLC

CHANGE ORDER

Date:

Project:

To:

Change Order No.:
Project No.:

Lease Date:

Attn:

You are hereby authorized to make the following changes to this Lease:

TOTAL:

The original TI Construction Costs payable by Tenant under the Lease were

Net change by previously authorized Change Orders

The TI Construction Costs payable by Tenant prior to this Change Order were

The TI Construction Costs payable by Tenant will be increased by Change Order Costs in the amount of

The new TI Construction Costs payable by Tenant, including the Change Order Costs under this Change Order, will be

The estimated time for construction of Tenant's Improvements is hereby adjusted as follows:

The new anticipated date for Substantial Completion (subject to the Lease, including, without limitation, with respect to Tenant Delays) is therefore

Payment for this Change Order shall be made in accordance with the payment of Change Order Costs under the Lease, unless otherwise specified herein. All other terms and conditions of the Lease remain unchanged. Any attachments or exhibits to this Change Order are for reference only.

Landlord:

By:

Print:

Title: Landlord Representative

Date:

Tenant:

By:

Print:

Title:

Date:

1 of 1

Exhibit F-5 -- Form of Sublessor Approval of Sublessee Plans

Sublessor Approval of Sublessee Plans

Pursuant to that certain Multi-Sublessee Warehouse Lease Agreement dated _____, 20__ ("**Lease**") by and between _____, LLC ("**Sublessor**") and _____, LLC ("**Sublessee**"), and solely for purposes of Section 8.1 of the Lease, Sublessor hereby confirms its approval of those certain plans and specifications (collectively, "**Sublessee Plans**") that are specifically identified on Exhibit A attached hereto and made a part hereof; provided, however, that the foregoing approval is strictly subject to the following terms and conditions:

1. Sublessor's approval of the Sublessee Plans does not relieve Sublessee of any of its obligations or liabilities under the Lease or otherwise, including, without limitation, Sublessee's obligation to design and construct all of the improvements that are contemplated by the Sublessee Plans in strict accordance with all applicable laws, statutes, ordinances, rules, regulations and codes (including, without limitation, the Americans With Disabilities Act, as amended from time to time) of all governmental, quasi-governmental or other regulatory or governing bodies or other authorities (public or private) having jurisdiction, and all other applicable industry standards (collectively, "**Laws and Regulations**"). Among other things, Sublessee, and not Sublessor, is responsible for all elements of the design of the Sublessee Plans, including, without limitation, compliance with all Laws and Regulations, and the functionality and the structural integrity of the design.

2. Neither Sublessor, nor any of its managers, members, contractors, agents or employees, will be responsible or liable to Sublessee, any of its managers, members, contractors, agents, employees, architects or designers, or any other third parties, for or with respect to Sublessor's foregoing approval of the Sublessee Plans, by reason of the exercise of judgment. or any mistake or nonfeasance, arising out of or in connection with such approval, or any other action in connection therewith.

3. Sublessor's foregoing approval of the Sublessee Plans will neither (a) constitute any representation, warranty, covenant or other undertaking by Sublessor in any way related to the adequacy of the design of the Sublessee Plans for Sublessee's intended use of the Subleased Premises that are the subject of the Lease, nor (b) create any liability or responsibility on the part of Sublessor for compliance of the Sublessee Plans or the improvements contemplated thereby with any Laws and Regulations.

Sublessor has caused this Sublessor Approval of Sublessee's Plans to be executed and delivered by its duly authorized representative.

Sublessor:

_____, LLC, a
_____ limited liability
company

By: _____
Name: _____
Its: _____

Date: _____, 20__

Exhibit A to Sublessor Approval of Sublessee Plans -- Approved Sublessee Plans

Exhibit G -- Form of Guaranty

Guaranty

This Guaranty of Lease ("**Guaranty**") is dated as of _____, 20__, and is made and entered into by _____, a _____ ("**Guarantor**") to be effective as of the Effective Date set forth in this Sublease (as such term is defined in Recital A hereof).

Recitals

A. This Guaranty is being executed and delivered by Guarantor as an essential inducement to that certain Multi-Sublessee Warehouse Lease Agreement, dated as of _____, 20__ (as amended from time to time, "**Lease**"), between _____, a _____, as Sublessor, and _____, a _____, as Sublessee, covering the Subleased Premises as described in this Sublease.

B. Unless otherwise defined in this Guaranty, all capitalized terms used in this Guaranty have the same definitions as are set forth in this Sublease.

Agreement

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees, covenants, represents and warrants as set forth below.

1. Guaranty. Guarantor hereby unconditionally guarantees the timely payment and performance of all rent, charges, and obligations of Sublessee under this Sublease and all other documents evidencing or securing the obligations under this Sublease, including, without limitation, Sublessee's obligations to pay all Basic Rent and Additional Rent and to perform all maintenance and indemnity obligations under this Sublease (collectively, "**Guarantied Obligations**"). This Guaranty is an absolute guaranty of payment and performance and not of collection. This Guaranty will survive the termination of this Sublease and will continue in full force and effect with respect to any of Sublessee's obligations under this Sublease which are not fully performed upon the termination of this Sublease.

2. Rights of Sublessor. Guarantor authorizes Sublessor to, at any time and from time to time, in Sublessor's discretion, (a) take and hold, and apply, any security for the Guarantied Obligations; (b) accept additional or substituted security; (c) subordinate, compromise or release any security; (d) release Sublessee or any other person from its liability for all or any part of the Guarantied Obligations; (e) participate in any settlement offered by Sublessee or any guarantor, whether in liquidation, reorganization, receivership, bankruptcy or otherwise; (f) release, substitute or add any one or more guarantors or endorsers; (g) assign this Guaranty and/or the Guarantied Obligations in whole or in part; or (h) modify, extend and/or amend one or both of this Sublease and the Guarantied Obligations. Sublessor may take any of the foregoing actions upon any terms and conditions as Sublessor may elect, without giving notice to Guarantor or obtaining the consent of Guarantor and without affecting the liability of Guarantor to Sublessor.

3. Independent Obligations. Guarantor's obligations under this Guaranty are independent of those of Sublessee or of any other guarantor. Sublessor may bring a separate action against Guarantor without proceeding (either before, after or concurrently) against Sublessee or any other guarantor or person or any security held by Sublessor and without pursuing any other remedy. Sublessor's rights under this Guaranty shall not be exhausted by any action of Sublessor until all of the Guarantied Obligations have been fully performed.

4. Waiver of Defenses. Guarantor waives all of the following, whether created or imposed by or under statute, common law, or otherwise:

4.1 Any right to require Sublessor to proceed against Sublessee or any other person or any security now or hereafter held by Sublessor or to pursue any other remedy whatsoever.

4.2 Any defense based upon any legal disability of Sublessee or any guarantor, or any discharge or limitation of the liability of Sublessee or any guarantor to Sublessor, or any restraint or stay applicable to actions against Sublessee or any other guarantor, whether such disability, discharge, limitation, restraint or stay is consensual, or by order of a court or other governmental authority, or arising by operation of law or any liquidation, reorganization, receivership, bankruptcy, insolvency or debtor-relief proceeding, or from any other cause.

4.3 All setoffs, counterclaims, presentment, demand, protest or notice of any kind, except for any notice which may be expressly required by the provisions of this Guaranty.

4.4 Any defense based upon the modification, renewal, extension or other alteration of the Guarantied Obligations, or of the documents executed in connection therewith.

4.5 Any defense based upon the negligence of Sublessor, including, without limitation, the failure to file a claim in any bankruptcy of the Sublessee or any guarantor.

4.6 Any defense based upon a statute of limitations and any defense based upon Sublessor's delay in enforcing this Guaranty.

4.7 All rights of subrogation, reimbursement, indemnity, all rights to enforce any remedy that Sublessor may have against Sublessee, and all rights to participate in any security held by Sublessor for the Guarantied Obligations until the Guarantied Obligations have been paid and performed in full.

4.8 Any defense based upon or arising out of any defense that the Sublessee or any other person may have to the performance of any part of the Guarantied Obligations other than Sublessor's prior material breach.

4.9 Any defense based upon the death, incapacity, lack of authority or termination of existence or revocation hereof by any person or entity or persons or entities, or the substitution of any party hereto.

4.10 Any defense based upon or related to Guarantor's lack of knowledge as to Sublessee's financial condition.

4.11 Any and all rights to revoke this Guaranty in whole or in part.

4.12 Any defense based upon any action taken or omitted by Sublessor in any bankruptcy or other insolvency proceeding involving Sublessee, including any election to have Sublessor's claim allowed as secured, partially secured or unsecured, any action taken by the Sublessor in connection with a motion to assume, assign or reject this Sublease, any extension of credit by the Sublessor to the Sublessee in any such proceeding, and the taking and holding by the Sublessor of any security for any such extension of credit.

4.13 All rights and defenses arising out of an election of remedies by Sublessor, even though that election of remedies impairs or destroys Guarantor's right of subrogation and/or reimbursement against Sublessee.

5. Bankruptcy.

5.1 Until all of the Guarantied Obligations have been paid and performed in full, Guarantor shall not, without the prior written consent of Sublessor, commence, or join with any other person in commencing, any bankruptcy, reorganization, or insolvency proceeding against Sublessee. The obligations of Guarantor under this Guaranty shall not be altered, limited, or affected by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation, or arrangement of Sublessee, or by any defense Sublessee may have by reason of any order, decree, or decision of any court or administrative body resulting from any such proceeding. No limitation upon or stay of the enforcement of any obligation of Sublessee by virtue of any such proceeding shall limit or stay Sublessor's enforcement of Guarantor's payment or performance of such obligation under this Guaranty. In furtherance of the foregoing, Guarantor agrees that if acceleration of the time for payment of any amount payable by Sublessee under this Sublease or in respect of the other Guarantied Obligations is stayed for any reason, all such amounts

which would be subject to acceleration shall nonetheless be deemed to be accelerated for purposes of this Guaranty and the full amount thereof shall be payable by Guarantor hereunder forthwith upon demand.

5.2 Guarantor shall file in any bankruptcy or other proceeding in which the filing of claims is required or permitted by law all claims that Guarantor may have against Sublessee relating to any indebtedness of Sublessee to Guarantor, and will upon request assign to Sublessor all rights of Guarantor thereunder. In all such cases, whether in administration, bankruptcy, or otherwise, the person or persons authorized to pay such claim shall pay to Sublessor the amount payable on such claim. Guarantor hereby assigns to Sublessor all of the Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled; provided, however, that Guarantor's obligations hereunder shall not be satisfied except to the extent that Sublessor receives cash by reason of any such payment or distribution. If Sublessor receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty.

6. Costs and Expenses. Guarantor agrees to pay, upon Sublessor's demand, Sublessor's reasonable out-of-pocket costs and expenses, including but not limited to attorneys' fees, costs and disbursements, incurred in any effort to collect or enforce any of the Guarantied Obligations or this Guaranty, regardless whether any lawsuit is filed, and in the representation of Sublessor in any insolvency, bankruptcy, reorganization or similar proceeding relating to Sublessee or Guarantor. Until paid to Sublessor, such sums will bear interest from the date such costs and expenses are incurred at the rate set forth in this Sublease for past due obligations. The obligations of the Guarantor under this Section shall include payment of all such costs and expenses incurred by Sublessor in enforcing any judgments.

7. Reinstatement. The liability of Guarantor hereunder shall be reinstated and revived, and the rights of Sublessor will continue, with respect to any amount at any time paid on account of the Guarantied Obligations which Sublessor is thereafter required to restore or return or which is avoided in connection with the bankruptcy, insolvency or reorganization of Sublessee or otherwise, all as though such amount had not been paid. The determination as to whether any such payment or performance must be restored or returned will be made by Sublessor in its sole discretion; provided, however, that if Sublessor chooses to contest any such matter, Guarantor agrees to indemnify, defend and hold harmless Sublessor from all costs and expenses (including, without limitation, reasonable legal fees and disbursements) of such contest. Further, upon demand from Sublessor, Guarantor will restore or return such payment or performance directly on Sublessor's behalf in furtherance of Guarantor's obligations hereunder. Sublessor will be under no obligation to return or deliver this Guaranty to Guarantor, notwithstanding the payment of the Guarantied Obligations. If this Guaranty is nevertheless returned to Guarantor or is otherwise released, then the provisions of this Guaranty shall survive such return or release, and the liability of Guarantor under this Guaranty shall be reinstated and continued under the circumstances provided herein notwithstanding such return or release.

8. Subordination. Any indebtedness of Sublessee to Guarantor now or hereafter existing shall be, and such indebtedness hereby is, deferred, postponed and subordinated to payment and performance of the Guarantied Obligations. Any payment made to Guarantor by Sublessee or any third party with respect to the indebtedness subordinated hereunder at any time when an Event of Default exists under this Sublease or while any Guarantied Obligations are otherwise then payable or performable shall be held in trust by Guarantor for the benefit of Sublessor and shall be turned over to Sublessor immediately upon receipt thereof for application by Sublessor against the Guarantied Obligations. Any lien, charge or claim which Guarantor now has or hereafter may have on or to any real or personal property of Sublessee (including without limitation any real property subject of this Sublease, the personal property located thereon, any rights therein and related thereto, and the revenue and/or income realized therefrom) and any security for any loans, advances or other indebtedness of Sublessee to Guarantor, shall be, and hereby is, subordinated to the payment and performance of the Guarantied Obligations.

9. Representations and Warranties. Guarantor, and each of the persons or entities executing this Guaranty as Guarantor individually, makes the following representations and warranties, which are deemed to be continuing representations and warranties until payment and performance in full of the Guarantied Obligations.

9.1 Guarantor has all the requisite power and authority to execute, deliver and be legally bound by this Guaranty on the terms and conditions herein stated.

9.2 Guarantor has all the requisite power and authority to transact any other business with Sublessor as necessary to fulfill the terms of this Guaranty.

9.3 This Guaranty constitutes the legal, valid and binding obligations of Guarantor enforceable against Guarantor in accordance with its terms.

9.4 Neither the execution and delivery of this Guaranty nor the consummation of the transaction contemplated hereby will, with or without notice and/or lapse of time, (a) constitute a breach of any of the terms and provisions of any note, contract, document, agreement or undertaking, whether written or oral, to which Guarantor is a party or to which Guarantor's property is subject; (b) accelerate or constitute any event entitling the holder of any indebtedness of Guarantor to accelerate the maturity of any such indebtedness; (c) conflict with or result in a breach of any writ, order, injunction or decree against Guarantor of any court or governmental agency or instrumentality; or (d) conflict with or be prohibited by any federal, state, local or other governmental law, statute, rule or regulation.

9.5 No consent of any other person not heretofore obtained and no consent, approval or authorization of any person or entity is required in connection with the valid execution, delivery or performance by Guarantor of this Guaranty.

9.6 Guarantor will receive substantial and material benefits from the leasing of the Subleased Premises to Sublessee and the consideration received by Guarantor for this Guaranty is sufficient in all respects.

9.7 Guarantor presently has and will at all times maintain sufficient assets and tangible net worth to timely pay and perform all of the Guarantied Obligations, and Guarantor will not take any action nor participate in any transaction which would materially impair Guarantor's ability to so pay and perform the Guarantied Obligations.

9.8 Neither this Guaranty nor any other statement furnished by Guarantor to Sublessor in connection with the transactions contemplated hereby (including, without limitation, any financial statements or other business information) contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein or therein true and not misleading.

10. Joint and Several Liability. The obligations, waivers, promises, representations and warranties set forth herein are the joint and several undertakings of each of the persons or entities executing this Guaranty as a Guarantor and of any other guarantors or other persons or entities obligated from time to time with respect to the Guarantied Obligations. Sublessor may proceed hereunder against any one or more of said persons or entities without waiving its rights to proceed against any of the others. Any married person who executes this Guaranty agrees that recourse may be had against his or her separate and community property.

11. Inducement; No Assignment. Guarantor acknowledges that the undertakings given in this Guaranty are given in consideration of Sublessor's entering into this Sublease and that Sublessor would not enter into this Sublease but for the execution and delivery of this Guaranty. Guarantor's obligations hereunder are personal to Guarantor and Guarantor may not assign or delegate any of its obligations under this Guaranty without Sublessor's prior written consent, which consent may be withheld in Sublessor's sole and absolute discretion.

12. Guarantor Information. Guarantor will promptly supply such financial statements and business information regarding Guarantor as may reasonably be requested from time to time by Sublessor or any lender or prospective purchaser of Sublessor for the purpose of evaluating the creditworthiness of Guarantor and Guarantor's ability to perform its obligations under this Guaranty.

13. Sublessee's Financial Condition. Guarantor is relying upon its own knowledge and has made such investigation as Guarantor has deemed necessary with respect to Sublessee's financial condition. Guarantor assumes full responsibility for keeping fully informed of the financial condition of Sublessee and all other circumstances affecting Sublessee's ability to pay and perform its obligations under this Sublease, and agrees that Sublessor will have no duty to report to Guarantor any information which Sublessor receives about Sublessee's financial condition or any circumstances bearing on Sublessee's ability to perform. Guarantor agrees that Sublessor has made no representations or assurances regarding Sublessee's financial condition or Sublessee's ability to pay and perform Sublessee's obligations under this Sublease.

14. Default. The occurrence of any one or more of the following events shall, at the election of Sublessor, be deemed an event of default under this Guaranty: (a) Guarantor fails to pay any monetary Guarantied Obligation within five days after demand from Sublessor; (b) Guarantor fails to perform any non-monetary Guarantied Obligation within 15 days after demand therefor from Sublessor (or, if Guarantor is not able through the use of commercially reasonable efforts to perform such Guarantied Obligation within a 15-day period, if Guarantor does not commence to perform such obligation within such 15-day period and diligently pursue such performance to completion within an additional 60 days after the expiration of the initial 15-day period); (c) Guarantor fails or neglects to perform, keep or observe any other term, provision, agreement or covenant contained in this Guaranty; (d) the commencement of any liquidation, reorganization, receivership, bankruptcy, assignment for the benefit of creditors or other similar proceeding by or against Guarantor; (e) if any representation or warranty made in this Guaranty shall be or become false in any material respect; or (f) the death, legal incapacity, dissolution or termination of the Guarantor. Upon the occurrence of an event of default under this Guaranty, at the option of Sublessor, the Guarantied Obligations shall be accelerated and shall all be due and payable and enforceable against Guarantor (regardless whether the Guarantied Obligations are then due and payable under this Sublease or otherwise) and Sublessor may, in its sole discretion, in addition to any other right or remedy provided by law or at equity, all of which are cumulative and non-exclusive, proceed to suit against the Guarantor.

15. Transfer by Sublessor. Sublessor may sell, assign, or otherwise transfer its interest in the Subleased Premises, this Sublease or this Guaranty at any time. If Sublessor transfers (other than for collateral security purposes) the ownership of Sublessor's interest in this Sublease, this Guaranty shall, unless Sublessor elects otherwise in writing, automatically apply in favor of the transferee with respect to all Guarantied Obligations arising or accruing from and after the date of the transfer. In addition, this Guaranty shall remain in full force and effect in favor of the transferor with respect to all Guarantied Obligations arising or accruing under this Sublease prior to the date of the transfer including, without limitation, all Guarantied Obligations relating to Sublessee's indemnity and insurance obligations (and similar obligations) under this Sublease with respect to matters arising or accruing during the transferor's period of ownership.

16. Severability. If any one or more of the covenants, provisions or terms of this Guaranty is, in any respect, held to be invalid, illegal or unenforceable for any reason, the remaining portion thereof and all other covenants, conditions, provisions, and terms of this Guaranty will not be affected by such holding, but will remain valid and in force to the fullest extent permitted by law.

17. Notices. All notices, demands and other communications with, to, from or upon the Guarantor and the Sublessor required or permitted hereunder shall be in writing and must be sent by personal delivery, United States registered or certified mail (postage prepaid), by an independent, nationally recognized overnight courier service that guarantees next-day delivery, or by e-mail transmission, or by personal delivery, properly addressed to the parties at their respective addresses as follows: (a) with respect to Sublessor, to the notice address(es) for Sublessor under this Sublease; and (b) with respect to Guarantor, unless a separate notice address is specified on the signature page of this Guaranty, to Guarantor in care of Sublessee at the notice address(es) for Sublessee under this Sublease; or (c) as to either, at such other address as shall be designated in a written notice to the other complying with the terms of this Section. Notices given by mail are deemed delivered within four Business Days after the party sending the Notice deposits the Notice with the United States Post Office. Notices delivered by courier are deemed delivered on the next Business Day after the day the party delivering the Notice timely deposits the Notice with the courier for overnight (next-day) delivery. Notices delivered by e-mail transmission (with proof of transmission) or by personal delivery are deemed delivered on the same day of delivery or transmission, or upon receipt or refusal of delivery. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

18. Miscellaneous. No provision of this Guaranty or Sublessor's rights hereunder may be waived or modified nor can Guarantor be released from its obligations hereunder except by a writing executed by Sublessor. No such waiver shall be applicable except in the specific instance for which given. No delay or failure by Sublessor to exercise any right or remedy against Sublessee or Guarantor will be construed as a waiver of that right or remedy. All remedies of Sublessor against Sublessee and Guarantor are cumulative. This Guaranty shall be governed by and construed under the laws of the State in which the Subleased Premises is located. The provisions of this Guaranty will bind and benefit the heirs, executors, administrators, legal representatives, successors and assigns of Guarantor and Sublessor. The term "**Sublessee**" will mean not only the Sublessee named herein but also any other person or entity at any time occupying all or any portion of the Subleased Premises or assuming or otherwise becoming liable (other than as a guarantor) for all or any part of the Guarantied Obligations. This Guaranty constitutes the entire agreement between Guarantor and Sublessor with respect to its subject matter, and supersedes all prior or contemporaneous agreements, representations and

understandings. All headings in this Guaranty are for convenience only and shall be disregarded in construing the substantive provisions of this Guaranty.

19. Electronic Transmission. This Guaranty may be transmitted by fax or by electronic mail in portable document format ("pdf") and signatures appearing on faxed instruments and/or electronic mail instruments shall be treated as original signatures. At the request of any party, any electronic or facsimile document is to be re-executed in original form by the parties who executed the electronic or facsimile document.

[Signature on following page]

In witness whereof, this Guaranty has been duly executed on behalf of Guarantor and delivered to Sublessor as of the date set forth above, to be effective as of the Effective Date set forth in this Sublease.

Guarantor:

_____, a _____

By: _____

Print Name: _____

Title: _____

Notice Address for Guarantor:

_____

_____

_____

Attention: _____

Telephone: _____

Exhibit H -- Repair/Restoration Specifications

1. All lighting will be placed into good working order with all non-functioning bulbs, non-functioning ballasts, and broken lenses replaced.

2. All truck doors and dock levelers will be serviced and placed in good operating order, including, without limitation, the replacement (if necessary) of any dented truck door panels and adjustment of door tension to insure proper operation. All door panels that are replaced will be painted to match the Building standard. All dock bumpers will be left in place and secured.

3. All structural steel columns in the warehouse and office will be inspected for damage. These repairs will be reasonably pre-approved by Sublessor prior to implementation.

4. Any systems installed to serve only the Subleased Premises (including, without limitation, warehouse heaters and exhaust fans, if applicable) will be placed in good working order, including, without limitation, the necessary replacement of any parts.

5. All holes in the sheetrock walls will be repaired.

6. Carpets and vinyl tiles will be cleaned. Vinyl tiles will be stripped, sealed and waxed.

7. Office areas (including, without limitation, the coffee bar, breakroom, restroom areas and interior windows) will be cleaned.

8. The warehouse will be cleaned, with all inventory and racking removed and the warehouse floor broom-cleaned. There will be no protrusion of anchors from the warehouse floor (as provided above). Floor striping does not need to be removed from warehouse. Sublessor may elect to require Sublessee paint any floor striping gray.

9. All exterior windows with cracks or breakage caused by Sublessee will be replaced.

10. All electrical systems will be in good working order, including, without limitation, the water heater. Faucets and toilets will be in good working order. Sublessee shall not be responsible for updating any building switchgear.

11. Data wiring shall remain in place.

12. All chiller and copper piping and systems, all exhaust piping and systems, and all mechanical and electrical connections to Sublessee's equipment will be removed.

13. Repair or replace, as reasonably required, all slabs and floors damaged by grooves or ruts (*e.g.*, resulting from Sublessee's use of fork lifts or other equipment).

Exhibit I -- Current Rules and Regulations for Third-Party Contractors, Subcontractors and Suppliers
Building Contractor Rules

Contractor, and all sub-contractors, suppliers, materialmen and others performing services or providing materials in connection with the subject project (collectively, "**Contractors**" and individually each, a "**Contractor**") shall be advised of the following building rules and regulations ("**Contractor Rules**") concerning their proper conduct within _____ ("**Building**"), pursuant to that certain Multi-Sublessee Warehouse Lease Agreement ("**Lease**") dated as of _____, 20__, between _____ ("**Owner**") and _____ ("**Sublessee**"), pursuant to which Sublessee is leasing all or a portion of the Building ("**Subleased Premises**"). The building is managed by _____ ("**Manager**"). _____ ("**General Contractor**", and a Contractor for purposes hereof) has been engaged by Sublessee, or Owner, to complete certain work at the Subleased Premises. Manager shall provide each Contractor a copy of these Contractor Rules. All referenced material, labor, services, taxes, after hours' costs, shipping, permits, fees or construction and/or other reference processes performed by Contractors, shall be hereinafter referred to as the "**Work**."

It is the **General Contractor's responsibility** to ensure everyone reads and understands these Contractor Rules. Ignorance of these Contactor Rules is not a waiver of liability or responsibility. Failure to comply with these Contractor Rules may result in your people being asked to leave the job site. The Contractor is ultimately responsible for the conduct of all of its Contractors. The signature block on the last page of this Agreement shall act as the written approval by the undersigned Contractor.

1.) Prior to starting any Work in the Building, Contractor, at its sole expense, should have a current Commercial General Liability Insurance including Owner, Owner's lender, if Owner has notified General Contractor thereof (**"Lender"**), and Manager, as additional insureds. The limits of liability on each Contractor's general liability insurance policies shall be listed on the construction contract, or a minimum of that indicated below:

a.) Insurance. Contractor will procure and maintain during the term of this Contract, insurance covering all Contractors and anyone directly or indirectly employed by any of them, issued by an insurance company which has an A.M. Best rating of A- VII or better and is authorized to transact business in the state which the Building is located (**"Qualified Insurer"**). All policies are to protect against liabilities arising out of the operations of all Contractors in connection with the Work, including at least and in amount not less than set forth herein and such other types and amounts of insurance as Owner deems necessary.

b.) Commercial General Liability Insurance. Commercial general liability insurance to protect against claims for bodily injury and property damage arising out of Subleased Premises operations, products, and completed operations, and advertising and personal injury liability, written on an occurrence basis using ISO Form CG0001 (or its equivalent) with no amendments to the definition of an insured contract, in limits of not less than $1,000,000 inclusive, per occurrence, and $2,000,000 annual aggregate per project with a $2,000,000 Products/Completed Operations Aggregate, or such higher limits as Owner may require. Completed Operations to remain in force for maintained for the duration of the applicable statute of repose following project completion. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the insurers thereunder against Owner, VTC, Manager, and all Lenders.

c.) Commercial Automobile Liability Insurance. Commercial automobile liability insurance to include contractual liability insurance for the indemnities set forth in the applicable contract (**"Contract"**) covering all owned, non-owned and hired automobiles, in limits of not less than $1,000,000 combined single limit (each accident), or such higher limits as Owner may require. To

the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the insurers thereunder against Owner, VTC, Manager and all Lenders.

d.) Employer's Liability Insurance and Workers Compensation. Employer's Liability insurance, with minimum limits of not less than $1,000,000 bodily injury each accident, $1,000,000 bodily injury by disease policy limit and $1,000,000 bodily injury by disease each employee, and Worker's Compensation, in form and amount as required by applicable state law. To the extent permitted by applicable law, such policy shall include a waiver of any right of subrogation of the insurers thereunder against Owner, VTC, Manager, and all Lenders.

e.) Umbrella Liability Insurance. Umbrella liability insurance over the primary general liability, automobile liability and employer's liability insurance policies in limits of not less than $5,000,000 inclusive per occurrence, and $5,000,000 annual aggregate, per project, or such higher limits as Owner may require. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the insurers thereunder against Owner, VTC, Manager, and all Lenders.

f.) Builder's Risk Insurance. Builder's Risk insurance on a "Special Form" basis (including collapse) using a completed value (non-reporting) form for full replacement cost covering all work which Contractor is performing and all materials and equipment used or installed in or about the project, off site and in transit. This insurance shall include: (i) interests of Owner, VTC, Manager, all sublessees, all mortgagees of Owner, all Contractors; and (ii) a mutual release and waiver of subrogation for all parties. At Sublessor's option, Sublessor may procure the insurance policy described in this subsection (f) (which may include loss of rents coverage), and Sublessee shall reimburse Sublessor, at Sublessor's option as either Additional Rent or a deduction from any applicable Improvement Allowance, for all costs and expenses incurred by Sublessor in connection therewith.

g.) Certificates. Certificates of insurance must be provided to Owner prior to the start of the Work at the Subleased Premises. Owner, VTC, Manager, all Lenders, and others who may be required (as evidenced by inclusion in an ACORD Certificate as additional insureds), will be named as primary non-contributing additional insureds on the insurance coverages described in subsections (a) and (d) above, including completed operations with respect to all matters arising out of the performance of services under the Contract. It is Contractor's sole responsibility to procure and maintain insurance covering its personal property located at the Subleased Premises. All policies required above shall contain no exclusions for work expressly within Contractor's scope of work. It is Owner's sole responsibility to procure and maintain property insurance covering Owner's real property where the Subleased Premises are located (other than the Work) and Owner's personal property and the personal property of others located at the Project site that are under Owner's care, custody or control.

2.) Contractors working in or about the Building must have prior written approval from Owner before any type of Work may commence. A list of subcontractors must be provided by Contractor to Owner and Manager along with suitable scheduling and delivery/stocking information before construction begins. Any persons not on the approved Contractor list will be denied access to the Subleased Premises and the Building – ***no exceptions***. ***This***

list will include phone numbers and contacts for each Contractor, including home and emergency telephone numbers.

3.) An initial walk through of the job between General Contractor, its key subcontractors and Owner representation (Manager and Manager's building engineer) will be conducted prior to construction. General Contractor's superintendent, Manager and Manager's building engineer will review rules and regulations, as well as check for existing conditions of the Subleased Premises.

4.) All Contractors must be licensed in the state in which the Work is performed, and have work experience in similar commercial properties. Written documentation/certification and previous job references are required prior to the commencement of any type of Work.

5.) Where applicable, permits must be obtained, by Contractor, from the City Building Department or other governing agency prior to the commencement of Work. Permits must be posted at the job site in accordance to the governing body. All construction Work will require a permit. Approval of drawings, details, schedules and the like by Owner or Manager shall not relieve Contractor from the responsibility for compliance with local, county, state or federal laws, rules, ordinances, or rules and regulations of commissions, boards, or other authorities having jurisdiction.

6.) All Contractors shall keep the Subleased Premises, the Building and improvements free and clear of all liens arising out of or claimed by reason of any Work performed, materials furnished or obligations incurred. General Contractor is responsible for the payment of all bills for labor and materials furnished by, or to its subcontractors and itself, in connection with the Work.

7.) No one shall be allowed to endanger the Subleased Premises, the Building or its occupants in any manner whatsoever. If such a situation occurs, General Contractor and all other applicable Contractors shall immediately take steps to correct and eliminate the hazardous condition. In the event that Contractor's personnel fail to perform in a satisfactory manner, Owner and Manager reserve the right to immediately take steps to remedy the hazard at Contractor's sole expense.

8.) Contractor is not permitted to post any sign on the job site advertising the name of the Contractor or subcontractors.

9.) It is imperative that good business/professional conduct be maintained by all Contractors' personnel while they are at the Subleased Premises or the Building, and that they are properly dressed for the environment they are working in and the job being done. Contractor shall not employ any unfit person or anyone not skilled in the task assigned to him. Respect must be shown to the Building sublessees at all times. Rude and obscene behavior (harassment, sexual or otherwise), including foul and abusive language, will not be tolerated. Offenders will be asked to remove themselves from the Subleased Premises and shall not be permitted to return.

10.) All Contractors' personnel will enter and exit through the designated construction Building entrance and will only use the designated elevator or designated stairwell except in the event of an emergency evacuation. Use of Building main floor, lobbies, or elevator lobbies is prohibited for storing material even on a temporary basis. Specific Building moving and freight policies are established and must be reviewed with Owner and/or Manager. Where applicable such freight policies may include fines for breaking such policies.

11.) Owner and/or Manager, prior to the commencement of the Work, must approve hours in which the Work will commence and end each day. No variation to the agreed upon hours will be permitted unless authorization is obtained from Owner and/or Manager. These

Contractor Rules will further limit hours. Owner and/or Manager must be notified of "after hours" Work in advance. "After hours" Work is defined to be before 7:00 a.m. and after 6:00 p.m. or as governed by the City where the Building is located and its guidelines. All Contractors working over the weekend and after the normal hours shall provide Owner and Manager a list of workers prior to the worker being on site or they will be denied access. The list should also include an estimated time the Contractors will be working, the location of the work to be done and a 24-hour emergency contact for the supervisor of the Work. Contractor shall designate a superintendent to oversee all workmen at all times. Such superintendent may be given access cards and keys, these cards/keys will grant access to the Building for all workmen associated with the Work. The superintendent issued the cards/keys not permitted to give such cards/keys to any workmen for access to the Building. In no event shall any workmen be unsupervised at any time.

12.) All deliveries are to be accepted, moved and delivered to the Subleased Premises before 7:00 a.m. and after 6:00 p.m. unless prior Owner approval has been granted in writing; stocking will not be allowed during business hours once any sublessee occupancy has taken place within the Building. When accepting deliveries, Masonite must be laid to protect walls and floor finishes and elevator pads must be installed prior to delivery. It is Contractor's responsibility to keep public areas clean at all times.

13.) No windows shall be removed without prior approved permission provided by Manager or Owner.

14.) All construction waste and debris shall be removed between the hours of 6:00 p.m. to 7:00 a.m. once any sublessee occupancy within the Building has taken place. No construction waste or debris may be placed in the building dumpster/compactor. Contractor will provide for removal of waste and debris from the Building at his own expense. If a dumpster is required (space allowing), the location shall be authorized by Owner and Manager, must be in a safe location, and will meet the Building's standard relating to aesthetics. It will be the responsibility of Contractor to keep the area around the container neat and orderly daily. It will also be Contractor's responsibility to place plywood under the dumpster and to take other protective measures to protect the asphalt and concrete where the dumpster is to be place. It will be important to assure that a trail of debris is not left between the Work areas and refuse container.

15.) Construction personnel shall at all times maintain the highest level of project cleanliness. All construction debris shall be removed through the service elevator or stairs on a daily basis and shall never be allowed to produce a fire hazard. ***In the event that Contractor fails or refuses to keep the Subleased Premises free of accumulated waste, Owner and/or Manager reserve the right, but not the obligation, to enter the Subleased Premises and remove the debris, on behalf of Contractor, at Contractor's expense.*** In addition, all public areas, *i.e.*, corridors, restrooms, janitor's closets and the like shall be maintained and kept free of construction debris, dust and the like.

16.) Specific restrooms, which shall be Contractor provided portable toilets, unless agreed to otherwise in writing by Owner, will be designated for Contractor use. Anyone found using restrooms other than specified (core area restrooms on any floor(s)), or janitorial closets will be subject to immediate dismissal. No one is permitted to use the janitorial closets without permission. Contractor shall be responsible for stocking and re-stocking of restroom supplies as well as clean-up of the subject restrooms being utilized, provided such authorization of use has been granted by Owner, throughout the duration of construction. Upon completion of each sublessee improvement, Contractor will be responsible for restoring the facility to its original state. All carpeted corridors will be properly protected by Masonite or carpet mask (Polytech brand only) flush with the base, from the point of entry to the job site to the restroom. Contractor will provide walk-off mats to be placed at all locations where Contractors enter public areas of the Building. These walk-off mats

will be maintained and cleaned daily or more frequently if required, so that construction material is not transferred unto any other areas of the building. Any flammable or hazardous materials (*i.e.*, paint) may only be stored on Subleased Premises with permission of Owner and Manager who shall designate an area for such storage.

17.) ***Pre-filters shall be installed over all return air openings on floors under construction***. If Building filters or equipment requires replacement or cleaning due to construction dust, Contractor will be charged.

18.) ***Contractor should cover air transfers when working next to leased space to control the transmission of dust and dirt.*** Covering must be removed at the completion of daily construction. All sublessee entrance and exit doors must be kept closed to restrict the movement of dust or dirt. Temporary openings with polyurethane must be closed off. Due to local fire codes, no openings may be made on a leased floor to the corridor unless the door to be made on the leased floor to the corridor remains closed unless materials are being delivered. All HVAC filters in fan rooms shall also be delivered in operable condition at time of completion (thus a temporary filter should be added to the existing filter).

19.) **Electrical Panels** must be closed up at the end of each working day. Interior panels can be covered or barricaded. Doors to all electrical rooms must remain locked when not occupied or protected by barrier. No storage is allowed in the electrical room. DO NOT TAPE OVER LOCKS TO LEAVE DOOR OPEN OR USE ANY MECHANICAL DEVICE TO PROP OPEN. REPEATED VIOLATIONS WILL BE FINED **$500 PER EVENT.**

INITIAL _____

20.) Any and all safety equipment, such as traffic control, flagmen, barricades, rigging, fire extinguishers, first aid supplies, and the like, as may be necessary or required by any agency having jurisdiction, shall be the sole responsibility of, and at the expense of, Contractor. It is the responsibility of Contractor to protect all individuals surrounding the Work area. All liability shall be the responsibility of Contractor. Contractor (and its subcontractors) shall inaugurate and maintain an accident prevention program and an employee safety-training program. Proof of compliance for the state and city where the Building is located of your safety plan shall be maintained and followed. All employees on the job, regardless of whose direct payroll they are on, shall be required to respond to safety instructions from Contractor's supervision. Persons who do not respond shall be removed from the job. Contractor, its subcontractors, labor, agents and invitees shall be responsible for complying with all OSHA rules and regulations, including, without limitation, having all safety, first aid and Material Safety Data Sheet (MSDS) documentation on the jobsite at the Building.

21.) All Contractors are to take precautions to prevent the accidental tripping of the fire alarm system. ***The smoke detectors must be covered during working hours and uncovered at the end of the working day.***

False alarms shall be fined at:

First offense: **$200**
Second offense: **$500**
Third offense: **$1000** and, at the Owner's discretion, may terminate Contractor.

*INITIAL*_____

22.) No gasoline operated devices, *i.e.*, concrete saws, coring machines, welding machines, and the like, shall be permitted within the Building. All work requiring such devices shall be by means of electrically operated substitutes.

23.) All approved gas and oxygen canisters shall be properly chained and supported to eliminate all potential hazards. At the completion of use, said containers shall be removed from the Building.

24.) Please contact the Manager to schedule work on the following building systems **24- hours in advance** (any disruption of services will be scheduled at Manager's discretion).

a.) Domestic water;
b.) Fire alarm or speaker;
c.) Electrical tie-ins to base building or the addition of equipment to any area other than the Subleased Premises except sub panels located within the sublessee Subleased Premises;
d.) Sprinkler system;
e.) Any work that will take place outside the demised sublessee space;
f.) Work in occupied sublessee spaces. This includes any core drilling, plumbing, and electrical, and the like, where you will enter an adjacent sublessee space;
g.) With respect to roof access, any corrective work required in conjunction with or as a result of this Contractor's scope of work shall be performed by a firm authorized as such by roofing manufacturer (Owner and/or Manager will coordinate with Contractor in determining) for purposes of ensuring that the roofing warranty is not jeopardized in any way.

Note: If a utility or building alarm is turned off for Contractor's work, Contractor must notify Manager upon completion so the system can be turned back on as soon as possible.

25.) Construction personnel are not permitted to block open stairway doors. These doors provide the fire protection required by code. A repeated violation of this provision shall be subject to a **$500** fine. Doors to janitorial spaces shall be kept closed at all times.

*INITIAL*_____

26.) No graffiti or vandalism will be tolerated. Any individual caught in the act shall be immediately removed from the Subleased Premises and will not be allowed to return. In addition, all repairs will be at Contractor's expense.

27.) <u>No tobacco smoking or chewing</u> will be permitted in the Building or on the roof. <u>No radios or other sound producing equipment</u> will be permitted in the Building or on the roof. <u>No eating or drinking will be allowed in the common areas</u>. Building management will either provide a designated smoking area or designate the property to be non-smoking.

28.) Since Work will occur while other businesses in the Building are operating, noise is a major consideration. Therefore, excessive noise, which may disturb sublessees, will force us to halt Work temporarily. No hammer drilling, core drilling or any sublessee disturbances will be allowed between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. It is the responsibility of Contractor to instruct all construction personnel that noise will be minimized at all times. Owner and Manager shall determine acceptable noise level.

29.) Wet paint sign must be posted in all public areas when appropriate.

30.) The odors, which arise when various construction procedures are done, can cause discomfort to the sublessees of the Building. Examples of these odor concerns are carpet adhesive, wallpaper sizing, wood stains and finishes and painting. These activities which

sometimes produce odor problems for sublessees in the Building will be done during evening non-business hours, as approved by Owner and/or Manager. Also, Owner and/or Manager should be alerted to arrange for added ventilation. Cost associated with additional ventilation shall be at Contractor's sole expense. ***In addition, all TI Contractors will cooperate with shell building contractor's air quality reading measurements as is required by LEED, when applicable. This may include temporary shutdown of activity that jeopardizes air quality readings before and during actual testing of same.***

31.) Contractor shall provide temporary electrical devices within the Subleased Premises for its subcontractor's use. Contractor will not be permitted to run extension cords through public space on occupied floors or through occupied sublessee spaces.

32.) Contractor shall use reasonable measures to minimize energy consumption in the construction area when possible. The Building shall pay for normal electrical consumption during the construction process. All lights and equipment must be extinguished at the end of Contractor's business day. In the event that Contractor continues to leave lights and equipment on during off-hours, Owner reserves the right to receive just compensation for excessive electrical consumption.

33.) Contractor/Sub-contractor may park in designated spaces only. ***This on-site parking is limited to that which is available on-site. Contractor shall be prepared to make additional arrangements should supplemental parking be required for any and all workforces working under their contracted scope. Any vehicles found in unauthorized spaces will be subject to posted parking rates, tickets, towing or other steps as may be needed to avoid conflicts with adjacent sublessee and neighbor parking.*** Specific instructions should be obtained from Manager.

34.) No work is to be performed, nor materials stored in any area other than the Subleased Premises under construction without prior authorization. No staging of trucks or materials will be allowed in areas that may affect traffic flow.

35.) Rubber wheels are required on all vehicles transporting materials in the Building.

36.) All equipment and material will be designed and attached for seismic loading in accordance with governmental agencies having jurisdiction over the Work.

Commencement of any work shall constitute acceptance or contractor will take full responsibility for the following:

1. Communicating these Contractor Rules to all Contractor's personnel and subcontractors; and

2. Enforcing these Contractor Rules in regards to employees of Contractor and subcontractors.

Contractor shall deposit $_____ with Manager prior to commencing any work. The deposit will be held in a non-segregated account of Owner or Manager. Deposit will be refunded along with the final payment, following the successful completion of the Work. In the event that Contractor fails to complete the Work in compliance with the contract, causes any damage to the Building, fails to pay subcontractors, is fined as described above, or causes any other financial loss to the Owner, then Owner shall have the right to use the deposit in part or in whole to offset those costs. However, the use of the deposit shall in no way limit the rights of Owner to collect any damages caused by Contractor.

[Signature on following page]

Contractor:

By: _____
Name: _____
Its: _____

Date: _____

Exhibit J – Primary Lease

Exhibit K – Airport Rates and Charges

(Link)

https://www.gatewayairport.com/Documents/DocumentLibrary/Board%20Policies/Approved_AirportRatesandCharges_effective6.1.19.pdf?Uniqueifier=vm2pw2DmuS

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AIRPORT FEES, SERVICES AND RENTAL RATES SCHEDULE

(Link)

https://www.gatewayairport.com/documents/documentlibrary/execdirsect/airport%20fees,%20services%20and%20rental%20rates2019.pdf?Uniqueifier=ucXwLL0j4a

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: October 2023 Financials
Date: December 19, 2023

Attached is the monthly Financials Report for October 2023.

Phoenix-Mesa Gateway Airport Authority
AIRPORT - All Operations P&L
October, 2023

	Month of October 2023				Y-T-D as of October 2023			
	October FY23 Actual	October FY24 Actual	YOY Variance	B/(W)	YTD FY23 Actual	YTD FY24 Actual	Y-T-D Variance	B/(W)
Aeronautical Operating Revenues								
Aircraft Parking	22,704	28,174	5,470	24%	102,216	115,597	13,381	13%
Fuel Flowage Fees	59,915	47,324	(12,591)	-21%	213,318	220,176	6,858	3%
Landing Fees	110,931	130,351	19,420	18%	398,362	516,417	118,055	30%
Lease Income Aero	233,120	328,651	95,531	41%	1,102,347	1,399,661	297,314	27%
Fuel Sales	885,882	620,322	(265,560)	-30%	2,748,843	2,359,567	(389,276)	-14%
Services Sold - Aero	432,252	437,897	5,645	1%	1,519,031	1,947,840	428,809	28%
Sub-total Aero Operating Revenues	1,744,804	1,592,719	(152,085)	-9%	6,084,117	6,559,258	475,141	8%
Non-Aeronautical Operating Revenues								
Concessions	115,179	99,612	(15,567)	-14%	385,962	387,099	1,137	0%
Lease Income Non-Aero	108,324	108,804	480	0%	436,016	448,945	12,929	3%
Parking	388,828	491,343	102,515	26%	1,664,284	1,898,906	234,622	14%
Rental Car Fees	211,819	177,306	(34,513)	-16%	575,891	539,415	(36,476)	-6%
Svcs Sold - Non Aero	15,781	2,485	(13,296)	-84%	22,207	27,147	4,940	22%
Sub-total Non-Aero Operating Revenues	839,931	879,550	39,619	5%	3,084,360	3,301,512	217,152	7%
Total Operating Revenues	**2,584,735**	**2,472,269**	**(112,466)**	**-4%**	**9,168,477**	**9,860,770**	**692,293**	**8%**
Operating Expenses								
Cost of Goods Sold	622,815	387,723	235,092	38%	1,990,144	1,520,795	469,349	24%
Personnel	844,964	878,667	(33,703)	-4%	3,112,926	3,283,115	(170,189)	-5%
Comm & Utilities	86,246	94,925	(8,679)	-10%	396,525	427,339	(30,814)	-8%
Contractual Services	562,122	535,885	26,237	5%	1,983,692	2,231,547	(247,855)	-12%
Insurance	51,177	52,215	(1,038)	-2%	203,344	200,902	2,442	1%
Other	23,387	33,014	(9,627)	-41%	78,471	111,419	(32,948)	-42%
Repair & Maintenance	49,309	175,918	(126,609)	-257%	277,599	305,151	(27,552)	-10%
Supplies & Materials	104,224	62,106	42,118	40%	298,142	261,918	36,224	12%
Air Service Incentives [2,000,000]	-	-	-	0%	-	-	-	0%
Operating Contingency [2,812,142]	-	-	-	0%	-	-	-	0%
Total Operating Expenses	**2,344,244**	**2,220,453**	**123,791**	5%	**8,340,843**	**8,342,186**	**(1,343)**	0%
Operating Income (Loss) Before Depreciation	**240,491**	**251,816**	**11,325**	4.7%	**827,634**	**1,518,584**	**690,950**	83%
	9.3%	10.2%			9.0%	15.4%		
Depreciation		1,141,145				4,634,911		

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: **Board of Directors**
From: **Chuck Odom, Chief Financial Officer**
Through: **J. Brian O'Neill, A.A.E., Executive Director/CEO**
Re: Solicitation Notification
Date: **December 19, 2023**

This report is to provide notification of the active and upcoming solicitations to help ensure compliance with the Phoenix-Mesa Gateway Airport Authority procurement transparency clause. The active activities include the following:

Active/Pending Solicitations

Type Solicitation	Number	Title	Anticipated Contract Award (Board Action)
Request for Proposals	2024-008-RFP	Access Control & Alarm Monitoring System Services	December 2023
Request for Qualifications	2024-005-RFQ	On-Call Engineering Services	December 2023
Request for Qualifications	2024-009-RFQ	CMAR for Demolition of Airport Facilities	January 2024

Future Solicitations

Type Solicitation	Number	Title	Scheduled for Release	Anticipated Contract Award (Board Action)
Request for Qualifications	2024-006-RFQ	FBO Consulting Services	December 2023	March 2024
Request for Qualifications	2024-013-RFQ	Primary Legal Counsel Services	December 2023	April 2024
Invitation for Bid	2024-011-IFB	Refuel Defuel Cart	January 2024	March 2024
Invitation for Bid	2024-012-IFB	Taxiway Whiskey Phase 1 Rehabilitation	January 2024	March 2024
Request for Qualifications	2024-001-RFQ	CMAR for In-Line Checked Baggage Improvements	March 2024	June 2024

Equipment Disposals

Fiscal year totals from sales of decommissioned / nonworking equipment total $12,550.00
If you have any questions about the solicitations or the procurement process, please feel free to contract me at 480-988-7613.

Phoenix-Mesa Gateway Airport Authority
5835 S Sossaman Road
Mesa, Arizona 85212-6014
www.gatewayairport.com

Management Information Report

To: Board of Directors
From: Chuck Odom, Chief Financial Officer
Through: J. Brian O'Neill, A.A.E., Executive Director/CEO
Re: Rental Car Counter – Emergency Procurement
Date: December 19, 2023

With the addition of a new rental car company to begin operating at the Airport, we need to provide a temporary counter space in the terminal until a permanent counter and office space are constructed. Due to time constraints and our contractual requirement to provide the counter, the staff was unable to obtain three quotes. The total purchase amount, including shipping and installation, is $10,762.31. Staff reviewed the quote to ensure pricing received was in line with the product requested.

In accordance with PMGAA's Procurement Policy, this report is to notify the PGGAA Board of the emergency procurement for this urgently needed purchase.