

# Board Packet

Regular Board Meeting

December 4, 2018



**Grand Junction Regional Airport Authority**



**Date: December 4, 2018**

**Location:**

**COLORADO MESA UNIVERSITY: UNIVERSITY CENTER  
1100 NORTH AVENUE  
GRAND JUNCTION, CO 81501  
UC 213 MEETING ROOM**

**Time: 5:15 PM**

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**REGULAR MEETING AGENDA**

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- I. Call to Order**
- II. Pledge of Allegiance**
- III. Approval of Agenda**
- IV. Commissioner Comments**
- V. Citizens Comments**

The Grand Junction Regional Airport Authority welcomes respectful public comments at its meetings. The Citizens Comment section is open to all individuals that would like to comment. If you wish to speak under the Citizens Comment portion of the agenda, please fill out a comment card prior to the meeting. If you have a written statement for the Board, please have 10 copies available and give them to the Executive Director who will distribute them to the Board. The Board Chairman will indicate when you may come forward and comment. Please state your name for the record. Presentations are limited to **three minutes** and yielding time to others is not permitted. Speakers are to address the Chairman, not each other or the audience, and are expected to conduct themselves in an appropriate manner. The use of abusive or profane language shall not be allowed. No debate or argument between speakers and/or members of the audience shall be permitted.

**VI. Consent Agenda**

The Consent Agenda is intended to allow the Board to spend its time on the more complex items on the agenda. These items are perceived as non-controversial and can be approved by a single motion. The public or Board Members may ask that an item be removed from the Consent Agenda and be considered individually.

- A. November 15, 2018 Meeting Minutes \_\_\_\_\_ 1
- B. Uber and Lyft Contract Renewals \_\_\_\_\_ 2
- C. FAA AIP Grant Applications \_\_\_\_\_ 3
- D. CDOT Grant Offer \_\_\_\_\_ 4
- E. Ferris Lease Reassignment \_\_\_\_\_ 5

	F. Kempton Lease Changes _____	6
	G. Purchase Radio Equipment _____	7
<b>VII.</b>	<b>Action Items</b>	
	A. On-Call General Contractor Master Service Agreement _____	8
<b>VIII.</b>	<b>Discussion Items</b>	
	A. Rates & Charges Update _____	9
	B. Asset Disposal _____	10
	C. CMU Commercial Real Estate Study _____	11
	D. Standard Ground Lease Benchmarking _____	12
<b>IX.</b>	<b>Staff Reports</b>	
	A. Director’s Report (Angela Padalecki)	
	B. Finance and Activity Report (Sarah Menge) _____	13
	C. Facilities Report (Ben Peck)	
	D. Project Report (Eric Trinklein)	
	E. Contractor Reports (Colin Bible, Scott Cary, Geoff Mohny, Adam Shuler)	
<b>X.</b>	<b>Any other business which may come before the Board</b>	
<b>XI.</b>	<b>Adjournment</b>	




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**Grand Junction Regional Airport Authority Board**  
**Regular Board Meeting**  
 Meeting Minutes  
 November 15, 2018

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**REGULAR BOARD MEETING**

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**I. Call to Order & Pledge of Allegiance.**

Mr. Tom Benton, Board Chairman, called the Meeting of the Grand Junction Regional Airport Authority Board to order at 5:14 PM on November 15, 2018 in Grand Junction, Colorado and in the County of Mesa.

<p><i>Commissioners Present:</i>          Tom Benton, <i>Chairman</i>          Chuck McDaniel, <i>Vice-Chairman</i>          Erling Brabaek          Thaddeus Shrader          Ronald Velarde</p> <p><i>Airport Staff:</i>          Angela Padalecki, <i>Executive Director</i>          Chance Ballegeer, <i>Deputy Clerk</i>          Sarah Menge          Eric Trinklein          Mark Papko          Ben Peck          Aaron Morrison          Shelagh O’Kane</p>	<p><i>Other:</i>          Geoff Mohney, Mead &amp; Hunt          Colin Bible, Garver          Shannon Kinslow, TOIL          Scott Carey, Mead &amp; Hunt          Brad Rolf, Mead &amp; Hunt          Adam Shuler, FCI Construction          Lance Kramer, FCI Construction          Drew Armstrong, Audit &amp; Finance          Committee</p>
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**II. Pledge of Allegiance**

**III. Approval of Agenda**

Staff asked for item B to be removed from the consent agenda.

*Commissioner Shrader moved for the Board to approve the agenda with the stated provisions. Commissioner Brabaek seconded. Voice Vote. All Ayes. Commissioner Tufly and Taggart are absent.*

#### **IV. Commissioner Comments**

Commissioner Shrader stated that he would need to leave early do to a family event. Would leave after action items.

#### **V. Citizen Comments**

None.

#### **VI. Consent Agenda**

- A. October 16, 2018 Special Meeting Minutes
- ~~B. Uber and Lyft Contract Renewals~~
- C. Asset Disposal Approval
- D. Procurement Policy Amendment

*Commissioner Brabaek moved for the Board to approve consent agenda items A-D and excluding B. Commissioner Shrader seconded. Voice Vote. All Ayes. Commissioners Tufly and Taggart are absent.*

#### **VII. Action Items**

- A. 2019 Plan and Budget

Chairman Benton wanted to recognize Drew Armstrong for his help on the budget as a member of the Audit and Finance Committee. Chairman Benton opened up the floor for public comment. There was none.

*Roll Call vote from the Board to approve action item A. 2019 Plan and Budget; Resolution 2018-00. Commissioner Shrader-Aye; Vice Chairman McDaniel-Aye; Commissioner Brabaek-Aye; Commissioner Velarde-Aye; Chairman Benton Aye.*

After voting, Airport Director Angela Padalecki wanted to acknowledge staff member Shelagh O’Kane for all of her hard work and dedication to the 2019 Budget. Chairman Benton echoed Ms. Padalecki comments.

#### **VIII. Discussion Item**

- A. FAA AIP Supplemental Grant Requests
- B. Recommendation of Award-General Contractor on call

#### **IX. Staff Reports**

- ~~A. Director’s report (Angela Padalecki)~~
- B. Financial/Activity report (Sarah Menge)
- C. Operations report (Mark Papko)
- D. Facilities report (Ben Peck)

- E. Project report (Eric Trinklein)
- F. Contractor report (Colin Bible, Scott Cary, Geoff Mohny, Adam Shuler)

**X. Any other business which may come before the Board**

None.

**XI. Adjournment**

Commissioner Brabaek moved for adjournment. Vice Chairmen McDaniel's seconded. Voice Vote. All Ayes.

The meeting adjourned at 6:47PM.

*Audio recording of the complete meeting can be found at [https://gjairport.com/Board\\_Meetings](https://gjairport.com/Board_Meetings)*

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Tom Benton, Board Chairman

***ATTEST:***

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Chance Balleger, Deputy Clerk to the Board

## Grand Junction Regional Airport Authority

### Agenda Item Summary

TOPIC:	TNC Operating Agreement Contract Approval		
PURPOSE:	Information <input type="checkbox"/>	Guidance <input type="checkbox"/>	Decision <input checked="" type="checkbox"/>
RECOMMENDATION:	Staff recommends that the board approve the TNC operator agreements with Uber and Lyft. We are awaiting signatures back from the TNC operators at this time, but expect no further substantive changes in the terms.		
SUMMARY:	<p>The current agreements have been reviewed by legal counsel of both current TNC operators (Uber and Lyft) as well as Airport counsel.</p> <p>The only material change in the contract from the prior agreement is the change in the term of the agreement which makes it renew annually. In connection with this change, we also took out the stated rate table and instead referred to our published rates and charges</p> <p>We attempted to create one standard document that would be used for all TNC's but there are a couple of very minor differences between the two that were requested by the respective TNC operator attorneys.</p>		
REVIEWED BY:	Finance Director and Legal Counsel		
FISCAL IMPACT:	Budget: Operating <input type="checkbox"/> Capital <input type="checkbox"/> No change expected at this time – rates remained the same as our published rates and charges		
ATTACHMENTS:	GJT TNC Permit – Uber GJT TNC Permit - Lyft		
STAFF CONTACT:	Sarah Menge Office: 970.248.8581 Email: <a href="mailto:smenge@gjairport.com">smenge@gjairport.com</a>		

**GRAND JUNCTION REGIONAL AIRPORT  
TRANSPORTATION NETWORK COMPANY  
BUSINESS PERMIT**

THIS PERMIT AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_ 2018, by and between the GRAND JUNCTION REGIONAL AIRPORT AUTHORITY hereinafter referred to as “Airport,” and \_\_\_\_\_, hereinafter referred to as the “Permittee”.

**RECITALS**

**WHEREAS**, the Airport, has the authority and power to grant permits for the use of Airport facilities by commercial ground transportation businesses; and

**WHEREAS**, Permittee is a Transportation Network Company (TNC) as defined in Article V, Rules and Regulations.

**NOW THEREFORE**, the Airport hereby issues this permit, and by signing this permit Permittee agrees to abide by all the provisions hereof.

**ARTICLE I**  
**TERM**

**1.01** This Permit shall be effective for one (1) year, and shall commence on \_\_\_\_, 2018 (“Commencement Date”), and will automatically renew annually for successive periods of one year unless either party provides written notice of its intent not to renew the term of this agreement to the other party at least sixty (60) days prior to the end of the current term. This agreement may otherwise be amended or terminated as provided in this document.

**ARTICLE II**  
**PRIVILEGES**

**2.01** Permittee is authorized to allow Drivers affiliated with Permittee to access Airport property to conduct the transportation operations authorized hereunder. Each Driver shall receive trip requests through Permittee’s app, on Airport property by the most direct authorized route to pick-up and drop-off its customers at designated locations at the Airport.

**2.02** Permittee agrees that it will not have an office or station at the terminal area of the Airport, or have an office or station at the Airport or other leasehold sites of the Airport without an approved rental agreement with the Airport, or unless otherwise approved by the Airport.

**2.03** Permittee shall operate at the Airport in a safe, clean, and orderly fashion.



**ARTICLE III**  
**FEE**

**3.01** Permittee shall pay to the Airport a fee on a per trip basis, including both dropping off and picking up passengers based on the Airport's published per trip rates and charges as may be amended from time to time in the Airport's sole discretion.

A "Trip" means each instance in which a Driver affiliated with Permittee enters Airport property and makes one or more stops to pick up one or more passengers on Airport property.

Payment will be made on a monthly basis, and shall be due on or before the 15th day following the conclusion of the most recent month. All payment submissions shall include the following:

- Payment;
- Record of monthly passenger drop offs; and
- Record of monthly passenger pick ups

**3.02** In the event Permittee fails to pay such fees as required to be paid under the applicable provisions of this permit within five (5) days after the earliest date due, interest (currently set as one and one-half percent (1½ %)) per month shall accrue against the delinquent payment(s) from the date said payments become due until the same are paid. Implementation of this provision shall not preclude the Airport from terminating this permit for default in the payment of fees or from enforcing any other provisions contained herein.

**3.03** In the event Permittee delivers a check or draft to the Airport for payment of any obligation arising under this permit, which is returned for lack of sufficient funds in Permittee's account or draft to the Airport, Permittee shall incur a service charge of twenty-five dollars (\$25.00) or five percent (5%) of the face amount of such check or draft, whichever is greater.

**ARTICLE IV**  
**INSURANCE AND INDEMNIFICATION**

**4.01** Permittee shall procure, at its own expense, and file with the Airport a personal injury and public liability insurance policy, or a certificate thereof, in the amounts required by the Colorado Public Utilities Commission or in the amounts required by the Interstate Commerce Commission, whichever agency issues the operating authority to Permittee.

Such insurance, as required above, shall cover all automobiles owned, leased, rented or otherwise used by or on behalf of the Permittee at the Airport as required by Colorado state law, and such insurance shall carry an endorsement including the Grand Junction Regional Airport Authority as an additional insured.

**4.02** All insurance policies required above shall be issued by companies authorized or eligible to do business within Colorado and under the laws of the State of Colorado.

**4.03** The Permittee shall furnish certificates of insurance to the Airport, which shall clearly indicate that Permittee has obtained insurance in the type, amount and classifications as required for the strict compliance with this article prior to conducting any operations at the Airport or on Airport property. No material reduction or cancellation of the insurance shall be effective without ten (10) days prior written notice to the Airport.

**4.04** Compliance with the foregoing requirements shall not relieve the Permittee of its liability under any other portion of this permit.

**4.05** The Permittee (including its officers, members, directors, employees, agents, representatives, and subcontractors) shall protect, defend, indemnify and hold the Airport, and their respective commissioners, council members, directors, agents, representatives, and employees (collectively referred to as the "Indemnitees") harmless from and against any and all third-party liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury of any nature, or death of any person or damage to any property, including any injury or loss of third parties, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert witness fees), arising out of or incident to this Agreement or the acts or omissions of the Permittee, its officers, members, directors, agents, employees, representatives, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur arising out of or incident to this Agreement. This waiver shall not extend to such Losses caused in whole or in part by any act, omission or negligence of Airport, including Losses caused by the sole gross negligence or willful misconduct of Airport.

Permittee shall give the Airport reasonable notice of any such claims or actions. Notwithstanding the foregoing, nothing contained herein shall be construed as a waiver by the Airport, of its rights and immunities under the Colorado Governmental Immunity Act, as that Act may be amended from time to time.

Permittee, in respect of the risks and liabilities intended by the Parties to be assumed by Permittee hereunder, agrees that the insurance it provides will have no right of recovery or subrogation against Airport, and that Permittee's insurance shall be primarily liable for any and all losses, without regard to and without any right of contribution from any insurance maintained by Airport.

The provisions of this section shall survive the expiration or early termination of this Agreement and Permittee's obligations hereunder shall remain effective notwithstanding such termination or expiration with respect to any loss, injury or damage enumerated within this section for which Permittee has an obligation of indemnification, irrespective of whether the notice or claim is initiated prior to or subsequent to expiration of this Agreement or Permittee's termination hereunder. Nothing herein shall be construed as extending or modifying the statute of limitations pertaining to such claim under applicable law.

**4.06** Nothing contained herein shall be deemed to grant any permission to operate a vehicle at the Airport that is otherwise required to obtain permits, licensing or other approval of any local, state or federal entity with jurisdiction or to in any way waive or limit any such requirement.

**ARTICLE V**  
**RULES AND REGULATIONS**

**5.01** Permittee shall comply with and obey all applicable state and municipal laws and ordinances, and shall abide by all minimum standards, rules, regulations, and resolutions prescribed by the Airport. The Grand Junction Regional Airport Authority has established commercial ground transportation vehicle operating procedures for all companies operating at the Grand Junction Regional Airport carrying passengers for hire. These operating procedures are to ensure that ground transportation service is fair and consistent among providers. The Airport's goal is to ensure that the public has access to the safest and most convenient passenger movement, consistent with the requirements of the Colorado Public Utilities Commission (PUC).

Commercial ground transportation vehicle operators are required to abide by the commercial ground transportation vehicle operating procedures. Commercial ground transportation vehicle operators are subject to on-site supervision and direction by any personnel designated by the Executive Director (Director). Any person who violates these operating procedures will, at the discretion of the Director or his authorized representative, be denied use of the Airport and its facilities.

The commercial ground transportation vehicle operating procedures contained herein supersede and cancel all other previous commercial ground transportation vehicle operating rules and regulations set forth by the Airport and its facilities.

**5.02** Unless specifically defined otherwise herein, or unless a different meaning is apparent from the context, the terms used in these Rules and Regulations shall have the following definitions:

Airport — shall mean and refer to the Grand Junction Regional Airport. The term shall also mean and refer to all improvements and appurtenances contained thereon.

App – shall mean the mobile smartphone application or platform developed by Permittee that connects passengers with Drivers, as reviewed and approved by the Airport.

Bus Operator — shall mean and refer to a commercial vehicle intended specifically for "shared ride" service, for hire, used for single or multiple passenger pickups (greater than 15 vehicle capacity) for one or more destinations, which is permitted by the PUC as a common carrier.

Commercial Ground Transportation Business – shall mean and refer to a for-hire business in which fares are charged for ground transportation from one location to another. The descriptions of Limousines, Taxis, TNC, & Van/Shuttles shall all fall into this category. Courtesy vehicles as described below shall not fall into this description.

Commercial Ground Transportation Business Permit — shall mean and refer to an authorization by the Airport to conduct commercial ground transportation activities at the Airport.

Courtesy Vehicle — shall mean and refer to commercial vehicles operated to and from the Airport terminal, specifically for the transportation and convenience of their patrons or prospective patrons, for which no compensation is rendered (i.e. hotels, motels, etc.).

Limousine — shall mean and refer to any vehicle that carries persons for hire holding a Luxury Limousine Permit from the PUC.

Non-Tenant Car Rental — shall mean and refer to any individual or company engaged in the business of renting or leasing passenger vehicles to the general public and does not have a concession agreement in effect with the Airport. The operation of shuttle vehicles shall be governed by these rules and regulations: however, non-tenant car rental organizations must comply with all provisions of the Agreement for Non-Tenant Rental Car Operations.

Personal vehicle – shall mean a vehicle that is used by a Transportation Network Company Driver in connection with providing the transportation services authorized herein that meets the vehicle criteria set forth in § 40-10.1-605(1)(h), C.R.S. as amended.

Solicitation or "to solicit" — shall mean and refer to directly or indirectly, actively or passively, openly or subtly, as (or endeavor to obtain by asking) requests, implore, plead for, importune, seek or try to obtain.

Taxicab or "Taxi" — shall mean and refer to any vehicle that carries persons for a fare, determined by a meter, and that is appropriately licensed to provide taxi service by the PUC.

Transportation Network Company or "TNC" — shall mean and refer to a TNC that connects paying passengers with drivers who provide transportation on their own non-commercial vehicles or another vehicle authorized for use. All parties connect to the service via website, mobile apps, telephone/cellular telephone, and/or text messaging.

Transportation Network Company Driver or "TNC Driver" – shall mean and refer to an individual who uses his or her personal vehicle to provide services for riders matched through a transportation network company's digital network and app.

Van/Shuttle — shall mean and refer to a commercial vehicle specifically for "shared ride" service, for hire, used for single or multiple passenger pickups (up to 15 vehicle capacity) for one or more destinations, which is permitted by the PUC as a common carrier.

Walker Field Drive — shall mean and refer to the roadway circling the main public parking lot and passing in front of the terminal building.

**5.01** All commercial ground transportation vehicles and TNC vehicles serving the Airport shall be of high quality, properly maintained in an excellent state of repair and operated in a clean, safe and businesslike manner. Vehicles shall be maintained in a clean, undamaged condition and present a favorable appearance as a representative of the Airport.

Each TNC driver will maintain, on his or her smartphone, a "digital decal" while using an app at the Airport. The digital decal will allow the Airport, at any and all times, to confirm the following information for any TNC driver using an app while operating at the Airport:

- (a) The TNC Driver identity and color photo of the TNC Driver;
- (b) Vehicle make and model;
- (c) License plate number;

(d) Certificates of insurance in accordance with state law

**5.03** The Permittee shall comply with all applicable local, state and federal regulations and shall abide by the Rules and Regulations of the Airport as are now in effect, or that may be promulgated from time to time, including but not limited to the utilization of loading zones, commercial vehicle zones and other such traffic control arrangements as designated by the Airport Director and/or the Airport.

The Permittee shall pay all taxes, fees, licenses and moneys required by the federal, state or local governments for its operations at the Airport.

The Permittee shall maintain and operate its service in compliance with all applicable 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.

Permittees who are awaiting passengers who have reserved ground transportation may await their passengers and display a hand held sign with the name of the customer. If Permittee's vehicle is unattended while a driver is awaiting passengers, said vehicle must be parked in the main parking lot south of the terminal facility. Under no circumstances may any vehicle be left unattended.

**5.04** No signs, posters or similar devices shall be erected, displayed, or maintained by the Permittee on Airport premises without prior written approval of the Airport. Signs advertising ground transportation services may be posted if Permittee has entered into a valid contract with Airport's advertising concessionaire.

Solicitation of business in any manner whatsoever upon Airport property is strictly prohibited except by advertising signage as permitted above.

All commercial ground transportation companies engaged in transporting passengers for hire from the Airport must obtain a permit issued by the Airport.

The Airport Director and/or the Airport shall have the right to restrict drivers from operating at the Airport who do not comply with Airport Rules and Regulations or orders from responsible law enforcement officers who have jurisdiction within the boundaries of the Airport.

Any disputes between operators or grievances resulting from the enforcement of these regulations shall be filed, in writing, to the Airport Director who shall respond to the operator(s) in writing within 30 days indicating the proposed action to resolve the dispute or grievance. In the event that the dispute or grievance is not resolved to the operator's satisfaction, operator may present his/her grievance to the Board of Commissioners at a regular monthly meeting. The ruling by the Board of Commissioners shall be final.

**ARTICLE VI**  
**TERMINATION**

**6.01** The Airport shall have the right, after fourteen (14) calendar days written notice sent by registered mail, return receipt requested, to Permittee informing of a default, to terminate this permit whenever the non-payment of any sum or sums due hereunder continues for a period of ten (10) calendar days after the due date for such payments; provided however, that such termination shall not be effective if Permittee makes the required payment during the fourteen (14) calendar day period following receipt of the written notice.

**6.02** The Airport shall also have the right to terminate this permit after thirty (30) days written notice sent by registered mail to Permittee of the occurrence of any one or more of the following, unless same shall have been corrected within such period:

- a. Conducting on Airport premises any business or performing any acts not specifically authorized herein by Permittee or its' TNC Driver.
- b. Violation of or non-performance of any other covenant of this permit by Permittee or its' TNC Driver, unless Permittee has demonstrated to the satisfaction of the Airport that it has and continues to make a bona fide effort to remedy such violation or non-performance.

**6.03** Prior to final termination under this article, the Airport will consider any relevant information submitted by Permittee within the time periods specified above.

**ARTICLE VII**  
**PAYMENTS AND NOTICES**

**7.01** Permittee shall pay all fees and other charges and submit all reports required by this permit to the following address:

Grand Junction Regional Airport  
Attn: accounting  
800 Eagle Drive  
Grand Junction, Colorado 81506

**7.02** All other notices required by this permit shall be sent by registered mail to the parties as follows:

**To the Grand Junction Regional Airport**

Executive Director  
Grand Junction Regional Airport  
800 Eagle Drive  
Grand Junction, Colorado 81506

**To the Permittee**

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**ARTICLE VIII**  
**CONFIDENTIALITY**

**8.01** Confidentiality of Records. Any information that Permittee makes available to the Airport pursuant to this Agreement is deemed to be confidential and proprietary information (“Permittee’s confidential information”), regardless of whether the records are marked as such, and shall not be disclosed to anyone without Permittee’s express written permission unless required to be disclosed by applicable law or a court order; including without limitation the public records laws, provided that the Airport notifies Permittee of such requirement promptly prior to disclosure, and provided further that the Airport makes diligent efforts to limit disclosure pursuant to any available bases set forth in the Colorado Open Records Act or other applicable law. If the Airport determines that it must disclose such information, then the Airport will provide Permittee ten (10) business days prior to the proposed disclosure such that Permittee may seek court intervention concerning the potential disclosure of Permittee’s confidential information. If the Airport is required to release Permittee’s confidential information, it nevertheless shall use any available authorities to redact personal or business confidential information from such records to the extent consistent with applicable law and the final judgment.

The undersigned Permittee hereby agrees to and accepts the terms and requirements of this Permit:

**[Permittee Name]**

\_\_\_\_\_  
Signature  
Printed Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

Permit Issued By:

Grand Junction Regional Airport

\_\_\_\_\_  
Signature  
Printed Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**GRAND JUNCTION REGIONAL AIRPORT  
TRANSPORTATION NETWORK COMPANY  
BUSINESS PERMIT**

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**TERM**

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**ARTICLE II**  
**PRIVILEGES**

**2.01** Permittee is authorized to allow Drivers affiliated with Permittee to access Airport property to conduct the transportation operations authorized hereunder. Each Driver shall receive trip requests through Permittee’s app, on Airport property by the most direct authorized route to pick-up and drop-off its customers at designated locations at the Airport.

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**2.03** Permittee shall operate at the Airport in a safe, clean, and orderly fashion.



**ARTICLE III**  
**FEE**

**3.01** Permittee shall pay to the Airport a fee on a per trip basis, including both dropping off and picking up passengers based on the Airport's published per trip rates and charges as may be amended from time to time in the Airport's sole discretion.

A "Trip" means each instance in which a Driver affiliated with Permittee enters Airport property and makes one or more stops to pick up one or more passengers on Airport property.

Payment will be made on a monthly basis, and shall be due on or before the 15th day following the conclusion of the most recent month. All payment submissions shall include the following:

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- Record of monthly passenger drop offs; and
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**3.02** In the event Permittee fails to pay such fees as required to be paid under the applicable provisions of this permit within five (5) days after the earliest date due, interest (currently set as one and one-half percent (1½ %)) per month shall accrue against the delinquent payment(s) from the date said payments become due until the same are paid. Implementation of this provision shall not preclude the Airport from terminating this permit for default in the payment of fees or from enforcing any other provisions contained herein.

**3.03** In the event Permittee delivers a check or draft to the Airport for payment of any obligation arising under this permit, which is returned for lack of sufficient funds in Permittee's account or draft to the Airport, Permittee shall incur a service charge of twenty-five dollars (\$25.00) or five percent (5%) of the face amount of such check or draft, whichever is greater.

**ARTICLE IV**  
**INSURANCE AND INDEMNIFICATION**

**4.01** Permittee shall procure, at its own expense, and file with the Airport a personal injury and public liability insurance policy, or a certificate thereof, in the amounts required by the Colorado Public Utilities Commission or in the amounts required by the Interstate Commerce Commission, whichever agency issues the operating authority to Permittee.

Such insurance, as required above, shall cover all automobiles owned, leased, rented or otherwise used by or on behalf of the Permittee at the Airport as required by Colorado state law, and such insurance shall carry an endorsement including the Grand Junction Regional Airport Authority as an additional insured via blanket endorsement or specific endorsement.

**4.02** All insurance policies required above shall be issued by companies authorized or eligible to do business within Colorado and under the laws of the State of Colorado.

**4.03** The Permittee shall furnish certificates of insurance to the Airport, which shall clearly indicate that Permittee has obtained insurance in the type, amount and classifications as required for the strict compliance with this article prior to conducting any operations at the Airport or on Airport property. No material reduction or cancellation of the insurance shall be effective without ten (10) days prior written notice to the Airport.

**4.04** Compliance with the foregoing requirements shall not relieve the Permittee of its liability under any other portion of this permit.

**4.05** The Permittee (including its officers, members, directors, employees, agents, representatives, and subcontractors) shall protect, defend, indemnify and hold the Airport, and their respective commissioners, council members, directors, agents, representatives, and employees (collectively referred to as the "Indemnitees") harmless from and against any and all third-party liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury of any nature, or death of any person or damage to any property, including any injury or loss of third parties, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert witness fees), arising out of or incident to this Agreement or the acts or omissions of the Permittee, its officers, members, directors, agents, employees, representatives, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur arising out of or incident to this Agreement. This waiver shall not extend to such Losses caused in whole or in part by any act, omission or negligence of Airport, including Losses caused by the sole gross negligence or willful misconduct of Airport.

Permittee shall give the Airport reasonable notice of any such claims or actions. Notwithstanding the foregoing, nothing contained herein shall be construed as a waiver by the Airport, of its rights and immunities under the Colorado Governmental Immunity Act, as that Act may be amended from time to time.

Permittee, in respect of the risks and liabilities intended by the Parties to be assumed by Permittee hereunder, agrees that the insurance it provides will have no right of recovery or subrogation against Airport, and that Permittee's insurance shall be primarily liable for any and all losses, without regard to and without any right of contribution from any insurance maintained by Airport.

The provisions of this section shall survive the expiration or early termination of this Agreement and Permittee's obligations hereunder shall remain effective notwithstanding such termination or expiration with respect to any loss, injury or damage enumerated within this section for which Permittee has an obligation of indemnification, irrespective of whether the notice or claim is initiated prior to or subsequent to expiration of this Agreement or Permittee's termination hereunder. Nothing herein shall be construed as extending or modifying the statute of limitations pertaining to such claim under applicable law.

**4.06** Nothing contained herein shall be deemed to grant any permission to operate a vehicle at the Airport that is otherwise required to obtain permits, licensing or other approval of any local, state or federal entity with jurisdiction or to in any way waive or limit any such requirement.

**ARTICLE V**  
**RULES AND REGULATIONS**

**5.01** Permittee shall comply with and obey all applicable state and municipal laws and ordinances, and shall abide by all minimum standards, rules, regulations, and resolutions prescribed by the Airport. The Grand Junction Regional Airport Authority has established commercial ground transportation vehicle operating procedures for all companies operating at the Grand Junction Regional Airport carrying passengers for hire. These operating procedures are to ensure that ground transportation service is fair and consistent among providers. The Airport's goal is to ensure that the public has access to the safest and most convenient passenger movement, consistent with the requirements of the Colorado Public Utilities Commission (PUC).

Commercial ground transportation vehicle operators are required to abide by the commercial ground transportation vehicle operating procedures. Commercial ground transportation vehicle operators are subject to on-site supervision and direction by any personnel designated by the Executive Director (Director). Any person who violates these operating procedures will, at the discretion of the Director or his authorized representative, be denied use of the Airport and its facilities.

The commercial ground transportation vehicle operating procedures contained herein supersede and cancel all other previous commercial ground transportation vehicle operating rules and regulations set forth by the Airport and its facilities.

**5.02** Unless specifically defined otherwise herein, or unless a different meaning is apparent from the context, the terms used in these Rules and Regulations shall have the following definitions:

Airport — shall mean and refer to the Grand Junction Regional Airport. The term shall also mean and refer to all improvements and appurtenances contained thereon.

App – shall mean the mobile smartphone application or platform developed by Permittee that connects passengers with Drivers, as reviewed and approved by the Airport.

Bus Operator — shall mean and refer to a commercial vehicle intended specifically for "shared ride" service, for hire, used for single or multiple passenger pickups (greater than 15 vehicle capacity) for one or more destinations, which is permitted by the PUC as a common carrier.

Commercial Ground Transportation Business – shall mean and refer to a for-hire business in which fares are charged for ground transportation from one location to another. The descriptions of Limousines, Taxis, TNC, & Van/Shuttles shall all fall into this category. Courtesy vehicles as described below shall not fall into this description.

Commercial Ground Transportation Business Permit — shall mean and refer to an authorization by the Airport to conduct commercial ground transportation activities at the Airport.

Courtesy Vehicle — shall mean and refer to commercial vehicles operated to and from the Airport terminal, specifically for the transportation and convenience of their patrons or prospective patrons, for which no compensation is rendered (i.e. hotels, motels, etc.).

Limousine — shall mean and refer to any vehicle that carries persons for hire holding a Luxury Limousine Permit from the PUC.

Non-Tenant Car Rental — shall mean and refer to any individual or company engaged in the business of renting or leasing passenger vehicles to the general public and does not have a concession agreement in effect with the Airport. The operation of shuttle vehicles shall be governed by these rules and regulations: however, non-tenant car rental organizations must comply with all provisions of the Agreement for Non-Tenant Rental Car Operations.

Personal vehicle – shall mean a vehicle that is used by a Transportation Network Company Driver in connection with providing the transportation services authorized herein that meets the vehicle criteria set forth in § 40-10.1-605(1)(h), C.R.S. as amended.

Solicitation or "to solicit" — shall mean and refer to directly or indirectly, actively or passively, openly or subtly, as (or endeavor to obtain by asking) requests, implore, plead for, importune, seek or try to obtain.

Taxicab or "Taxi" — shall mean and refer to any vehicle that carries persons for a fare, determined by a meter, and that is appropriately licensed to provide taxi service by the PUC.

Transportation Network Company or "TNC" — shall mean and refer to a TNC that connects paying passengers with drivers who provide transportation on their own non-commercial vehicles or another vehicle authorized for use. All parties connect to the service via website, mobile apps, telephone/cellular telephone, and/or text messaging.

Transportation Network Company Driver or "TNC Driver" – shall mean and refer to an individual who uses his or her personal vehicle to provide services for riders matched through a transportation network company's digital network and app.

Van/Shuttle — shall mean and refer to a commercial vehicle specifically for "shared ride" service, for hire, used for single or multiple passenger pickups (up to 15 vehicle capacity) for one or more destinations, which is permitted by the PUC as a common carrier.

Walker Field Drive — shall mean and refer to the roadway circling the main public parking lot and passing in front of the terminal building.

**5.01** All commercial ground transportation vehicles and TNC vehicles serving the Airport shall be of high quality, properly maintained in an excellent state of repair and operated in a clean, safe and businesslike manner. Vehicles shall be maintained in a clean, undamaged condition and present a favorable appearance as a representative of the Airport.

Each TNC driver will maintain, on his or her smartphone, a "digital decal" while using an app at the Airport. The digital decal will allow the Airport, at any and all times, to confirm the following information for any TNC driver using an app while operating at the Airport:

- (a) The TNC Driver identity and color photo of the TNC Driver;
- (b) Vehicle make and model;
- (c) License plate number;

(d) Certificates of insurance in accordance with state law

**5.03** The Permittee shall comply with all applicable local, state and federal regulations and shall abide by the Rules and Regulations of the Airport as are now in effect, or that may be promulgated from time to time, including but not limited to the utilization of loading zones, commercial vehicle zones and other such traffic control arrangements as designated by the Airport Director and/or the Airport.

The Permittee shall pay all taxes, fees, licenses and moneys required by the federal, state or local governments for its operations at the Airport.

The Permittee shall maintain and operate its service in compliance with all applicable 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.

Permittees who are awaiting passengers who have reserved ground transportation may await their passengers and display a hand held sign with the name of the customer. If Permittee's vehicle is unattended while a driver is awaiting passengers, said vehicle must be parked in the main parking lot south of the terminal facility. Under no circumstances may any vehicle be left unattended.

**5.04** No signs, posters or similar devices shall be erected, displayed, or maintained by the Permittee on Airport premises without prior written approval of the Airport. Signs advertising ground transportation services may be posted if Permittee has entered into a valid contract with Airport's advertising concessionaire.

Solicitation of business in any manner whatsoever upon Airport property is strictly prohibited except by advertising signage as permitted above.

All commercial ground transportation companies engaged in transporting passengers for hire from the Airport must obtain a permit issued by the Airport.

The Airport Director and/or the Airport shall have the right to restrict drivers from operating at the Airport who do not comply with Airport Rules and Regulations.

Any disputes between operators or grievances resulting from the enforcement of these regulations shall be filed, in writing, to the Airport Director who shall respond to the operator(s) in writing within 30 days indicating the proposed action to resolve the dispute or grievance. In the event that the dispute or grievance is not resolved to the operator's satisfaction, operator may present his/her grievance to the Board of Commissioners at a regular monthly meeting. The ruling by the Board of Commissioners shall be final.

**ARTICLE VI**  
**TERMINATION**

**6.01** The Airport shall have the right, after fourteen (14) calendar days written notice sent by registered mail, return receipt requested, to Permittee informing of a default, to terminate this permit whenever the non-payment of any sum or sums due hereunder continues for a period of ten (10) calendar days after the due date for such payments; provided however, that such termination shall not be effective if Permittee makes the required payment during the fourteen (14) calendar day period following receipt of the written notice.

**6.02** The Airport shall also have the right to terminate this permit after thirty (30) days written notice sent by registered mail to Permittee of the occurrence of any one or more of the following, unless same shall have been corrected within such period:

- a. Conducting on Airport premises any business or performing any acts not specifically authorized herein by Permittee or its' TNC Driver.
- b. Violation of or non-performance of any other covenant of this permit by Permittee or its' TNC Driver, unless Permittee has demonstrated to the satisfaction of the Airport that it has and continues to make a bona fide effort to remedy such violation or non-performance.

**6.03** Prior to final termination under this article, the Airport will consider any relevant information submitted by Permittee within the time periods specified above.

**ARTICLE VII**  
**PAYMENTS AND NOTICES**

**7.01** Permittee shall pay all fees and other charges and submit all reports required by this permit to the following address:

Grand Junction Regional Airport  
Attn: accounting  
800 Eagle Drive  
Grand Junction, Colorado 81506

**7.02** All other notices required by this permit shall be sent by registered mail to the parties as follows:

**To the Grand Junction Regional Airport**

Executive Director  
Grand Junction Regional Airport  
800 Eagle Drive  
Grand Junction, Colorado 81506

**To the Permittee**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARTICLE VIII**  
**CONFIDENTIALITY**

**8.01 Confidentiality of Records.** Any information that Permittee makes available to the Airport pursuant to this Agreement is deemed to be confidential and proprietary information (“Permittee’s confidential information”), regardless of whether the records are marked as such, and shall not be disclosed to anyone without Permittee’s express written permission unless required to be disclosed by applicable law or a court order; including without limitation the public records laws, provided that the Airport notifies Permittee of such requirement promptly prior to disclosure, and provided further that the Airport makes diligent efforts to limit disclosure pursuant to any available bases set forth in the Colorado Open Records Act or other applicable law. If the Airport determines that it must disclose such information, then the Airport will provide Permittee ten (10) business days prior to the proposed disclosure such that Permittee may seek court intervention concerning the potential disclosure of Permittee’s confidential information. If the Airport is required to release Permittee’s confidential information, it nevertheless shall use any available authorities to redact personal or business confidential information from such records to the extent consistent with applicable law and the final judgment.

The undersigned Permittee hereby agrees to and accepts the terms and requirements of this Permit:

**[Permittee Name]**

\_\_\_\_\_  
Signature  
Printed Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

Permit Issued By:

Grand Junction Regional Airport

\_\_\_\_\_  
Signature  
Printed Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Grand Junction Regional Airport Authority

### Agenda Item Summary

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TOPIC:	FAA Grant Applications		
PURPOSE:	Information <input type="checkbox"/>	Guidance <input type="checkbox"/>	Decision <input checked="" type="checkbox"/>
RECOMMENDATION:	Staff recommends the Board approve the submittal of the grant application.		
DISCUSSION:	<p>The Airport Improvement Program (AIP) grant application encompasses projects listed on the Airports 2019 Capital Improvement Plan (CIP).</p> <p>The projects to be accomplished for this year and every year going forward as per the CIP are an important part of providing a safe and efficient airfield/overall airport operation. The 2019 Airport Improvement Program (AIP) project included in this grant application is for the design and construction of the Runway 11/29 Relocation Enabling Project (AIP 62) and the temporary run-up ramp (AIP 63).</p>		
REVIEWED BY:	Staff and Legal Counsel		
FISCAL IMPACT:	<b><u>Runway 11/29</u></b> <b><u>Funding Sources</u></b> <b>Federal</b> - \$8,190,000 <b>State</b> - \$250,000 <b>GJRA</b> - \$660,000  <b>Total</b> - \$9,100,000	<b><u>Run-Up Ramp</u></b> <b><u>Funding Sources</u></b> <b>Federal</b> - \$3,600,000 <b>GJRA</b> - \$400,000  <b>Total</b> - \$4,000,000	
ATTACHMENTS:	AIP 3-08-0027-062-2018 Grant Application AIP 3-08-0027-063-2018 Grant Application		
STAFF CONTACT:	Eric Trinklein <a href="mailto:etrinklein@gairport.com">etrinklein@gairport.com</a> Office: 970-248-8597		

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**Grand Junction Regional Airport  
AIP 3-08-0027-62-2019**

**Program Narrative  
November 9, 2018**

**Project Description: Runway 12/30 2019 Design and Construction Package**

**Construction 2019**

**Schedule 1: Pond Construction, Perimeter road, Fencing, & Xcel Utilities**

Components include:

1. Construction of water quality ponds at the southwest corner of the airfield and their associated drainage structures.
2. Construction of portions of the perimeter road on the west and north sides along with perimeter and security fencing for the airport property.
3. Relocation of Xcel Energy's electrical distribution lines that are impacted by proposed construction are planned to be completed as feasible for phased construction.

**Schedule 2: Airfield Electrical Upgrades**

Schedule 2 consists of upgrades to the ALCS which include replacing the old lighting system controls, significantly reducing maintenance costs for the Airport. The airfield lighting vault will also be enclosed with security fencing.

**Schedule 3: Grading, Drainage and Leach C2 Pond**

Schedule 3 is composed of a mass earthwork placement and drainage package. In addition, one pond will be installed along with a large storm pipe.

**FAA Navigational Aid Preliminary Design Reimbursable Agreement**

In coordination with the FAA Air Traffic Organization, a preliminary design reimbursable agreement is proposed to evaluate interim navigational aid impacts during phased construction.

**Runway 12/30 Design Package 2: mass earthwork, drainage, and related items**

Design is proposed for mass earthwork, drainage and related items for approximately \$10M of improvements for construction under separate grant. Temporary removal and reinstallation of Instrument Landing System components is expected to further progress in a phased approach.

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End of Document

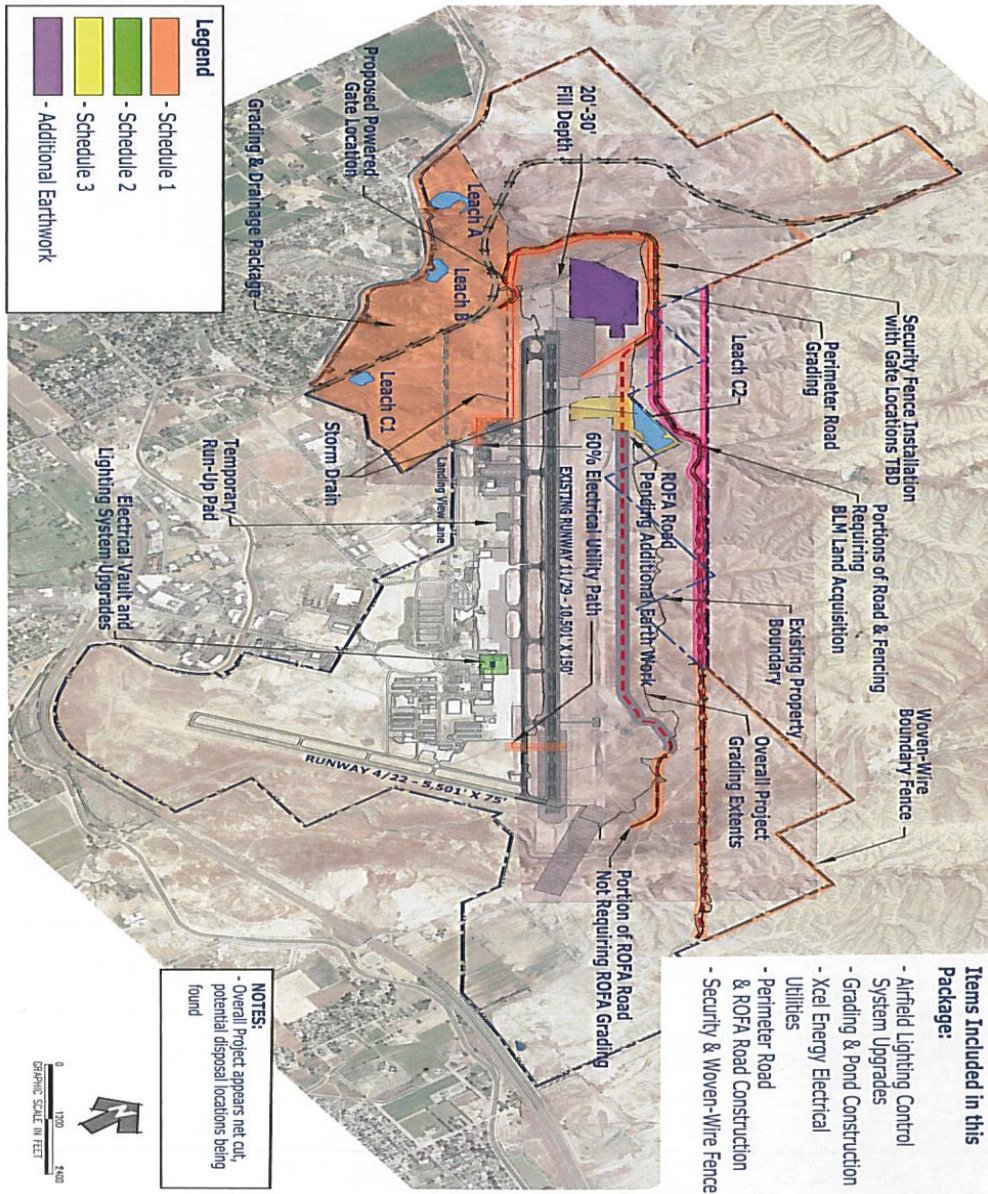
# CIP/PREAPPLICATION DATA SHEET

**AIRPORT:** Grand Junction Regional Airport **LOCAL PRIORITY:** 1 **UPDATED:** November 2018  
**WORK ITEM:** Runway 12/30 2019 Design and Construction Package

**SKETCH:**

Figure 1 2019 Airfield Improvements Package 1

- Legend**
- Schedule 1
  - Schedule 2
  - Schedule 3
  - Additional Earthwork



**NOTES:**  
 - Overall Project appears not cut, potential disposal locations being found

- Items Included in this Package:**
- Airfield Lighting Control System Upgrades
  - Grading & Pond Construction
  - Xcel Energy Electrical Utilities
  - Perimeter Road & ROFA Road Construction
  - Security & Woven-Wire Fence



Mead & Hunt

**SPONSOR SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**COST ESTIMATE:** Item (Construction)

ADMINISTRATION:	\$ 25,000	1:	\$	4	\$ 25,000
DESIGN ENGINEERING:	\$ 1,835,000	2:	\$	5	\$ 1,835,000
CONSTRUCTION:	\$ 7,290,000	3:	\$	TOTAL:	\$ 7,290,000

**ADO USE:**  
 PREAPP NO: \_\_\_\_\_ GRANT NO: \_\_\_\_\_ NPIAS CODE: \_\_\_\_\_ WORK CODE: \_\_\_\_\_ FAA PRIOR: \_\_\_\_\_ FED \$ \_\_\_\_\_

**Grand Junction Regional Airport  
AIP 3-08-0027-63-2019**

**Program Narrative  
November 9, 2018**

**Project Description: Run-Up Ramp 2019 Design and Construction**

**Construction 2019**

Improvements will consist primarily of construction of the run-up ramp that serves as the first stage of construction for the proposed cargo apron as shown in the CIP/Pre-application Data Sheet.

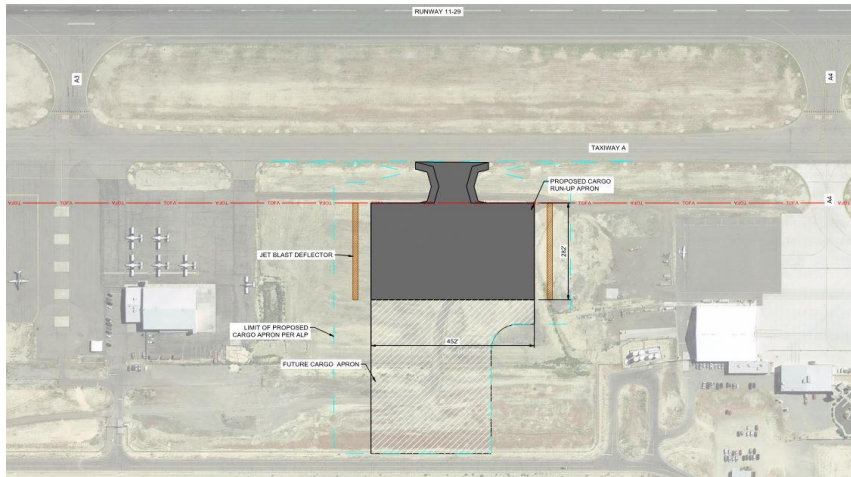
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End of Document

**CIP/PREAPPLICATION DATA SHEET**

**AIRPORT:** Grand Junction Regional Airport **LOCAL PRIORITY:** N/A **UPDATED:** November 2018  
**WORK ITEM:** Run-Up Ramp

**SKETCH:**



**JUSTIFICATION:** This project will serve as a run-up ramp that will be used for aircraft run-ups for during the concurrent construction of the Runway 11-29 relocation construction project. This project will also serve as the first stage of construction of the proposed cargo apron shown in the approved ALP which will ultimately displace cargo operations from the air carrier apron.

**SPONSOR SIGNATURE:** \_\_\_\_\_ **DATE:** 12/04/2018

**COST ESTIMATE:** Item (Design and Construction)

ADMINISTRATION:	\$ 5,000	1: Construction	\$ 3,205,000	4	\$
DESIGN ENGINEERING:	\$ 310,000	2:	\$	5	\$
INSPECTION:	\$ 480,000	3:	\$	TOTAL:	\$ 4,000,000

**ADO USE:**

PREAPP NO: \_\_\_\_\_ GRANT NO: \_\_\_\_\_ NPIAS CODE: \_\_\_\_\_ WORK CODE: \_\_\_\_\_ FAA PRIOR: \_\_\_\_\_ FED \$ \_\_\_\_\_

# Grand Junction Regional Airport Authority

## Agenda Item Summary

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TOPIC:	Colorado Department of Transportation Grant Offer
PURPOSE:	Information <input type="checkbox"/> Guidance <input type="checkbox"/> Decision <input checked="" type="checkbox"/>
RECOMMENDATION:	Staff recommends the Board authorize the Chair to execute CDOT Grant Agreement 18-GJT-01 <i>and</i> adopt the Resolution as outlined in <b>Exhibit B</b>
DISCUSSION:	<p>The State has finalized its agreements for matching funds for 2018 AIP 57 project.</p> <p>The States maximum obligation will be \$150,000. This was based on estimated costs when the State Grant application was submitted.</p> <p>This agreement is between the Airport and the State and therefore does not require co-sponsor approvals (City and County).</p>
REVIEWED BY:	Staff and Legal Counsel
FISCAL IMPACT:	CDOT: \$150,000
ATTACHMENTS:	CDOT Grant Agreement
STAFF CONTACT:	Eric Trinklein Email: <a href="mailto:etrinklein@gairport.com">etrinklein@gairport.com</a> Office: 970-248-8597

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# STATE OF COLORADO GRANT AGREEMENT

## SIGNATURE AND COVER PAGE

<b>State Agency</b> Colorado Department of Transportation, Colorado Aeronautical Board, Division of Aeronautics	<b>Agreement Number</b> 19-HAV-ZL-00118
<b>Grantee</b> <b>Grand Junction Regional Airport Authority</b>	<b>Agreement Performance Beginning Date</b> The Effective Date
	<b>Initial Agreement Expiration Date</b> June 30, 2021
<b>Agreement Maximum Amount</b> <b>Funding Source</b> <b>Funding Amount</b> State:    \$150,000.00	<b>Fund Expenditure End Date</b> June 30, 2022
	<b>Agreement Description</b> Element A. Participate in Federally Funded Relocation of County Rd 27 1/4 and Remote Transmitter/Receiver

### THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

<p style="text-align: center;"><b>GRANTEE</b>  <b>Grand Junction Regional Airport Authority</b></p> <hr/> <p>By: Print Name &amp; Title of Person Signing for Grantee</p> <p>Date: _____</p>	<p style="text-align: center;"><b>STATE OF COLORADO</b>          John W. Hickenlooper, Governor  <b>Department of Transportation</b></p> <hr/> <p>By: David R. Ulane, Aeronautics Division Director          for Michael P. Lewis, Executive Director</p> <p>Date: _____</p>
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In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.

**STATE CONTROLLER**  
**Robert Jaros, CPA, MBA, JD**

\_\_\_\_\_  
 By: Department of Transportation  
 Liliya Gershman, Accounting Controller

Effective Date: \_\_\_\_\_

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### 1. PARTIES

This Agreement is entered into by and between Grantee named on the Signature and Cover Page for this Agreement (the “Grantee”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”, or “Division”). Grantee and the State agree to the terms and conditions in this Agreement.

### 2. TERM AND EFFECTIVE DATE

#### A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Grantee for any Work performed or expense incurred before the Effective Date, except as described in §7.C.(vi), or after the Fund Expenditure End Date.

#### B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Signature and Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the

Signature and Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of 1 year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Exhibit C.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Grantee as provided in **§16**, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, the Colorado Aeronautical Board, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Grantee, which shall be governed by **§14.A.i**.

i. Method and Content

The State shall notify Grantee of such termination in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Grantee shall be subject to the rights and obligations set forth in **§14.A.i.a**.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made.

Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Grantee for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Grantee which are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.



### 3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

#### A. State Authority

Authority to enter into this Grant exists in CRS §43-10-108.5 and funds have been budgeted, appropriated and otherwise made available pursuant to CRS §§39-27-112(2)(b), 43-10-109, 43-10-102 and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance, and coordination have been accomplished from and with appropriate agencies.

### 4. PURPOSE

The General Assembly of the State of Colorado declared in Title 43 of the Colorado Revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) "... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency..."

The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act.

Any entity operating a public-accessible airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports as request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures and requirements as defined in the Division's Program and Procedures Manual, ("the Manual").

### 5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. "**Agreement**" means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. "**Budget**" means the budget for the Work described in Exhibit A.
- C. "**Business Day**" means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- D. "**CJI**" means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- E. "**CORA**" means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.

- F. “**Effective Date**” means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- G. “**End of Term Extension**” means the time period defined in §2.D
- H. “**Exhibits**” means the following exhibits attached to this Agreement:
- i. **Exhibit A**, Colorado Discretionary Aviation Grant Program Application.
  - ii. **Exhibit B**, Resolution in accordance with General Assembly of the state of Colorado declared in C.R.S. §43-10-101
  - iii. **Exhibit C**, Sample Option Letter
- I. “**Extension Term**” means the time period defined in §2.C
- J. “**Goods**” means any movable material acquired, produced, or delivered by Grantee as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. “**Grant**” means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifications, exhibits, attachments or reference incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.
- L. “**Grant Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- M. “**Incident**” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401 et. seq. C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- N. “**Initial Term**” means the time period defined in §2.B
- O. “**Local Funds**” means money provided by any city, county, or other private entity to fund performance of the Work.
- P. “**Manual**” means the Programs and Procedures Manual as approved by the Colorado Aeronautical board that is available on the Colorado Division of Aeronautics’ website.
- Q. “**Matching Funds**” means the funds provided by Grantee as a match required to receive the Grant Funds.
- R. “**Party**” means the State or Grantee, and “**Parties**” means both the State and Grantee.
- S. “**PII**” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment

information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501, C.R.S.

- T. **“Program”** means the Colorado Discretionary Aviation Grant Program.
- U. **“Services”** means the services to be performed by Grantee as set forth in this Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.
- V. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to the CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure by Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- W. **“State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- X. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- Y. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- Z. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees of grant funds.
- AA. **“Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.
- BB. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- CC. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- DD. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

## **6. STATEMENT OF WORK AND BUDGET**

Grantee shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

## **7. PAYMENTS TO GRANTEE**

### **A. Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Agreement Maximum shown on the Signature and Cover Page of this Agreement.

### **B. Increase/Decrease Work – State’s Option**

The State, at its discretion, shall have the option to increase or decrease the quantity of Goods and Services provided under this Grant and increase the maximum amount payable and update Exhibit A accordingly. In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Exhibit C. Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Grant.

### **C. Payment Procedures**

#### **i. Invoices and Payment**

- a. The State shall pay Grantee in the amounts and in accordance with the conditions set forth in this Grant Agreement and its Exhibits.
- b. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Grantee and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Grantee shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Agreement.

#### **ii. Interest**

Amounts not paid by the State within 45 days of the State’s acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Grantee shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day’s interest to be paid and the interest rate.

#### **iii. Payment Disputes**

If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to

occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State. The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

vi. Retroactive Payments

The State may reimburse Grantee for costs or expenses incurred or performance by the Grantee prior to the Effective Date, only if (1) the Grant Funds involve federal funding, (2) federal laws, rules and regulations applicable to the Work provide for such retroactive payments to the Grantee, and (3) the State incurs no obligation to make retroactive payments until after the Grant Effective Date. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or any Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set for the and approved by the State.

D. Matching Funds.

Grantee shall provide Matching Funds as provided in Exhibit A. Grantee shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Grantee's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee's treasury or bank account. Grantee represents to the State that the amount designated "Grantee's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

E. Reimbursement of Grantee Costs.

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in Exhibit A and on the Signature and Cover Page for all allowable costs described in this Grant and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Agreement, and the change does not modify any requirements of the Work.

F. Close-Out.

Grantee shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Agreement and Grantee's final reimbursement request or invoice.

**8. REPORTING - NOTIFICATION**

A. Quarterly Reports.

In addition to any reports required pursuant to §19 or pursuant to any other Exhibit, for any Agreement having a term longer than 3 months, Grantee shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than 5 Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

C. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

D. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting this Grant. The State may impose any penalties for noncompliance which may include, without limitation suspension or debarment.

**9. GRANTEE RECORDS**

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State. The State may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by that governmental entity. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

D. Final Audit Report

Grantee shall promptly submit upon request to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee or a third party. Additionally, if Grantee is

required to perform a single audit under 2 CFR 200.501, *et. seq.*, then Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

## 10. CONFIDENTIAL INFORMATION-STATE RECORDS

### A. Confidentiality

Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in Writing by the State. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

### B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

### C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

### D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Grantee can establish that none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at



no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable costs thereof.

E. Compliance

Grantee shall review, on a semi-annual basis, all OIS policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <http://oit.state.co.us/ois>, to ensure compliance with the standards and guidelines published therein. Grantee shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

F. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Contract, Grantee shall provide for the security of such PII, in a form acceptable to the State, including, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall take full responsibility for the security of all PII in its possession or in the possession of its Subcontractors, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof.

## 11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Agreement. Such a conflict of interest would arise when a Grantee or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Grantee acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

## 12. INSURANCE

Grantee shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Grantee and Subcontractors.

E. Primacy of Coverage

Coverage required of Grantee and each Subcontractor shall be primary over any insurance or self-insurance program carried by Grantee or the State.

F. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Grantee and Grantee shall forward such notice to the State in accordance with §16 within 7 days of Grantee's receipt of such notice.

G. Subrogation Waiver

All commercial insurance policies secured or maintained by Grantee or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Grantee shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Grantee shall ensure that the Subcontractor maintain at all times during the terms of this Grantee, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial

policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

I. Certificates

For each commercial insurance plan provided by Grantee under this Agreement, upon request by State, Grantee shall provide to the State certificates evidencing Grantee's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Grantee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Grantee's subcontract is not in effect as of the Effective Date, Grantee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Grantee's execution of the subcontract. No later than 15 days before the expiration date of Grantee's or any Subcontractor's coverage, Grantee shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Grantee shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

**13. BREACH**

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State.

**14. REMEDIES**

A. State's Remedies

If Grantee is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §13.B., shall have all of the remedies listed in this §14.A. in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Grantee's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Grantee fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal

Awarding Agency, terminate this entire Agreement or any part of this Agreement. Grantee shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Grantee shall assign to the State all of Grantee's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee but in which the State has an interest. At the State's request, Grantee shall return materials owned by the State in Grantee's possession at the time of any termination. Grantee shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold payment to Grantee for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due Grantee as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Grantee after the suspension of performance.

b. Withhold Payment

Withhold payment to Grantee until Grantee corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Grantee's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Grantee's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Grantee shall, as approved by the State (i) secure that right to use such Work for the State and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Grantee's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

## 15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Grantee for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Grantee shall submit any alleged breach of this Agreement by the State to the Procurement Official of Colorado Department of Transportation as described in §24-101-301(30), C.R.S. for resolution following the same resolution of controversies process as described in §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Grantee wishes to challenge any decision rendered by the Procurement Official, Grantee's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Grantee pursues any further action. Except as

otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

## 16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party's principal representative at the address set forth below or **(C)** as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this **§16** without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

### **For the State:**

Scott Storie  
Division of Aeronautics  
5126 Front Range Parkway  
Watkins, CO 80137  
scott.storie@state.co.us  
(303) 512-5251

### **For Grantee:**

Eric Trinklein  
Grand Junction Regional Airport  
2828 Walker Field Drive  
Grand Junction, CO 81506  
etrinklein@gjairport.com (970)  
248-8597

## 17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

### A. Work Product

#### i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Grantee hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Grantee cannot make any of the assignments required by this section, Grantee hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

#### ii. Patents

In addition, Grantee grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of

the Work Product. Such license applies only to those patent claims licensable by Grantee that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not Grantee is under contract with the State at the time, Grantee shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Grantee assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, “State Materials”). Grantee shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Grantee’s obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Grantee shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Grantee

Grantee retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Grantee under this Contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, “Grantee Property”). Grantee Property shall be licensed to the State as set forth in this Contract or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

**18. GOVERNMENTAL IMMUNITY**

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State’s risk management statutes, §§24-30-1501, *et seq.*, C.R.S.

**19. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Grantee under this Agreement is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 shall apply. Grantee agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State’s Agreement management system (“Contract Management

System” or “CMS”). Grantee’s performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

## 20. GENERAL PROVISIONS

### A. Assignment

Grantee’s rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee’s rights and obligations approved by the State shall be subject to the provisions of this Agreement.

### B. Subcontracts

Grantee shall not enter into any subgrant or subcontract in connection with its obligations under this Agreement.

### C. Binding Effect

Except as otherwise provided in **§20.A.**, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective successors and assigns.

### D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party’s obligations have been duly authorized.

### E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

### F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

### G. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

### H. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.



I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any Exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions in **§21** of the main body of this Agreement.
- ii. The provisions of the other sections of the main body of this Agreement.
- iii. Exhibit A, Discretionary Aviation Grant Application.
- iv. Exhibit B, Resolution.
- v. Exhibit C, Sample Option Letter.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Grantee. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.A.**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are

reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Grantee shall perform its obligations under this Agreement in accordance with the degree of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

S. Licenses, Permits, and Other Authorizations.

Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

**21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)**

These Special Provisions apply to all contracts except where noted in italics.

A. **CONTROLLER'S APPROVAL. §24-30-202(1), C.R.S.**

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee.

B. **FUND AVAILABILITY. §24-30-202(5.5), C.R.S.**

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. **GOVERNMENTAL IMMUNITY.**

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

D. **INDEPENDENT CONTRACTOR**

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State

shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Grantee shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

**E. COMPLIANCE WITH LAW.**

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**F. CHOICE OF LAW.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

**G. BINDING ARBITRATION PROHIBITED.**

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Agreement or incorporated herein by reference shall be null and void.

**H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.**

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

**J. VENDOR OFFSET. §§24-30-202(1) and 24-30-202.4, C.R.S.**

*[Not applicable to intergovernmental agreements]* Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State’s vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.**

*[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]* Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Grantee that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Grantee (i) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency within 3 days if Grantee has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or §§8-17.5-101 *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Grantee shall be liable for damages.

**L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.**

Grantee, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101 *et seq.*, C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Agreement.

**EXHIBIT A, DISCRETIONARY AVIATION GRANT APPLICATION**



**Colorado Division of Aeronautics  
 Discretionary Aviation Grant Application**

**APPLICANT INFORMATION**

<b>APPLICANT SPONSOR:</b> Grand Junction Regional Airport Authority		<b>AIRPORT:</b> Grand Junction Regional Airport	<b>IDENTIFIER:</b> GJT
<b>PROJECT DIRECTOR:</b> Eric Trinklein			
<b>MAILING ADDRESS:</b> 2828 Walker Field Drive		<b>EMAIL ADDRESS:</b> etrinklein@gairport.com	
		<b>PHONE NUMBER:</b> (970) 248-8597	

**GRANT NAME AND TERMS**

<b>18-GJT-01</b>	<b>TERMS</b>	
	Execution Date:	Expiration Date: June 30, 2021

**FUNDING SUMMARY**

Funding Source	Funding Amount
State Aviation Grant:	\$150,000.00
Local Cash:	\$208,334.00
Local In-Kind:	\$0.00
Federal Aviation Grant:	\$3,225,000.00
<b>Total Project Funding:</b>	<b>\$3,583,334.00</b>

**PROJECT SCHEDULE & BUDGET**

ELEMENT DESCRIPTION	STATE FUNDING		LOCAL FUNDING		FEDERAL FUNDING		TOTAL
A. Participate in Federally Funded Relocation of County Rd 27 1/4 and Remote Transmitter/Receiver	\$150,000.00	Up to 5%	\$208,334.00	5.81	\$3,225,000.00	90.00	\$3,583,334.00
<b>TOTALS</b>	<b>\$150,000.00</b>		<b>\$208,334.00</b>		<b>\$3,225,000.00</b>		<b>\$3,583,334.00</b>

## EXHIBIT B, RESOLUTION

### RESOLUTION

#### WHEREAS:

The General Assembly of the State of Colorado declared in Title 43 of the Colorado Revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) "... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency..."

The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act.

Any entity operating a public-accessible airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports as request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures and requirements as defined in the Division's Program and Procedures Manual, ("the Manual").

#### NOW, THEREFORE, BE IT RESOLVED THAT:

The **Grand Junction Regional Airport Authority**, as a duly authorized governing body of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The **Grand Junction Regional Airport Authority** states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

Each airport-operating entity that applies for and accepts a grant thereby makes a COMMITMENT to keep the airport facility accessible to, and open to, the public during the entire useful life of the grant funded improvements/ equipment;

or b) to reimburse the Division for any unexpired useful life of the improvements/ equipment, or a pro-rata basis. By signing this Grant Agreement, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Agreement.

#### FURTHER BE IT RESOLVED:

That the **Grand Junction Regional Airport Authority** hereby designates Eric Trinklein as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application in its behalf, including executions of the Grant Agreement and any amendments.

#### FURTHER:

The **Grand Junction Regional Airport Authority** has appropriated or will otherwise make available in a timely manner all funds, if any, that are required to be provided by the Applicant under the terms and conditions of the Grant Agreement.

#### FINALLY:

The **Grand Junction Regional Airport Authority** hereby accepts all guidelines, procedures, standards, and requirements described in the Manual as applicable to the performance of the grant work and hereby approves the Grant Agreement submitted by the State, including all terms and conditions contained therein.

\_\_\_\_\_  
By: \_\_\_\_\_  
Please print name and title

Date: \_\_\_\_\_

#### ATTEST (if needed)

\_\_\_\_\_  
By: Please print name and title

## EXHIBIT C, SAMPLE OPTION LETTER

<b>State Agency</b> Colorado Department of Transportation, Colorado Aeronautical Board, Division of Aeronautics	<b>Option Letter Number</b> Insert the Option Number (e.g. "1" for the first option)
<b>Grantee</b> Grand Junction Regional Airport Authority	<b>Original Agreement Number</b> Insert CMS number or Other Contract Number of the Original Contract
<b>Current Agreement Maximum Amount</b> Initial Funding State: \$0.00 Modifications Option Letter 1 \$0.00 Option Letter 2 \$0.00 Option Letter 3 \$0.00 Option Letter 4 \$0.00	<b>Option Agreement Number</b> Insert CMS number or Other Contract Number of this Option
Modified Agreement Maximum Amount \$0.00	<b>Agreement Performance Beginning Date</b> The later of the Effective Date or Month Day, Year
	<b>Current Agreement Expiration Date</b> Month Day, Year

1. **OPTIONS:**

A. Option to extend for an Extension Term and/or add additional funds.

2. **REQUIRED PROVISIONS:**

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- B. **For use with Options 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to Increase/Decrease the grant maximum amount for a change in services as stated in the Original Agreement, as amended.
- C. **For use with all Option Letters:** The Agreement Maximum Amount table on the Agreement’s Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above and Exhibit A is hereby deleted and replaced with Exhibit A-# incorporated and attached hereto.

3. **OPTION EFFECTIVE DATE:**

A. The effective date of this Option Letter is upon approval of the State Controller, whichever is later.

<p style="text-align: center;"><b>STATE OF COLORADO</b>          John W. Hickenlooper, Governor  <b>Department of Transportation</b></p> <hr style="width: 80%; margin-left: 0;"/> <p>By: David R. Ulane, Aeronautics Division Director          for Michael P. Lewis, Executive Director</p> <p style="margin-top: 20px;">Date: _____</p>	<p style="text-align: center;">In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;"><b>STATE CONTROLLER</b>  <b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____</p> <p style="text-align: center;">Department of Transportation          Liliya Gershman, Accounting Controller</p> <p style="margin-top: 20px;">Option Effective Date: _____</p>
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# Grand Junction Regional Airport Authority

## Agenda Item Summary

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TOPIC:	Michael and Kay Ferris Name Change
PURPOSE:	Information <input type="checkbox"/> Guidance <input type="checkbox"/> Decision <input checked="" type="checkbox"/>
RECOMMENDATION:	Staff recommends that the Board consent to the addendum that allows Michael and Kay Ferris to change their name to GMF Investments, LLC, and approve the Airport Director to sign the addendum.
SUMMARY:	Michael and Kay Ferris own a hangar at 2857 Aviators Way. They are requesting to change their name from Michael and Kay Ferris to GMF Investments, LLC.
REVIEWED BY:	Staff and Legal Counsel
FISCAL IMPACT:	No fiscal impact.
ATTACHMENTS:	Addendum for Michael and Kay Ferris name change.
STAFF CONTACT:	Chance Balleger Airport Security Coordinator / Property Management Email: cballeger@gairport.com Office: 970-248-8586

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#### FOURTH ADDENDUM TO GROUND LEASE AGREEMENT

**This Fourth Addendum to Ground Lease Agreement** (Addendum) is made and entered into this \_\_\_\_ day of December, 2018 between the GRAND JUNCTION REGIONAL AIRPORT AUTHORITY (“Authority”), a body corporate and politic and constituting a subdivision of the state of Colorado, and Michael and Kay Ferris (Tenant).

**WHEREAS**, the Walker Field, Colorado, Public Airport Authority ("WFPAA"), now known as GJRAA, entered into a Ground Lease Agreement with Daly Construction, Inc. ("Daly") on March 19, 1996 for the lease of a parcel of real property consisting of 27,000 square feet, and this parcel of property is identified in that Ground Lease Agreement and its attachments; and

**WHEREAS**, on November 10, 2014, Mr. Daly assigned to Mr. & Mrs. Ferris all of his rights, title, and interest in, to, and under the Lease and Mr. & Mrs. Ferris agreed to assume and perform all obligations, liabilities, and responsibilities of Daly under the Lease. Further, on November 10, 2014, GJRAA consented to the assignment of the Lease to Mr. & Mrs. Ferris; and

**WHEREAS**, on November 10, 2014, Michael and Kay Ferris, Pursuant to Paragraph B of Article III of the Lease, Mr. & Mrs. Ferris exercised their rights to extend the term of the lease for an additional twenty (20) year period. The Lease will now terminate and expire on May 31, 2036 as the initial term of the Lease was originally set to terminate and expire on May 31, 2016. The rent/ground rent and other payable fees that Mr. & Mrs. Ferris are to pay during the extended term of the Lease will continue to be determined in accordance with, and pursuant to the terms of, the Lease.

**WHEREAS**, the Tenant is changing its name to a limited liability company, and therefore, is changing its name to GMF Investments, LLC; and

**WHEREAS**, the Authority and Tenant desire to enter into this addendum to the Ground Leases so that Tenant’s change to a limited liability company can be properly identified and reflected in the Ground Lease.

**NOW, THEREFORE**, The Authority and Tenant agree to amend the Ground Lease as follows:

1. The name of the lessee and/or Tenant in the Ground Lease will be modified and amended to state that the Lessee and/or Tenant is GMF Investments, LLC, which reflects the Tenants change to a limited liability company.
2. Except as modified by the terms of this fourth addendum, the remaining terms and conditions of the Ground Lease shall remain in full force and effect.

**EXECUTED** as of the day and year first above written.

**GRAND JUNCTION REGIONAL AIRPORT  
AUTHORITY**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**LESSEE:**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

# Grand Junction Regional Airport Authority

## Agenda Item Summary

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TOPIC:	Kempton Air Service Lease Changes
PURPOSE:	Information <input type="checkbox"/> Guidance <input type="checkbox"/> Decision <input checked="" type="checkbox"/>
RECOMMENDATION:	Staff recommends that the Board approve Kempton Air Service request to move 2 leases to the current Ground Lease Agreement and authorize the Airport Director to execute the leases.
SUMMARY:	Larry Kempton Jr. of Kempton Air Service has two leases currently on an older lease. He has requested to move both leases, Kempton Air Service, located at 2851 Aviators Way and Kempton Air Service-Tie Downs located at 2858 ½ Navigators way to the current Ground Lease Agreement. Both properties are paid up to date at the time of the request.
REVIEWED BY:	Staff and Legal Counsel
FISCAL IMPACT:	None
ATTACHMENTS:	Kempton Air Service Ground Lease Agreement Kempton Air Service-Tie Downs Ground Lease Agreement
STAFF CONTACT:	Chance Ballegeer Airport Security Coordinator / Property Management Email: cballegeer@gairport.com Office: 970-248-8586

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**AERONAUTICAL USE GROUND LEASE**

**Grand Junction Regional Airport  
Grand Junction, Colorado**

**Between**

**GRAND JUNCTION REGIONAL AIRPORT AUTHORITY  
2828 Walker Field Drive Ste. 301  
Grand Junction, CO 81506  
("GJRAA")**

**And**

**KEMPTON AIR SERVICE, LLC-TIE DOWNS  
2858 ½ Navigators Way  
Grand Junction, CO 81506  
("Lessee")**

**Dated: November 27, 2018**

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## AERONAUTICAL USE GROUND LEASE

This Aeronautical Use Ground Lease (the "Lease") is made and entered into on the date set forth in Paragraph 1.1, below, by and between the **GRAND JUNCTION REGIONAL AIRPORT AUTHORITY** ("GJRAA"), formerly known as the Walker Field Public Airport Authority, a body corporate and politic and constituting a subdivision of the State of Colorado, and the Lessee as that term is defined in Paragraph 1.2, below.

### Recitals

A. WHEREAS, the GJRAA is owner and operator of the Grand Junction Regional Airport and is authorized to enter into this Lease pursuant to C.R.S. § 41-3-101, *et seq.*;

B. WHEREAS, Lessee desires to lease a portion of the Grand Junction Regional Airport for aeronautical uses, which may include the construction and occupation of an aircraft hangar or other structure, or if already constructed, the occupation of an aircraft hangar or other structure; and

C. WHEREAS, the GJRAA desires to lease ground at the Grand Junction Regional Airport to Lessee and Lessee desires to lease ground and use the Grand Junction Regional Airport under the terms and conditions of this Lease, as well as any other applicable law and regulation.

NOW, THEREFORE, for and in v consideration of the fees, covenants, and agreements contained herein, and for other good and valuable consideration, it is agreed and understood between the GJRAA and Lessee that:

### 1. Article 1: Basic Lease Information

In addition to the terms defined elsewhere in this Lease, the following defined terms are used in this Lease as well. To the extent there is any conflict between the basic information contained in Article 1, below, and more detailed information contained elsewhere in this Lease, the more detailed information shall prevail.

- 1.1 Date of Mutual Execution: December 1, 1999
- 1.2 Lessee: Larry Kempton
- 1.3 Lessee's Trade Name: Kempton Air Service, LLC-Tie Downs
- 1.4 Lessee's Address and Telephone Number: 2858 ½ Navigators Way, Grand Junction, Colorado 81506; (970) 250-0908.
- 1.5 GJRAA'S Address and Telephone Number. 2828 Walker Field Drive Ste. 301, Grand Junction, Colorado 81506; (970) 244-9100



1.6 Airport: The Grand Junction Regional Airport, which was formerly known as the Walker Field Airport, and which is located in Grand Junction, Mesa County, Colorado.

1.7 Commencement Date: December 15, 2018

1.8 Expiration Date: November 30, 2019

1.9 Initial Minimum Insurance Coverage Amount. Automobile, general liability, bodily injury and property damage insurance, written on an occurrence basis, with a limit of \$1,000,000 per occurrence, and which names the GJRAA as an additional insured (See paragraph 8.1.1 below).

1.10 Rent. Rent shall include both the Monthly Ground Rent, as altered from time to time, pursuant to paragraph 4.1 of this Lease, and other fees described in paragraph 4.3 of this Lease.

1.11 Monthly Ground Rent. The Monthly Ground Rent shall initially be \$1,301.05 per year, paid monthly at \$108.42, based on the area of the Premises, other than the Object Free Area ("OFA"). Lessee will not be obligated to pay rent for the OFA, but Lessee will be responsible for all maintenance and other improvements required for the OFA. For the remaining (non-OFA) area of 8,856.70 square feet of the Premises, (18,713.62 - 9,856.92 = 8,856.70) the above rent will be calculated as follows: \$.1469 per square foot x 8,856.70 square feet = \$1,301.05 ÷ 12 months = \$108.42.

1.12 Permitted Uses. The permitted uses shall include the construction and/or occupation of a hangar and/or other structure subject to the provisions of this Lease, which together with the Premises themselves, shall be used primarily for aeronautical purposes, including, but not limited to, the parking, storing and maintaining aircraft owned or leased by Lessee or other third parties, other activities associated with aircraft ownership, and aeronautical-related businesses. The permitted uses shall exclude the sale and provision of fuel to aircraft.

1.13 Premises. The property shown on the attached **Exhibits A and B** and any Improvements existing thereon when Lessee first takes possession, which is also known as (ADDRESS).

1.14 Premises Square Footage. The Premises consist of a total of 18,713.62 square feet, which includes 9,856.92 square feet of OFA and 8,856.70 square feet of other area.

1.15 Date to Complete Improvements. N/A

1.16 Additional Provisions. N/A

1.17 Improvements. Improvements shall include the aircraft hangar or other structure that has been constructed and erected, or which is to be constructed or erected on the Premises, as well as all hangar flooring, lighting, paving, fencing, grating and surfacing, underground and overhead wires, doors, cables, pipes, tanks and drains, and all property of every kind and nature, which is attached to the Premises or which may not be removed without material injury to the Premises.

1.18 Minimum Standards. "Minimum Standards" shall mean the most current and up-to-date version of the Requirements and Minimum Standards for Commercial Aeronautical Services and Activities for Walker Field Airport, Grand Junction, Colorado. The version of the Minimum Standards in effect on the date this Lease was adopted by the GJRAA Board of Commissioners on December 19, 2000, and was last revised on July 19, 2005.

1.19 Security Deposit: \$267.76

## **2. Article: Lease of Premises & Airport; Quiet Enjoyment**

2.1 Use of Premises. In consideration of the payment of the Rent and the keeping and performance of the covenants and agreements by Lessee as stated herein, the GJRAA does hereby lease to Lessee the Premises, including any and all rights, privileges, easements, and appurtenances now or hereafter belonging to the Premises, subject, however, to all liens, easements, restrictions, and other encumbrances of record. Lessee leases the Premises in an "as is" and "with all faults" condition, without any express or implied warranties or representations from the GJRAA that the Premises, or any portions thereof, are suitable for a particular purpose, or can accommodate any particular weight or size of aircraft.

2.2 Use of Airport. Lessee is also granted the non-exclusive right to utilize such Airport runways, taxiways, taxi lanes, and public use aprons ("airfield areas"), and such other rights-of-way and access across the Airport ("Airport rights-of-way") as necessary for ingress and egress to the Premises, and to the extent necessary to enable Lessee to provide the Permitted Uses from the Premises. Lessee's use of said airfield areas and other Airport rights-of-way shall be on a non-exclusive, non-preferential basis with other authorized users thereof. Lessee shall abide by all directives of the GJRAA, the Federal Aviation Administration ("FAA"), the Transportation Security Administration ("TSA"), and any other governmental entity having jurisdiction over the Airport governing Lessee's use of said airfield areas and other Airport rights-of-way, either alone or in conjunction with other authorized users thereof.

2.3 Quiet Enjoyment. Upon the payment of Rent when due, as well as upon the payment of any other fees when due, and upon the performance of any and all other conditions stated herein, Lessee shall peaceably have, possess and enjoy the Premises and other rights granted herein, without hindrance or disturbance from the GJRAA, subject to the GJRAA's rights as discussed herein and/or pursuant to any applicable law or regulation.. Notwithstanding the provision set forth in the preceding sentence or any other provision of this Lease, the GJRAA and any Lessee of the GJRAA shall have the right to traverse that portion of the Premises not occupied

by a hangar or other structure, if the GJRAA, in its sole discretion, believes that such access is necessary or desirable for the efficient operations of the Airport, the GJRAA, or another Lessee.

2.4 Inspection by GJRAA. The GJRAA, through its authorized agents, shall have the right, at all reasonable times, and after notice to Lessee when practical, to enter upon the Premises to inspect, to observe the performance by Lessee of its obligations hereunder, and to do any act which the GJRAA may be obligated to do or have the right to do under this Lease, any other agreement to which the GJRAA is a party, or pursuant to any applicable law or regulation. Without diminishing the GJRAA's rights to inspect and perform under this paragraph, the acts of the GJRAA shall not unduly burden or interfere with Lessee's operations on the Premises.

### 3. Article 3: Lease Term and Options

3.1 Term. Subject to earlier termination as hereinafter provided, the primary term of this Lease shall be the period between the Commencement Date set forth in paragraph 1.7 above and the Expiration Date set forth in paragraph 1.8 above (the "Primary Term").

3.2 Option to Renew. Subject to the provisions hereof, upon expiration of the Primary Term of this Lease, and if and only if Lessee is not in material default beyond applicable cure periods under this Lease, Lessee shall have the option to renew this Lease for one (1) additional term of ten (10) years following the expiration of the Primary Term. Lessee's option to renew may be exercised by delivering written notice to the GJRAA between twelve (12) and eighteen (18) months prior to end of the Primary Term of this Lease.

3.3 Additional Option Terms. In addition to the option term provided in Section 3.2 above, Lessee shall have up to four (4) additional options to extend the term of this Lease for five (5) years each (an "Additional Option"). However, the total of the Primary Term and all option terms of this Lease shall not exceed 50-years. The GJRAA shall offer an Additional Option to a Lessee if, and only if:

3.3.1 such Lessee requests the same at least 120 days prior to the expiration of the then-current option or Additional Option term, and

3.3.2 the GJRAA Board of Commissioners has not previously found, or found within sixty (60) days after such request by the Lessee, or by the close of the GJRAA Board of Commissioner's next regular Board meeting, whichever is later in time, that:

(a) the Improvements on the Premises have not been properly maintained (including painting) and do not meet current Minimum Standards as approved of by the GJRAA, the Improvements on the Premises do not meet any applicable code requirements, or the Improvements on the Premises are not in a condition expected to be serviceable in any respect for the additional five (5) year Additional Option term,

(b) the GJRAA intends to redevelop the area in which the Premises are

located and/or use all or a portion of the Premises for purposes other than a lease to a Commercial Lessee or Storage Lessee, as the case may be with respect to the Lessee,

- (c) Lessee is not in default under this Lease,
- (d) Lessee is not in default in any other financial obligation to the GJRAA, and/or
- (e) The granting of any Additional Option would not violate any FAA Grant Assurance or the provisions of any applicable law or regulation.

3.3.3 The factors referred to in paragraph 3.3.2, above, shall each be referred to as a "Disqualifying Factor" and collectively as "Disqualifying Factors." A determination of the existence of any Disqualifying Factor shall be made in the reasonable discretion of the GJRAA.

3.3.4 Lessees are encouraged to contact the GJRAA in advance of the option exercise windows described in paragraph 3.3.1 above to discuss the condition of the Improvements on the Premises, actions which may be necessary to bring the Improvements into the required condition of maintenance and/or serviceability, and any other actions necessary to meet the other requirements of paragraph 3.3.2 above.

3.3.5 The GJRAA may condition the exercise of an Additional Option on amendment of this Lease to incorporate such other standard and non-discriminatory terms as are then being offered by the GJRAA to other Commercial Lessees or Storage Lessees, as the case may be, under aeronautical use ground leases, and ground lease rates for each Additional Option term shall be set at reasonable rates existing at the time the Additional Option is exercised, as set forth in the GJRAA's then current rates established by the GJRAA's Fees and Charges, which rates shall thereafter be subject to the CPI adjustment set forth below.

3.3.6 For purposes of Paragraph 3.3, "Commercial Lessee" shall mean a Lessee which (a) regularly engages in fixed base operations, ground handling and servicing of air carrier and commuter airline operations, aircraft charter operations, flight training, aircraft rental, aerial photography, crop dusting, aerial advertising, aerial surveying, aircraft sales and services, sale of aviation petroleum products, aircraft repair and maintenance, sale of aircraft parts, and/or other commercial aeronautical services to the public, (b) has entered into or will enter into a lease with the Authority, and (c) meets, and in the case of an existing Lessee, has met for a period of not less than six (6) continuous months, the GJRAA's Minimum Standards then in effect for the type of aeronautical business operated by the Lessee. "Storage Lessee" shall mean any Aeronautical Use Lessee other than a Commercial Lessee as defined above.

#### 3.4 Repair and Maintenance Punch-List.

3.4.1 If the GJRAA finds that the Disqualifying Factor found under Paragraph 3.3.2(a), above, exists, but that no other Disqualifying Factor does, then the GJRAA will determine if the Improvements on the Premises can be restored and/or made serviceable through reasonable repair and/or maintenance. If the Improvements on the Premises can be restored and/or made serviceable through reasonable repair and/or maintenance, the GJRAA shall provide Lessee with a listing of items to be repaired and/or maintained by Lessee (hereinafter "Punch List"), at Lessee's sole expense. The repairs and/or maintenance to be completed by Lessee shall be for the purpose of restoring the Improvements on the Premises to their original state, excepting reasonable wear and tear.

3.4.2 The GJRAA shall provide Lessee with the Punch List within thirty (30) days after the GJRAA's determination that the Disqualifying Factor found under Paragraph 3.3.2(a), above, exists. Lessee will then have remainder of its then current option term or Additional Option term to complete the Punch List to the satisfaction of the GJRAA. Provided that Lessee is proceeding with the necessary diligence to complete the Punch List, and upon thirty (30) days written notice to the GJRAA prior to the expiration of Lessee's then current option term or Additional Option term, Lessee may extend the time to complete the Punch List for a period of time not to exceed sixty (60) days. However, Lessee agrees that any extension of the period of time for it to complete the Punch List to the satisfaction of the GJRAA will not create a new tenancy for the Additional Option period and that the GJRAA will maintain its right to terminate the Lease. If the Punch List items are completed to the reasonable satisfaction of the GJRAA, Lessee shall then be eligible to exercise the Additional Option.

3.5 Surrender and Holding Over. If Lessee holds over or remains in possession or occupancy of the Premises after the expiration of this Lease without any written renewal thereof, such holding over or continued possession or occupancy shall not be deemed as a renewal or extension of this Lease but shall create only a tenancy from month-to-month which may be terminated at any time by the GJRAA upon thirty (30) days written notice. Such holding over shall be at 150% of the Monthly Ground Rent that was payable in the month prior to such expiration, (or in recognition that the Improvements shall then be the property of the Authority) or the hangar rental rate established in the GJRAA's then-current Fees and Charges, whichever is greater, and shall otherwise be upon the same terms and conditions as set forth in this Lease.

#### **4. Article 4: Rent, Security Deposit & Other Fees**

4.1 Monthly Ground Rent. The Monthly Ground Rent for the Premises is initially the amount set forth in Paragraph 1.11 above. Within thirty (30) days of Lessee's completion of any Improvements on the Premises, Lessee will provide the GJRAA with a survey acceptable to the GJRAA (as determined by the GJRAA in its sole discretion) which shall be attached to this Lease as **Exhibit B**. Should the actual square footage of the Premises or the Improvements thereon (as determined by the Survey of the Premises to be attached as **Exhibit B**) differ from the initial estimate of the Premises or improvements' square footage (as shown by the Description of the

Premises, attached as **Exhibit A**), then the Monthly Ground Rent shall be adjusted to accommodate for such difference according to standard GJRAA procedure.

4.2 CPI Adjustment. The Monthly Ground Rent for the Premises may be adjusted by the increase or decrease in the Consumer Price Index, using the U.S. City Average for all urban consumers ("CPI-U"), all items index, set forth in the October to October report published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twenty-four (24) month period ending in the calendar year immediately preceding the calendar year in which the annual cost-of-living adjustment is to be made, or the period since the Commencement Date of this Lease, whichever is less. The initial CPI adjustment under this Lease shall be made on April 1st of the first even calendar year after the calendar year in which the Commencement Date falls, and every even year thereafter. If the CPI-U index is no longer published by the U.S. Department of Labor, the parties to this Lease, as well as any successors or assigns, shall use the U.S. Department of Labor index or report most closely approximating the CPI-U.

4.3 Other Fees and Charges. In addition to the Monthly Ground Rent described above:

4.3.1 Lessee shall pay the GJRAA such fees as set forth in the GJRAA's current Fees and Charges, as they are adopted by resolution of the GJRAA Board of Commissioners (the "Fees and Charges"), and as the same may be amended from time to time, including those Fees and Charges that are adopted or amended after the Commencement Date of this Lease, for the usage of the Airport's disposal station, by Lessee, or by Lessee's successors, assigns, and/or subLessees.

4.4 Manner of Payment. Payment of Lessee's Monthly Ground Rent shall be made in advance, on or before the first day of each and every month during the term of this Lease. Payment of all other fees, if any, shall be made in accordance with procedures adopted by the GJRAA from time to time. All rental payments shall be made to the GJRAA at its address listed in Paragraph 1.5, or at such other address as may be specified by the GJRAA.

4.5 Late Charges. All amounts payable under the Lease may collectively be referred to herein as "Rent." Any payment of Rent, including Monthly Ground Rent, which is not received on the due date will be subject to a late charge equal to five percent (5%) of the unpaid Rent, or \$100.00, whichever is greater. This amount is in consideration of the GJRAA's additional cost of processing late payments. In addition, any Rent which is not paid when due, including Monthly Ground Rent, will accrue interest at a default rate of three percent (3%) per month (but in no event in an amount in excess of the maximum rate allowed by applicable law) from the date on which it was due until the date on which it is paid in full, with accrued interest. Any payments received shall be applied first to accrued interest, and then to the reduction of principal.

4.6 Security Deposit. Lessee shall deposit with the GJRAA, a security deposit in the amount set forth in paragraph 1.19 above. This deposit is to be held by the GJRAA as security during the entire term of the Lease for all of Lessee's obligations hereunder. Any and all accrued interest on Lessee's security deposit shall be applied to Lessee's account, on an annual basis. The

security deposit shall be made at the time the Lease is signed by Lessee, unless the same has been previously paid in the full amount set forth above. The GJRAA reserves the right to withhold some or all of the deposit if Lessee abandons the leasehold in a condition that requires the GJRAA to expend money or labor to repair. A detailed list of expenses shall be provided to Lessee if any or all of the security deposit is withheld.

4.7 No Set Off. Except as may be expressly set forth herein, Lessee shall not have the right to set-off against any amounts owed to the GJRAA for any claims it may have against the GJRAA unless and until said amounts are agreed to by the GJRAA or reduced to final judgment.

4.8 New Federal Regulation. In the event the GJRAA is required to make additional direct expenditures in connection with the implementation of any future federal or state regulation imposed upon the GJRAA as a result, in whole or in part, of Lessee's operation, the GJRAA may call a conference for the purpose of discussing and determining methods of compliance and recovery from Lessee and others similarly situated, if any, of costs so incurred, and Lessee agrees to attend, in good faith, and agrees to reimburse the GJRAA for any reasonable costs it incurs for the implementation of these federal or state regulations.

## 5. Article 5: Improvements

5.1 Construction of Improvements. During the term of this Lease, Lessee shall have the right to construct, at its own expense, Improvements, alterations, or additions to the Premises, or to any Improvements presently located thereon, in furtherance of Lessee's authorized use of the Premises, provided that:

5.1.1 the Improvements, alterations, and additions are performed by qualified and licensed contractors or subcontractors; and

5.1.2 prior to the construction of any Improvements, alterations or additions to the Premises including, but not limited to, new improvements, major exterior changes to any existing improvements, changes in pavement, fences and utility lines, interior renovations that affect the structural integrity of any improvements, or office and hangar configuration, of any Improvements Lessee presently owns or may hereafter construct upon the Premises:

(a) Lessee submits the proposed plans to the GJRAA for its review; and

(b) the GJRAA determines, in its sole discretion, that the proposed improvements, alterations, or additions are consistent with the Airport's master and land use plans, the GJRAA's Development and Architectural Covenants, and if applicable, the Minimum Standards, as the same may be amended from time to time, including those established or amended after the Commencement Date of this Lease

5.2 Cost of Improvements; Bond. Lessee shall construct all Improvements, alterations, and additions to the Premises at its own expense. If Lessee constructs improvements, alterations

and/or additions, the same shall be constructed at Lessee's sole initiative and behest, and nothing herein shall be construed as an agreement by the GJRAA to be responsible for paying for them, and neither the Premises, nor the GJRAA's interest in said Premises or any Improvements, alterations or additions constructed thereon, shall be subjected to a mechanic's lien for any Improvements or alterations constructed by Lessee hereunder. The GJRAA may require Lessee to post a bond, or such other security as the GJRAA deems appropriate, guaranteeing payment for construction of the Improvements alterations and additions involved, as a condition precedent to the commencement of construction of the Improvements and/or alterations. Lessee shall be responsible for assuring that all of said Improvements, alterations and additions to the Premises are constructed in accordance with applicable local, state, and federal law. Lessee shall reimburse the GJRAA for all costs and expenses, including surveying and attorney's fees, that the GJRAA incurs (a) as a result of the fact that the Improvements, additions, or alterations do not comply with local, state, and federal law, (b) in defending against, settling, or satisfying any claim that the GJRAA is responsible for paying in relation to Improvements on the Premises, or (c) in defending against, settling, or satisfying any mechanic's lien and/or other claims, asserted as a result of the non-payment for Improvements on the Premises.

5.3 Timing of Construction. The Parties to this Lease, as well as their successors and/or assigns, hereby agree that Lessee shall have eighteen (18) months from the Commencement Date to obtain a Certificate of Occupancy or to otherwise fully develop the Premises. If such development is not timely commenced or completed, or if due diligence in pursuing such development is not demonstrated to the satisfaction of the GJRAA, then the GJRAA, in its sole discretion, shall have the right to terminate this Lease, and all of Lessee's interest in the Premises shall revert back to the GJRAA. If, however, Lessee has commenced development and is diligently pursuing completion of the development, but such development will not be completed within the eighteen (18) month period allowed, then Lessee may petition, in writing, the GJRAA for an extension of time to complete the development. An extension of time to complete the development is not automatic upon application, but may be granted at the sole discretion of the GJRAA. If such extension is not granted, then the GJRAA shall have the right to declare the Lease void, and all of Lessee's interest in the Premises shall revert back to the GJRAA. The GJRAA makes no representations or warranties with regard to the above contingencies, and Lessee undertakes such efforts solely at its own risk.

5.4 Signs. No exterior signs, logos or advertising displays identifying Lessee or its successors, assigns, subLessees or customers shall be painted on or erected in any manner upon the Premises, or in or on any Improvements or additions upon the Premises, without the prior written approval of the GJRAA, which approval shall not be unreasonably withheld. Any such signs, logos or advertising shall conform to reasonable standards to be established by the GJRAA, with respect to type, size, design, materials and location. All signs shall comply with all applicable city, county and state regulations.

## **6. Article 6: Maintenance, Utilities, Damage and Storage**



6.1 Maintenance of Premise. During the term of this Lease, Lessee shall, at its own expense, maintain and keep all portions of the Premises, any Improvements, fixtures, and equipment thereon, any utility lines thereon or thereunder used by Lessee or its successors, assigns, and/or subLessees, and any of Lessee's Improvements, fixtures, or equipment located elsewhere at the Airport, in good operating and physical condition and repair. Lessee shall repair any utility lines located on or under its Premises which are utilized by it or other third parties, if the damage to said utility lines was caused by Lessee, or by Lessee's board members, officers, agents, employees, representatives, contractors, subcontractors, successors, assigns, subLessees, customers, guests, invitees, or anyone acting by, through, or under Lessee's direction and control. During the term of this Lease, Lessee shall maintain, at its expense, all portions of the Premises, any Improvements, fixtures, and equipment thereon, and all of its improvements, fixtures, and equipment located elsewhere at the Airport, in a safe and clean condition, and Lessee will not permit any unsightly accumulation of wreckage, debris, or trash where visible to the general public visiting or using the Airport. The determination of whether any accumulation is unsightly will be made at the sole, but reasonable, discretion of the GJRAA.

6.2 Utilities. During the term of this Lease, Lessee shall also be responsible for providing, at its own expense, all utilities and services, including but not limited to lighting, heating, air conditioning/cooling, water, gas, trash removal and electricity, required for the Premises and any improvements, alterations, or additions thereon. Lessee shall not permit any liens for utilities to be levied against the Premises and, in the event that any liens are so levied, agrees to indemnify the GJRAA and hold it harmless for the same.

6.3 Storage on Premises. Storage on the Premise shall be primarily for aeronautical purposes, including, but not limited to, the parking and storing of aircraft owned or leased by Lessee or other third parties, storage associated with aircraft ownership and aeronautical-related businesses.

6.4 Damage to Airport. Lessee shall be liable for any damage to the Airport and to any Improvements thereon caused by Lessee, or by Lessee's board members, officers, agents, employees, representatives, contractors, subcontractors, successors, assigns, subLessees, guests, invitees, or anyone acting by, through, or under its direction and control, ordinary wear and tear excepted. All repairs for which Lessee is liable shall be made, at the GJRAA's option, (a) by Lessee at its own expense, provided that said repairs are made timely and to the GJRAA's satisfaction as to the quality of repair or, if not timely or satisfactorily made by Lessee, then by the GJRAA at Lessee's expense or (b) by the GJRAA at Lessee's expense.

6.5 Waste Prohibited. Lessee may not conduct mining or drilling operations, remove sand, gravel, rock or related substances from the ground, commit waste of the Premises of any kind, nor in any manner that substantially changes the contour or condition of the Premises without prior written permission of the GJRAA.

## **7. Article 7: Taxes and Assessments**

Lessee shall timely pay all real and personal property taxes related to its possession and operations hereunder and at the Airport or elsewhere; all local, state and federal income, payroll, aviation fuel and other taxes related to its operations hereunder and at the Airport or elsewhere; all sales and other taxes measured by or related to its sales and service revenues hereunder and at the Airport or elsewhere; all license fees; and any and all other taxes, charges, exactions or levies of any nature, whether general or special, which may at any time be imposed by any local, state or federal authorities having jurisdiction over Lessee, or that become a lien upon Lessee, the GJRAA, the Premises, or any Improvements thereon, by reason of Lessee's possession or activities under this Lease and the Airport or elsewhere.

## **8. Article 8: Insurance and Indemnification**

### **8.1 Minimum Insurance Requirements. At all times during the term of this Lease:**

8.1.1 Lessee shall maintain automobile, general liability, bodily injury and property damage insurance naming the GJRAA as an additional insured covering all of the services, operations, and activities of Lessee, and Lessee's subLessees at the Airport. The initial amount of coverage provided to the GJRAA shall be, at least, the Initial Minimum Insurance Coverage Amount, as that term is defined in Paragraph 1.9, above. The GJRAA may, from time to time, and in its sole discretion (which shall be reasonably exercised), increase the amount of required insurance due hereunder by amending the GJRAA's Fees and Charges, and these amendments shall apply to Lessee, including those amendments that occur after the Commencement Date of this Lease.

8.1.2 Lessee shall maintain such hazard insurance as necessary to cover the full replacement cost of each of the Improvements it, its successors, assigns, and/or subLessees, or the GJRAA own or have constructed upon the Premises, and the proceeds of said insurance shall be used to repair or replace the Improvements involved, as necessary.

8.1.3 Lessee and its subcontractors shall maintain worker's compensation insurance or a self-insurance plan in accordance with the laws of the State of Colorado for all employees or subcontractor employees who perform any work for Lessee in connection with the rights granted to Lessee hereunder.

8.2 Certificate of Insurance. Lessee shall provide a certificate of insurance to the GJRAA of the kinds and amounts of said insurance coverage and shall acquire policies that shall not be subject to cancellation without at least thirty (30) days advance written notice to the GJRAA. Such policies shall provide that they may not be materially changed or altered by the insurer during its term without first giving at least ten (10) days written notice to the GJRAA.

### **8.3 Indemnification. Lessee agrees that :**

8.3.1 It shall release the GJRAA of and from any and all liability for, and shall protect, defend, indemnify and hold the GJRAA harmless from and against any and all claims,

demands, and causes of action of every kind and character that are asserted or brought against the GJRAA on account of the actions, omissions, breaches, negligence, gross negligence, recklessness, willfulness, wantonness, and/or intentional conduct of Lessee, its agents, employees, representatives, successors, assigns, subLessees, contractors, subcontractors, invitees, or licensees. Lessee's indemnification obligations under this provision shall be without regard to, and without any right to contribution from, any insurance maintained by Lessee. Additionally, Lessee's indemnity obligations under this section shall be supported by insurance, but this insurance requirement shall be a separate and distinct obligation from Lessee's indemnity obligations, and the insurance and indemnity obligations shall be separately and independently enforceable. Further, Lessee's indemnity obligations hereunder are not limited by any insurance coverage Lessee may have.

8.3.2 Lessee further agrees to fully defend, indemnify and hold the GJRAA harmless from all legal costs and charges, including reasonable attorneys' fees, incurred in and about the defense of the matters identified above, as well as in any action arising out of those matters or in discharging the Premises, or any part thereof, from any and all liens, charges, or judgments which may accrue or be placed thereon by reason of any act, omission, or breach of or by Lessee.

8.3.3 Lessee also agrees to fully defend, indemnify and hold the GJRAA harmless from any liability on account of or in respect or any mechanic's lien or liens in the nature thereof for work and labor done, or materials furnished at, the request of the Lessee in, on, or about the Premises and, accordingly, Lessee will either satisfy any such lien or, if Lessee disputes the validity thereof, will defend any action for the enforcement thereof (and if Lessee loses any action, will cause such lien to be satisfied and released).

## **9. Article 9: Assignment and Subleasing**

9.1 **Assignment by Lessee.** Lessee shall not assign its interest herein without the written consent of the GJRAA, which consent shall not be unreasonably withheld. All subsequent assignors and assignees shall be subject to this Lease as if they were the original Lessee/assignor.

9.2 **Subletting.** Lessee may not sublease all or any portion of the Premises, or all or any portion of the improvements thereon, without first obtaining written consent of the GJRAA for the sublease, which consent shall not be unreasonably withheld. Any such sublease must be in writing and in a form and for a rental amount and other consideration acceptable to the GJRAA, pursuant to the requirements of the Minimum Standards, by which such subLessee is authorized to do business at the Airport. Any sublease shall be in the form required by the GJRAA for all subleases, as the same may be amended from time to time, or in a form specifically approved by the GJRAA, including those forms that are created or amended after the Commencement Date of this Lease. The existence of any sublease or subleases shall not in any way relieve Lessee from its responsibilities as to the entire Premises under this Lease. Any default by a subLessee of its obligations to the GJRAA under any sublease shall constitute a default by Lessee of its obligations under this Agreement. Lessee shall not allow any subLessee to enter onto the Premises until the

subLessee has properly executed a sublease and that sublease has been consented to by the GJRAA.

9.3 No Consent or Waiver. Consent by the GJRAA to one (1) sublease or assignment shall not be construed as consent or waiver of the GJRAA's right to object to any subsequent sublease or assignment. Acceptance by the GJRAA of rent from any subLessee or assignee shall not be construed to be a waiver of the right of the GJRAA to void any sublease or assignment.

9.4 Assignment by the GJRAA. The GJRAA may assign its interest herein, without the consent of Lessee, to any successor operator or proprietor of the Airport. The GJRAA shall give prior written notice to Lessee of any such assignment and of its rights and obligations hereunder.

## **10. Article 10: Compliance with Applicable Law; Environmental Covenants**

10.1 Compliance with Law and the GJRAA Documents. Lessee shall observe and obey all statutes, rules, regulations, and directives promulgated by the GJRAA and other appropriate local, State, and Federal entities having jurisdiction over the Airport, including the FAA, the TSA, and the Environmental Protection Agency ("EPA"). To the maximum extent applicable, Lessee further agrees to perform all of its operations authorized hereunder in accordance with all of the terms and conditions of the GJRAA's Minimum Standards, Development and Architectural Covenants ("Architectural Standards"), Fees and Charges ("Fees and Charges"), the AOA Safety Procedures ("Safety Procedures"), Fuel Handling and Storage Procedures ("Fuel Procedures"), and Noise Compatibility Procedures, copies of which are on file in the offices of the GJRAA, as the same may be amended from time to time, including as they are established or amended after the Commencement Date of this Lease. Lessee acknowledges that it has reviewed the above documents or has knowingly waived its rights to review such documents. If any inconsistency exists between the terms of this Agreement and the terms of the Minimum Standards, Architectural Standards, the GJRAA's Fees and Charges, Safety Procedures, Fuel Procedures, and Noise Compatibility Procedures, the terms of this Agreement shall control. Lessee further agrees to comply with all verbal and written directives of the Airport Manager regarding Lessee's use of the Premises, the Airport's airfield areas, and other common areas elsewhere at the Airport.

10.2 Reimbursement for Violations. Should Lessee, or Lessee's board members, officers, agents, employees, customers, guests, invitees, subLessees, assigns, successors, contractors, or subcontractors violate any local, State, or Federal law, rule, or regulation applicable to the Airport, and should said violation result in a damage award, citation, or fine against the GJRAA, then Lessee shall fully reimburse the GJRAA for said damage award, citation, or fine and for all costs and expenses, including reasonable attorney's fees, incurred by the GJRAA in defending against or satisfying the award, citation or fine.

10.3 Subordination. This Lease shall also be subject and subordinate to the requirements of any existing or future contracts or agreements between the GJRAA and Federal, State, or local governments, or any agencies thereof, and to the requirements of any Federal, State, or local

statutes, rules, regulations, or directives governing the operation of the Airport, and the GJRAA shall not owe any damages to Lessee, such as lost profits or revenues, as a result of its compliance with said contracts, statutes, rules, regulations, or directives. The GJRAA shall also be excused from its obligations to pay Lessee eminent domain compensation under Article 12, below, or to provide substitute leasehold premises pursuant to Article 13, below, unless the payment of compensation or provision of substitute premises is specifically directed by the contract, statute, rule, regulation or directive involved.

10.4 Deicing Limitations. Lessee shall use only propylene glycol as a deicing agent unless Lessee receives written authorization from the GJRAA to use a different deicing agent. All deicing operations shall be conducted on the Airport deicing pad, and Lessee shall pay its proportion share of glycol disposal costs in accordance with the GJRAA's then current Fees and Charges, which may be established or amended after the Commencement Date of this Lease.

10.5 Security. Lessee is wholly and completely responsible for, and shall comply with, all requirements of the Transportation Security Administration of the United States Department of Homeland Security with respect to security of the gates, doors or other entryways leading to the Airport's air operations area from the Premises.

10.6 Hazardous Materials.

10.6.1 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Lessee, its agents, employees, representatives, subLessees, contractors, subcontractors, licensees, or invitees, without the prior written consent of the GJRAA. If Lessee breaches this obligation, or if the presence of Hazardous Material on the Premises is caused or permitted by Lessee and results in contamination of the Premises, then Lessee shall indemnify, defend and hold the GJRAA harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, the diminution in value of the Premises, damages for the loss or restriction on the use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on the marketing of space, sums paid in settlement of claims, attorney fees, consultant fees and expert fees) which arise during or after the term of this Lease as a result of such contamination. This indemnification of the GJRAA by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remediation,, or any removal or restoration work required by any Federal, State, or local government agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises is caused or permitted by Lessee and it results in any contamination of the Premises, Lessee shall promptly take all actions, at its sole expense, that are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises, provided that the GJRAA's approval of such actions shall first be obtained. Lessee's obligations in Paragraph 10 of this Lease shall survive the termination of this Lease.

10.6.2 As used in paragraph 10.6.1, above, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental agency, the GJRAA, the State of Colorado, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under the applicable law, rule, or regulation; (ii) petroleum; (iii) asbestos; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1321); (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. § 6903); (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601); (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks) (42 U.S.C. § 6991); or, (viii) lavatory waste.

10.6.3 Upon the GJRAA's request, Lessee shall provide the GJRAA with written certification from a licensed environmental consulting or engineering firm that the Premises are not contaminated with any Hazardous Material.

## **11. Article 11: Nondiscrimination**

11.1 Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that (1) no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the Premises and any improvements thereon on the grounds of race, color, religion, sex, age, disability, or national origin; (2) no person on the grounds of race, color, religion, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the construction of any improvements on, over, or under the Premises and the furnishing of services therein; and (3) Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

11.2 Lessee shall make and/or furnish its accommodations and/or services on a fair, equal, and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

11.3 This Lease is subject to the requirements of the US Department of Transportation's regulations governing nondiscrimination. Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, age, religion, sex, or disability, in connection with the award or performance of any operating agreement relating to this Lease. Lessee further agrees to include the preceding statements in any subsequent sub-operating

agreements at the Airport that it enters into and to cause those businesses to similarly include the statements in further agreements, as required by FAA Rules, Regulations and Directives.

11.4 Non-compliance with subparagraphs 11.1, 11.2, and 11.3, above, after written finding, shall constitute a material breach thereof and, in the event of such non-compliance, the GJRAA shall have the right to terminate this Lease and the estate hereby created without liability therefor or at the election of either the GJRAA or the United States, or both, the GJRAA and the United States shall have the right to judicially enforce the provisions of subparagraphs 11.1, 11.2, and 11.3. However, this Lease cannot be terminated for non-compliance with subparagraphs 11.1, 11.2, and 11.3 until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed, including exercise or expiration of appeal rights.

11.5 Lessee assures that it shall undertake an affirmative action program if so required by 14 C.F.R. Part 152, Subpart E, to insure that no person shall be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, Subpart E on the grounds of race, creed, color, religion, national origin, age, disability, or sex. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it shall require that its covered sub-organizations, successors, sub-Lessees and assignees provide assurances to Lessee that they shall also undertake affirmative action programs and that they shall require assurances from their sub-organizations, if so required by 14 C.F.R. Part 152, Subpart E, to the same effect.

## **12. Article 12: Eminent Domain, Substitution of Premises, & Subordination**

12.1 In the event that all or any portion of the Premises is taken for any public or quasi-public purpose by any lawful condemning authority, including the GJRAA, through its powers of eminent domain, or by private purchase by any public authority in lieu of the exercise of eminent domain, the proceeds, if any, from such taking or conveyance may be allocated between the GJRAA and Lessee according to the applicable law of eminent domain. If a portion of the Premises is so taken or sold, and as a result thereof, the remaining part cannot be used to reasonably continue the authorized purposes contemplated by this Lease in an economically viable manner, then this Lease shall be deemed terminated at the end of a period of sixty (60) days following said taking or conveyance. In that event, and at that time, Lessee shall surrender the Premises, Improvements (and the GJRAA's fixtures and personal property thereon, if any) to the GJRAA, and Lessee may remove its fixtures and personal property located upon the Premises, in accordance with the provisions of this Lease. No severance damages shall be paid by the GJRAA to Lessee as the result of the condemnation nor shall any damages be paid to Lessee as the result of the termination of this Lease.

12.2 The GJRAA may grant or take easements or rights-of-way across the Premises, in addition to the easements or rights-of-way identified in this Lease, if the GJRAA determines it is in its best interests and in accordance with applicable law to do so. If the GJRAA grants or takes such an easement or right-of-way across any of the Premises, in addition to those easements or rights-of-way identified in this Lease, Lessee may request compensation from the GJRAA for that

easement or right-of-way and the GJRAA will determine whether compensation should be paid to Lessee, and if so, the amount thereof, in accordance with applicable law.

12.3 The GJRAA has the right to substitute Comparable Areas for all or any portion of the Premises, and any additions, alterations or improvements thereon, should the GJRAA, in its sole discretion, determine that a taking of the Premises, or any portion thereof or any Improvement thereon, is required for Airport purposes. In the event that the GJRAA elects to exercise its right to substitute, all title, right and interest to the portion of Premises that is taken shall immediately vest in the GJRAA. Furthermore, the GJRAA may require Lessee to vacate the portion of the Premises taken. For the purposes of this Article, the term "Comparable Areas" is defined to mean a parcel of land within the Airport, or any additions or extensions thereof, similar in size to the Premises and brought to the same level of improvement as the Premises. The GJRAA 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, the GJRAA shall replace, at GJRAA's expense, such non-relocatable improvements and other property with comparable property in the Premises, and the GJRAA 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 subparagraph that Lessee be placed, to the extent possible, in the same position it would have been, had the GJRAA not substituted new premises for the Premises; provided, however, that the GJRAA shall not be obligated to reimburse Lessee for any damages, including lost profits or revenues, due to such substitution, should the GJRAA elect to exercise its right to substitute.

12.4 Nothing in subparagraph 12.3, above, shall be construed to adversely affect the GJRAA's rights to condemn or exercise its rights of eminent domain in regard to Lessee's leasehold rights and interests in the Premises, and any improvements thereon, should the GJRAA, in its sole discretion, determine that it requires all or any portion of the Premises, and improvements thereon, for Airport purposes. The GJRAA may, at its sole discretion, exercise its leasehold condemnation rights in lieu of the GJRAA's substitution rights set forth in subparagraph 12.3, above. Nothing in this Article shall be construed as a promise by the GJRAA to substitute Comparable Areas for the Premises. In the event the GJRAA proceeds by way of condemnation or through the exercise of eminent domain, Paragraph 12.3 shall not apply.

12.5 This Lease and all provisions hereof shall be subject and subordinate to the terms and conditions of all existing and future instruments, documents, contracts, or agreements between the GJRAA and any Federal, State, or local government, or any agency thereof, as well as subject and subordinate to the requirements of any current or future Federal, State, or local statute, rule, regulation, ordinance, or directive governing the operation of the Airport, and the GJRAA shall not owe any damages to Lessee, such as for lost profits or revenues, as a result of the GJRAA's compliance with said instruments, documents, contracts, agreements, statutes, rules, regulations, ordinances, or directives. The GJRAA shall also be excused from its obligations to pay Lessee eminent domain compensation or to provide substitute leasehold premises pursuant to this Article for its compliance with said instruments, documents, contracts, agreements, statutes, rules,



regulations, ordinances, or directives, unless specifically directed otherwise by those instruments, documents, contracts, agreements, statutes, rules, regulations, ordinances, or directives.

**13. Article 13: Airport Development Rights; Emergency Use of Premises; Flight Paths; Height Restrictions.**

13.1 In addition to the GJRAA's other rights set forth in this Lease, the GJRAA reserves the right to further develop or improve all areas within the Airport, including landing areas, as the GJRAA may determine, in its sole discretion, to be in the best interests of the Airport, regardless of the desires or views of Lessee, and without further interference or hindrance from Lessee. The GJRAA may, from time to time, increase or decrease the size or capacity of any airfield areas and Airport rights-of-way/facilities, make alterations thereto, reconstruct or relocate them, modify the design and type of construction thereof, or close them, or any portion or portions of them, either temporarily or permanently, without being liable for any damages, including lost profits or revenues, that Lessee may incur, and without being deemed to have terminated this Lease as a result thereof.

13.2 Lessee hereby permits the GJRAA to utilize all, or a portion of, the Premises, as well as the public airfield areas and any other parts of the Airport, should an emergency or other unforeseen circumstance arise at the Airport, and should the GJRAA determine, in its sole discretion, that the GJRAA needs to utilize all or a portion of the Premises, or other areas of the Airport, for business, media, first aid, or other purposes, during the pendency of said emergency or other unforeseen circumstance. The GJRAA shall use best efforts to attempt to locate alternative space on the Airport from which Lessee may conduct its business, while the GJRAA is utilizing all or a portion of the Premises during the pendency of the emergency or unforeseen circumstances. If the GJRAA is not able to find alternate space on the Airport from which Lessee may conduct his business during said emergency or unforeseen circumstances, then Lessee may be entitled to an abatement of ground rent, if permitted by applicable law, allocable to that portion of the Premises utilized by the GJRAA for the length of time that the GJRAA utilizes said portion of the Premises. Finally, regardless of whether the GJRAA is able to locate alternate premises on the Airport for Lessee to conduct its business, Lessee shall not be entitled to any damages, including lost profits or revenues from the GJRAA, as a result of the GJRAA's utilization of the Premises or other areas of the Airport during the emergency or unforeseen circumstances involved, and Lessee shall continue to owe the GJRAA all landing fees and other fees and charges that accrue during said period.

13.3 It shall be a condition of this Lease that Lessee reserves unto itself, its successors, and assigns, 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, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating at the Airport.

13.4 The GJRAA reserves the right to protect the aerial approaches of the Airport against obstruction, including the right to prohibit Lessee from erecting, or permitting to be erected, any

building or other structure on the Premises which would, in the judgment of the GJRAA, limit the usefulness of the Airport or constitute a hazard to aviation. Lessee also expressly agrees, for itself, its successors, and assigns, to restrict the height of structures, objects of natural growth, and other obstructions on the Premises to such a height so as to comply with the Federal Aviation Regulations, including, but not limited to, Part 77. In the event the aforesaid covenant is breached, the GJRAA reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

13.5 GJRAA reserves the right to direct all activities of Lessee at the Airport in the event of an on-site emergency or in the event that Lessee's activities are substantially interfering with the use of the Airport by others.

13.6 Lessee expressly agrees for itself, its successors, and assigns to prevent any use of the Premises that would interfere or adversely affect the operation or maintenance of the Airport or that would otherwise constitute a hazard.

#### **14. Article 14: Cooperation with GJRAA in Collecting Fees**

14.1 Lessee acknowledges that commercial ground transportation operators who pick up their patrons at Lessee's Premises must pay access fees, as well as other fees and charges, to the GJRAA, pursuant to the GJRAA's Fees and Charges, as they may be amended from time to time, including those amounts established or amended after the Commencement Date of this Lease. Accordingly, in order to assist the GJRAA in determining the fees owed to the GJRAA by said ground transportation operators, Lessee will, to the best of its ability, provide in writing to the GJRAA on or before the fifth (5th) day of each month, the following information for each non-local taxicab, for-hire van, for-hire luxury limousine, for-hire people mover, for-hire bus, local hotel/motel courtesy vehicles, and off-Airport rental car operators (i.e., for each ground transportation vehicle operator other than local taxicab or on-Airport rental car operators) that picked up a ground transportation customer on Lessee's Premises during the preceding month: the name, business address, and telephone number of each operator involved; and the date and time of each customer picked up by each such operator during the preceding month.

14.2 Lessee shall provide to the GJRAA, or third-party governmental agency involved, such additional information or clarifications as may be requested, to (a) enable the GJRAA to calculate the landing fees, access fees, and other fees owed by aircraft and ground transportation operators to the GJRAA pursuant to the GJRAA's Fees and Charges, as the same may be amended from time to time, including those amounts established or amended after the Commencement Date of this Lease; (b) further the GJRAA's ability to market, promote and manage the Airport; or (c) to comply with governmental monetary collections and reporting requirements. Any subsequent changes or corrections in the information provided by Lessee shall be reported to the GJRAA and/or governmental agency involved within seven (7) days of Lessee's discovery of said changes or corrections.

14.3 Lessee shall not provide any storage or other services authorized hereunder to any aircraft operator, or permit a ground transportation operator to access its Premises to pick-up or drop off a ground transportation patron, if said aircraft or ground transportation operator is more than ninety (90) days delinquent in any monies owed to the GJRAA, and the GJRAA has sent written notice to Lessee instructing Lessee to cease providing its services or access to said operator.

14.4 Lessee shall comply with such other statutes, regulations, and directives regarding the collection, payment, and reporting of such taxes, fees, and other charges applicable to or for the benefit of the Airport, in the future.

## **15. Article 15: Expiration and Termination**

15.1 Prior to the expiration or termination of this Lease, Lessee shall have the right to sell or transfer any Improvements on the Premises that is not the property of, or owned by, the GJRAA. However, any sale or transfer of these Improvements shall be subject to the consent or approval of the GJRAA, and the GJRAA shall not unreasonably withhold this consent or approval. Should Lessee sell or transfer the Improvements on the Premises that is not the property of, or owned by, the GJRAA prior to the expiration or termination of the Lease, and the GJRAA consents to and approves this sale or transfer, the GJRAA shall, in good faith, negotiate an Aeronautical Use Ground Lease with the new owner of the Improvements.

15.2 Upon the expiration or termination of this Lease, Lessee shall peaceably surrender to the GJRAA possession of the Premises, together with any Improvements, fixtures, or personal property of the GJRAA thereon (such as the GJRAA's security fencing and gating) in as good a condition as the Premises, and Improvements, fixtures, and personal property were initially provided to Lessee, with ordinary wear and tear excepted, without any compensation whatsoever, and free and clear of any claims of interest of Lessee or any other third-party.

15.3 Also upon the expiration or termination of the Lease, and provided that Lessee did not sell or transfer the Improvements on the Premises prior to the expiration or termination of this Lease, Lessee shall have all personal property and trade fixtures removed from the Premises, unless the personal property or trade fixtures are owned by the GJRAA, and shall restore the Premises to a good condition and repair. If Lessee is proceeding with the necessary diligence to remove these items and complete this work, upon thirty (30) days written notice to the GJRAA prior to the expiration or termination of the Lease, Lessee may extend the time to remove these items and complete this work for a period of time not to exceed sixty (60) days. Further, if Lessee is proceeding with "Punch List" work as outlined under Paragraph 3.4 above, Lessee will be provided sixty (60) days to remove the personal property or trade fixtures following the determination of the GJRAA that the Punch List items were not completed to its satisfaction, if that decision is made by the GJRAA. However, Lessee agrees that this additional period of time to remove any personal property or trade fixtures from the Premises, or any work necessary to return the Premises to a good condition and repair, will not create a new tenancy for any additional period of time and that the GJRAA will maintain its rights to terminate the Lease. Following the expiration or termination of the Lease, Lessee shall, at the option of the GJRAA, either (a) leave

the Improvements on the Premises in place, or (b) demolish the Improvements on the Premises, returning the Premises to a flat and level condition, and if the Premises was paved, re-paving the Premises to the same depth and specifications as it existed prior to the expiration or termination of the Lease. If the GJRAA elects to have Lessee demolish the Improvements on the Premises, Lessee will have sixty (60) days to complete this work, but the time period for Lessee to complete this work will not create a new tenancy for any additional period of time.

15.4 The GJRAA shall take title to, and full ownership of, all personal property and trade fixtures not removed by Lessee from the Premises within the time periods identified in Paragraph 16.3, above. Additionally, without any payment to Lessee, the GJRAA shall take title to, and full ownership of, any building, structure, or improvement that was on the Premises at the expiration or termination of the Lease, provided the GJRAA elects to have Lessee leave the Improvements on the Premises in place as outlined under Paragraph 16.3, above. Title and ownership of the personal property, trade fixtures, buildings, structures, or other improvements to the GJRAA under this provision shall be free and clear of any claim of interest by Lessee or that of a third-party.

## **16. Article 16: Default and Remedies**

16.1 Lessee shall be in default of this Lease upon the happening of any of the following events or conditions ("Events of Default"):

16.1.1 default or breach by Lessee, or any of its successors, assignees, and/or subLessees, in payment or performance of any obligation, covenant, or liability contained or referred to in this Lease, or any approved sublease, as well as any default or breach of any of the terms or conditions of this Lease or any approved sublease;

16.1.2 the Lessee's death, legal incapacity, dissolution, or termination of existence, insolvency, business failure, appointment of a receiver for or the commencement of any proceedings under any bankruptcy or insolvency laws by or against the Lessee, or the general assignment of Lessee's rights, title and interest hereunder for the benefit of creditors;

16.1.3 the Premises being left vacant or unoccupied or apparently abandoned by Lessee for a period of thirty (30) days; or

16.1.4 the placement or assertion of any mechanics' lien or other lien on the Premises due to any act or omission by Lessee or those claiming under Lessee.

16.2 Upon an Event of Default as defined in paragraph 17.1, the GJRAA shall have the right to, and at its option may, exercise any one or more of the following rights and remedies, each of which shall be cumulative, as well as in addition to any and all other rights and remedies authorized by law or equity:

16.2.1 The GJRAA may, with or without terminating this Lease, bring and maintain any action for any amount due and unpaid and/or for specific performance. The GJRAA's damages shall be the total of all rent and costs and expenses of performance of all other covenants

of the Lessee as herein provided due or to become due for the remainder of the lease term, together with the GJRAA's costs, including reasonable attorneys' fees, incurred in retaking possession of the Premises, and bringing and pursuing the action. However, if the GJRAA obtains a judgment against Lessee for damages due to Lessee's breach or default of this Lease, and the GJRAA then leases the Premises to a third-party, the GJRAA shall offset the judgment against the Lessee with any amounts the GJRAA may realize from leasing the Premises to that third-party for the remainder of the lease term with Lessee, after deducting the GJRAA's costs and expenses incurred in connection with obtaining the judgment against the Lessee, as well as leasing the Premises to that third-party, which includes, but is not limited to, redecorating, altering, building, constructing, etc., to prepare the Premises for the lease to the third-party. The GJRAA shall have the sole discretion to determine the terms and conditions of leasing the Premises to the third-party.

16.2.2 The GJRAA may reenter and take possession of the Premises, remove all persons and property therefrom, and declare this Lease and the leasehold estate hereby created to be, and thereupon the same shall be and become, terminated and ended.

16.2.3 The GJRAA may, at its option, with or without declaring this Lease or the leasehold estate created hereby terminated or ended, occupy the Premises or cause the Premises to be redecorated, altered, divided, consolidated with other adjoining premises, or otherwise changed or prepared for re-leasing, and may re-lease the Premises or any part thereof in order to mitigate the GJRAA's damages. The terms and conditions of such re-leasing shall be in the sole discretion of the GJRAA. All rent received by the GJRAA for the remainder of the lease term shall be applied first to the payment of expenses the GJRAA may have incurred in connection with recovery of possession of the Premises and/or preparing it for releasing, and the releasing, including brokerage and reasonable attorneys' fees, and then to the payment of amounts equal to the rent hereunder and the costs and expense of performance of the other covenants of Lessee as herein provided. Lessee shall, whether or not the GJRAA has released the Premises, pay the GJRAA all rent and other sums herein agreed to be paid by Lessee, less the net proceeds of the releasing, if any, as ascertained from time to time, and the same shall be payable by Lessee upon demand. If the GJRAA elects, pursuant hereto, to occupy and use the Premises, or any part thereof, during any part of the balance of the term of the lease as originally fixed or since extended, there shall be allowed against Lessee's obligation for rent or other charges as herein defined, during the period of the GJRAA's occupancy, the reasonable value of such occupancy, not to exceed in any event the rent herein stated, and such occupancy shall not be construed as a release of Lessee's liability hereunder.

16.2.4 The GJRAA may, on reasonable notice to Lessee (except that no notice need be given in case of emergency), cure any breach at the expense of Lessee and the cost of such cure, including attorneys' fees incurred by the GJRAA in doing so, shall be deemed additional rent payable on demand.

16.3 In the event the GJRAA re-leases the Premises as authorized above, any and all of Lessee's improvements, structures, furniture, furnishings, equipment, and trade fixtures that are in or on or about the Premises may be used by the GJRAA or its new Lessee until the expiration of

the term, without any liability for rent, compensation, or other charge therefor; however, in such case, if on the expiration of the term or on an earlier termination of this Lease, the total net amount so collected or received by the GJRAA from and through any such re-leasing or operation has exceeded the total amount accrued and due and unpaid from the Lessee, then such excess shall be applied to the Lessee.

16.4 Whenever a right of reentry is given to the GJRAA by the terms of this Lease, the GJRAA may exercise the same by agent or attorney, and with or without legal process, such process and demand for possession of the Premises being expressly waived by Lessee, and GJRAA may use all force necessary to make such entry and/or hold the Premises after such entry and/or to remove Lessee and/or any other person and property from the Premises; and the GJRAA shall be entitled, on application to a court of competent jurisdiction, to have a receiver appointed in aid of the enforcement of any remedy herein provided.

16.5 Lessee waives all right of redemption to which Lessee or any person claiming under Lessee may be entitled by any law now or hereafter enforced.

16.6 The GJRAA's retaking of possession of the Premises shall not constitute acceptance of surrender, eviction, or forfeiture of the Lease. The GJRAA and Lessee hereby expressly agree that if, after Lessee's default, the GJRAA retakes possession of the Premises, Lessee shall remain liable for all unaccrued rent, and all other obligations of this Lease for the remainder of the lease term, notwithstanding the GJRAA's reentry. Upon default, the GJRAA may exercise any and all of the remedies provided for herein in any order.

16.7 Any default by either Lessee or the GJRAA in the performance of any of the terms and conditions contained herein, other than the payment of Rent, shall be excused where due to force majeure, which, among other things, shall include natural catastrophes such as hurricanes, tornadoes, or floods, acts of God, acts of war, and governmental statutes, regulations, directives, or contracts governing the operation of the Airport, with which the GJRAA or Lessee must comply. This Paragraph shall not apply to a failure to timely pay any monetary amounts due.

## **17. Article 17: Miscellaneous Provisions**

17.1 **Notices.** All notices and communications hereunder shall be given by depositing the same in the United States mail, postage prepaid, registered or certified mail, or via a nationally recognized overnight courier service having proof of delivery, and addressed to the relevant addresses as set forth in paragraph 1, above, or to such other address as either party may specify by notice, in writing, given to the other party. Notices shall be deemed given on the date of mailing and the date of mailing shall be the date shown on the post office registry or express service receipt. Notice given in a manner other than as specified herein shall be ineffective.

17.2 **Subordination.** Lessee's interest in the Premises shall be subordinated to those of any existing or future lender holding a mortgage or deed of trust on the Premises, and Lessee will, at the GJRAA's request, sign such subordination agreements or statements as such lenders may from time to time require.

17.3 **No Waiver.** The failure of either party to insist upon the strict and prompt performance of any of the terms, covenants, agreements, and conditions contained herein, upon the other party imposed, shall not constitute or be construed as a waiver or relinquishment of such party's right or rights thereafter to enforce any term, covenant, agreement, or condition, but the same shall continue in full force and effect. The waiver of any breach of any term, covenant, agreement, or condition contained herein by either party shall not be construed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement, or condition. Should Lessee breach any of its obligations hereunder, the GJRAA may thereafter accept from Lessee any payment or payments due hereunder, and continue this Lease, but without waiving the GJRAA's right to exercise and enforce all available default rights hereunder, or any other remedies provided by law, for said breach or default.

17.4 **Lease Contingent.** If improvements on the Premises have not been constructed as of the date of this Lease, this Lease is contingent upon FAA approval of any construction or development plans by Lessee, and upon the approval of any applicable planning agency. The responsibility for obtaining any authorization from or approval of any federal, state, or local governmental agency shall be the sole responsibility and expense of Lessee. Lessee shall have 60 days from the date set forth in paragraph 1.1, above, to satisfy the foregoing contingencies. If, at the end of such 60 day period Lessee has not provided to the GJRAA clear evidence that such contingencies have been satisfied, or that substantial progress has been made toward satisfaction of same, then the GJRAA may terminate this Lease without penalty to Lessee.

17.5 Entire Agreement; Modifications; Termination of Prior Leases. This Lease constitutes the entire agreement between the parties with respect to the subject matter contained herein. Modifications or amendments to this Lease shall be effective only if made in writing and executed by the GJRAA and Lessee. This Lease shall replace and supersede all prior leases, amendments and addenda thereto and any other agreements between the GJRAA and Lessee with respect to the Premises, all of which shall be deemed terminated upon mutual execution of this Lease.

17.6 Time of Essence. Time shall be of the essence of this Lease, and the terms hereof shall be binding upon the heirs, personal representatives, successors, and permitted assigns of each of the parties hereto.

17.7 Headings. The article or other headings employed in this Lease are for convenience of reference only. Such headings shall not be interpreted as enlarging or limiting the meaning of any portion of this Lease.

17.8 Lessee Representations. Lessee represents that Lessee is the owner of, or fully authorized to use any and all services, processes, machines, articles, marks, names, or slogans used by Lessee in Lessee's operations under this Lease. Lessee shall save and hold the GJRAA, its Board members, officers, employees, agents, and representatives, free and harmless against any loss, liability, expense, suit, or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright, or from any claim of unfair competition or other similar claim, arising out of Lessee's operations under, or in connection with, this Lease. Lessee, and those individuals executing this Lease on behalf of Lessee, represent and warrant that they are familiar with C.R.S. §18-8-301, *et seq.* (Bribery and Corrupt Influences) and C.R.S. §18-8-401, *et seq.* (Abuse of Public Office) and that they are unaware of no violations of the provisions thereof with respect to this Lease or operations to be conducted hereunder. With respect to Lessee, the undersigned warrants and represents he/she is authorized to execute this Lease on Lessee's behalf, and Lessee shall be bound as a signatory to this Lease by his/her execution of this Lease. Lessee also certifies, by signing this Lease, that neither it nor its principals, members, or managers are presently debarred, suspended, proposed for debarment, declared ineligible, or are voluntarily excluded from participation in this Lease by any federal department or agency. Lessee further agrees, by signing this Lease, that it will include this clause, without modification, in all subleases.

17.9 Fees and Memorandum. Lessee shall pay all legal and surveying fees and costs associated with the rental of the Premises under this Lease or any addendum hereto. Furthermore, Lessee shall assist the GJRAA, in any way deemed advisable in preparing, executing or recording a Memorandum of Lease relating to this Lease.



17.10 Invalidity. If any term or condition of this Lease or the application thereof to any person or event shall to any extent be invalid and unenforceable, the remainder of this Lease and the application of such term, covenant, or condition to persons or events other than those to which it is held invalid or unenforceable shall not be affected and each term, covenant, and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

17.11 GJRAA Representations. The GJRAA covenants and represents that it is the owner of the Premises, and has the right to enter into this Lease and grant the rights contained herein to Lessee.

17.12 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third-party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the parties. It is understood and agreed that neither the method of computation of fees, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of landlord and Lessee.

17.13 Attorney Fees. If litigation is required to interpret or enforce this Agreement, the prevailing party shall be awarded its reasonable attorney's fees, costs and other expenses incurred in addition to any other relief it receives.

17.14 Incorporation of Exhibits. The Exhibits to this Lease are integral parts of this Agreement and Lessee is bound by the terms set forth in them. If through oversight or otherwise, those Exhibits are not attached hereto, it is Lessee's responsibility to obtain copies of those Exhibits from the GJRAA.

17.15 Law and Venue. This Lease shall be interpreted in accordance with the laws of the State of Colorado and applicable federal law. Should either party believe it necessary to file suit to interpret or enforce any provisions of this Agreement, the exclusive venue and jurisdiction for said lawsuit shall be in the Mesa County, Colorado, or if federal court jurisdiction would be appropriate, then in the United States District Court for the District of Colorado.

17.16 All Terms Material. Covenants and agreements herein which would ordinarily be considered to be material shall be so considered herein. In addition, the parties recognize the special and unique nature of Airport operations; that the GJRAA operates the Airport under agreements with other government entities, pursuant to numerous laws, regulations and ordinances, and in furtherance of the public need, health and safety; each term, covenant and/or agreement, the breach of which by Lessee might materially adversely affect any such aspect of the GJRAA's operation of the Airport, shall also be deemed material, and any default in any such term, covenant and/or agreement shall be deemed to be a default in the Lease.

17.17 Right of Appeal. Whenever the Airport Manager is authorized by this Lease to make discretionary decisions affecting Lessee, or the Airport Manager is authorized by the GJRAA to make discretionary decisions hereunder, the Lessee shall be entitled to appeal such decision to the Board of the GJRAA. Any such appeal shall be in writing, shall be filed with the GJRAA within thirty (30) days of the complained of decision, shall clearly state each basis for appeal, and shall include copies of any documents upon which the appeal is based. The pendency of an appeal shall not relieve the Lessee from compliance with the decision of the Airport Manager. The taking of such an appeal shall be a condition precedent to the filing of any action by Lessee to enforce or interpret this Lease.

17.18 Limitation of Benefit. This Lease does not create in or bestow upon any other person or entity not a party to this Lease any right, privilege or benefit unless expressly provided in this Lease. This Lease does not in any way represent, nor should it be deemed to imply, any standard of conduct to which the parties expect to conform their operations in relation to any person or entity not a party.

17.19 Non-Exclusive Right. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958, as amended. The GJRAA reserves the right to grant to others the privilege and right of conducting any aeronautical or non-aeronautical activity at the Airport. The GJRAA reserves the right, during the term hereof, to reduce and reallocate space leased for the exclusive use of Lessee in any case where the failure to do so might reasonably constitute the granting by the GJRAA to Lessee of such an exclusive right.

Done and entered into on the date first above written.

**GRAND JUNCTION REGIONAL AIRPORT  
AUTHORITY**


Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**LESSEE:**

Dated: 11-28-18

By: 

Its: IMPROVEMENT OWNER

**EXHIBIT A**

**Description of the Premises**

**EXHIBIT B**

**Survey Including Common and Particular Description of the Premises**



# **AERONAUTICAL USE GROUND LEASE**

**Grand Junction Regional Airport  
Grand Junction, Colorado**

**Between**

**GRAND JUNCTION REGIONAL AIRPORT AUTHORITY  
2828 Walker Field Drive Ste. 301  
Grand Junction, CO 81506  
("GJRAA")**

**And**

**KEMPTON AIR SERVICE, LLC  
2851 Aviators Way  
Grand Junction, CO 81506  
("Lessee")**

**Dated: November 27, 2018**

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## AERONAUTICAL USE GROUND LEASE

This Aeronautical Use Ground Lease (the "Lease") is made and entered into on the date set forth in Paragraph 1.1, below, by and between the **GRAND JUNCTION REGIONAL AIRPORT AUTHORITY** ("GJRAA"), formerly known as the Walker Field Public Airport Authority, a body corporate and politic and constituting a subdivision of the State of Colorado, and the Lessee as that term is defined in Paragraph 1.2, below.

### Recitals

A. WHEREAS, the GJRAA is owner and operator of the Grand Junction Regional Airport and is authorized to enter into this Lease pursuant to C.R.S. § 41-3-101, *et seq.*;

B. WHEREAS, Lessee desires to lease a portion of the Grand Junction Regional Airport for aeronautical uses, which may include the construction and occupation of an aircraft hangar or other structure, or if already constructed, the occupation of an aircraft hangar or other structure; and

C. WHEREAS, the GJRAA desires to lease ground at the Grand Junction Regional Airport to Lessee and Lessee desires to lease ground and use the Grand Junction Regional Airport under the terms and conditions of this Lease, as well as any other applicable law and regulation.

NOW, THEREFORE, for and in v consideration of the fees, covenants, and agreements contained herein, and for other good and valuable consideration, it is agreed and understood between the GJRAA and Lessee that:

### 1. Article 1: Basic Lease Information

In addition to the terms defined elsewhere in this Lease, the following defined terms are used in this Lease as well. To the extent there is any conflict between the basic information contained in Article 1, below, and more detailed information contained elsewhere in this Lease, the more detailed information shall prevail.

- 1.1 Date of Mutual Execution: March 17, 1999
- 1.2 Lessee: Larry Kempton
- 1.3 Lessee's Trade Name: Kempton Air Service, LLC
- 1.4 Lessee's Address and Telephone Number: 2851 Aviators Way, Grand Junction, Colorado 81506; (970) 250-0908
- 1.5 GJRAA'S Address and Telephone Number: 2828 Walker Field Drive Ste. 301, Grand Junction, Colorado 81506; (970) 244-9100

1.6 Airport: The Grand Junction Regional Airport, which was formerly known as the Walker Field Airport, and which is located in Grand Junction, Mesa County, Colorado.

1.7 Commencement Date. December 15, 2018

1.8 Expiration Date. March 16, 2019

1.9 Initial Minimum Insurance Coverage Amount. Automobile, general liability, bodily injury and property damage insurance, written on an occurrence basis, with a limit of \$1,000,000 per occurrence, and which names the GJRAA as an additional insured (See paragraph 8.1.1 below).

1.10 Rent. Rent shall include both the Monthly Ground Rent, as altered from time to time, pursuant to paragraph 4.1 of this Lease, and other fees described in paragraph 4.3 of this Lease.

1.11 Monthly Ground Rent. The Monthly Ground Rent shall initially be \$1,535.43 per year, paid monthly at \$127.95, based on the area of the Premises, other than the Object Free Area ("OFA"). Lessee will not be obligated to pay rent for the OFA, but Lessee will be responsible for all maintenance and other improvements required for the OFA. For the remaining (non-OFA) area of 10,452.20 square feet of the Premises,  $(14,302.20 - 3,850.00 = 10,452.20)$  the above rent will be calculated as follows:  $\$.1469$  per square foot x  $10,452.2$  square feet =  $\$1,535.43 \div 12$  months =  $\$127.95$ .

1.12 Permitted Uses. The permitted uses shall include the construction and/or occupation of a hangar and/or other structure subject to the provisions of this Lease, which together with the Premises themselves, shall be used primarily for aeronautical purposes, including, but not limited to, the parking, storing and maintaining aircraft owned or leased by Lessee or other third parties, other activities associated with aircraft ownership, and aeronautical-related businesses. The permitted uses shall exclude the sale and provision of fuel to aircraft.

1.13 Premises. The property shown on the attached Exhibits A and B and any Improvements existing thereon when Lessee first takes possession, which is also known as (ADDRESS).

1.14 Premises Square Footage. The Premises consist of a total of 14,302.20 square feet, which includes 3,850.00 square feet of OFA and 10,452.20 square feet of other area.

1.15 Date to Complete Improvements. N/A

1.16 Additional Provisions. N/A

1.17 Improvements. Improvements shall include the aircraft hangar or other structure that has been constructed and erected, or which is to be constructed or erected on the Premises, as well as all hangar flooring, lighting, paving, fencing, grating and surfacing, underground and overhead wires, doors, cables, pipes, tanks and drains, and all property of every kind and nature, which is attached to the Premises or which may not be removed without material injury to the Premises.

1.18 Minimum Standards. "Minimum Standards" shall mean the most current and up-to-date version of the Requirements and Minimum Standards for Commercial Aeronautical Services and Activities for Walker Field Airport, Grand Junction, Colorado. The version of the Minimum Standards in effect on the date this Lease was adopted by the GJRAA Board of Commissioners on December 19, 2000, and was last revised on July 19, 2005.

1.19 Security Deposit: \$196.00

## **2. Article: Lease of Premises & Airport; Quiet Enjoyment**

2.1 Use of Premises. In consideration of the payment of the Rent and the keeping and performance of the covenants and agreements by Lessee as stated herein, the GJRAA does hereby lease to Lessee the Premises, including any and all rights, privileges, easements, and appurtenances now or hereafter belonging to the Premises, subject, however, to all liens, easements, restrictions, and other encumbrances of record. Lessee leases the Premises in an "as is" and "with all faults" condition, without any express or implied warranties or representations from the GJRAA that the Premises, or any portions thereof, are suitable for a particular purpose, or can accommodate any particular weight or size of aircraft.

2.2 Use of Airport. Lessee is also granted the non-exclusive right to utilize such Airport runways, taxiways, taxi lanes, and public use aprons ("airfield areas"), and such other rights-of-way and access across the Airport ("Airport rights-of-way") as necessary for ingress and egress to the Premises, and to the extent necessary to enable Lessee to provide the Permitted Uses from the Premises. Lessee's use of said airfield areas and other Airport rights-of-way shall be on a non-exclusive, non-preferential basis with other authorized users thereof. Lessee shall abide by all directives of the GJRAA, the Federal Aviation Administration ("FAA"), the Transportation Security Administration ("TSA"), and any other governmental entity having jurisdiction over the Airport governing Lessee's use of said airfield areas and other Airport rights-of-way, either alone or in conjunction with other authorized users thereof.

2.3 Quiet Enjoyment. Upon the payment of Rent when due, as well as upon the payment of any other fees when due, and upon the performance of any and all other conditions stated herein, Lessee shall peaceably have, possess and enjoy the Premises and other rights granted herein, without hindrance or disturbance from the GJRAA, subject to the GJRAA's rights as discussed herein and/or pursuant to any applicable law or regulation.. Notwithstanding the provision set forth in the preceding sentence or any other provision of this Lease, the GJRAA and any Lessee of the GJRAA shall have the right to traverse that portion of the Premises not occupied

by a hangar or other structure, if the GJRAA, in its sole discretion, believes that such access is necessary or desirable for the efficient operations of the Airport, the GJRAA, or another Lessee.

2.4 Inspection by GJRAA. The GJRAA, through its authorized agents, shall have the right, at all reasonable times, and after notice to Lessee when practical, to enter upon the Premises to inspect, to observe the performance by Lessee of its obligations hereunder, and to do any act which the GJRAA may be obligated to do or have the right to do under this Lease, any other agreement to which the GJRAA is a party, or pursuant to any applicable law or regulation. Without diminishing the GJRAA's rights to inspect and perform under this paragraph, the acts of the GJRAA shall not unduly burden or interfere with Lessee's operations on the Premises.

### 3. Article 3: Lease Term and Options

3.1 Term. Subject to earlier termination as hereinafter provided, the primary term of this Lease shall be the period between the Commencement Date set forth in paragraph 1.7 above and the Expiration Date set forth in paragraph 1.8 above (the "Primary Term").

3.2 Option to Renew. Subject to the provisions hereof, upon expiration of the Primary Term of this Lease, and if and only if Lessee is not in material default beyond applicable cure periods under this Lease, Lessee shall have the option to renew this Lease for one (1) additional term of ten (10) years following the expiration of the Primary Term. Lessee's option to renew may be exercised by delivering written notice to the GJRAA between twelve (12) and eighteen (18) months prior to end of the Primary Term of this Lease.

3.3 Additional Option Terms. In addition to the option term provided in Section 3.2 above, Lessee shall have up to four (4) additional options to extend the term of this Lease for five (5) years each (an "Additional Option"). However, the total of the Primary Term and all option terms of this Lease shall not exceed 50-years. The GJRAA shall offer an Additional Option to a Lessee if, and only if:

3.3.1 such Lessee requests the same at least 120 days prior to the expiration of the then-current option or Additional Option term, and

3.3.2 the GJRAA Board of Commissioners has not previously found, or found within sixty (60) days after such request by the Lessee, or by the close of the GJRAA Board of Commissioner's next regular Board meeting, whichever is later in time, that:

(a) the Improvements on the Premises have not been properly maintained (including painting) and do not meet current Minimum Standards as approved of by the GJRAA, the Improvements on the Premises do not meet any applicable code requirements, or the Improvements on the Premises are not in a condition expected to be serviceable in any respect for the additional five (5) year Additional Option term,

(b) the GJRAA intends to redevelop the area in which the Premises are

located and/or use all or a portion of the Premises for purposes other than a lease to a Commercial Lessee or Storage Lessee, as the case may be with respect to the Lessee,

- (c) Lessee is not in default under this Lease,
- (d) Lessee is not in default in any other financial obligation to the GJRAA, and/or
- (e) The granting of any Additional Option would not violate any FAA Grant Assurance or the provisions of any applicable law or regulation.

3.3.3 The factors referred to in paragraph 3.3.2, above, shall each be referred to as a "Disqualifying Factor" and collectively as "Disqualifying Factors." A determination of the existence of any Disqualifying Factor shall be made in the reasonable discretion of the GJRAA.

3.3.4 Lessees are encouraged to contact the GJRAA in advance of the option exercise windows described in paragraph 3.3.1 above to discuss the condition of the Improvements on the Premises, actions which may be necessary to bring the Improvements into the required condition of maintenance and/or serviceability, and any other actions necessary to meet the other requirements of paragraph 3.3.2 above.

3.3.5 The GJRAA may condition the exercise of an Additional Option on amendment of this Lease to incorporate such other standard and non-discriminatory terms as are then being offered by the GJRAA to other Commercial Lessees or Storage Lessees, as the case may be, under aeronautical use ground leases, and ground lease rates for each Additional Option term shall be set at reasonable rates existing at the time the Additional Option is exercised, as set forth in the GJRAA's then current rates established by the GJRAA's Fees and Charges, which rates shall thereafter be subject to the CPI adjustment set forth below.

3.3.6 For purposes of Paragraph 3.3, "Commercial Lessee" shall mean a Lessee which (a) regularly engages in fixed base operations, ground handling and servicing of air carrier and commuter airline operations, aircraft charter operations, flight training, aircraft rental, aerial photography, crop dusting, aerial advertising, aerial surveying, aircraft sales and services, sale of aviation petroleum products, aircraft repair and maintenance, sale of aircraft parts, and/or other commercial aeronautical services to the public, (b) has entered into or will enter into a lease with the Authority, and (c) meets, and in the case of an existing Lessee, has met for a period of not less than six (6) continuous months, the GJRAA's Minimum Standards then in effect for the type of aeronautical business operated by the Lessee. "Storage Lessee" shall mean any Aeronautical Use Lessee other than a Commercial Lessee as defined above.

#### 3.4 Repair and Maintenance Punch-List.

3.4.1 If the GJRAA finds that the Disqualifying Factor found under Paragraph 3.3.2(a), above, exists, but that no other Disqualifying Factor does, then the GJRAA will determine if the Improvements on the Premises can be restored and/or made serviceable through reasonable repair and/or maintenance. If the Improvements on the Premises can be restored and/or made serviceable through reasonable repair and/or maintenance, the GJRAA shall provide Lessee with a listing of items to be repaired and/or maintained by Lessee (hereinafter "Punch List"), at Lessee's sole expense. The repairs and/or maintenance to be completed by Lessee shall be for the purpose of restoring the Improvements on the Premises to their original state, excepting reasonable wear and tear.

3.4.2 The GJRAA shall provide Lessee with the Punch List within thirty (30) days after the GJRAA's determination that the Disqualifying Factor found under Paragraph 3.3.2(a), above, exists. Lessee will then have remainder of its then current option term or Additional Option term to complete the Punch List to the satisfaction of the GJRAA. Provided that Lessee is proceeding with the necessary diligence to complete the Punch List, and upon thirty (30) days written notice to the GJRAA prior to the expiration of Lessee's then current option term or Additional Option term, Lessee may extend the time to complete the Punch List for a period of time not to exceed sixty (60) days. However, Lessee agrees that any extension of the period of time for it to complete the Punch List to the satisfaction of the GJRAA will not create a new tenancy for the Additional Option period and that the GJRAA will maintain its right to terminate the Lease. If the Punch List items are completed to the reasonable satisfaction of the GJRAA, Lessee shall then be eligible to exercise the Additional Option.

3.5 Surrender and Holding Over. If Lessee holds over or remains in possession or occupancy of the Premises after the expiration of this Lease without any written renewal thereof, such holding over or continued possession or occupancy shall not be deemed as a renewal or extension of this Lease but shall create only a tenancy from month-to-month which may be terminated at any time by the GJRAA upon thirty (30) days written notice. Such holding over shall be at 150% of the Monthly Ground Rent that was payable in the month prior to such expiration, (or in recognition that the Improvements shall then be the property of the Authority) or the hangar rental rate established in the GJRAA's then-current Fees and Charges, whichever is greater, and shall otherwise be upon the same terms and conditions as set forth in this Lease.

#### **4. Article 4: Rent, Security Deposit & Other Fees**

4.1 Monthly Ground Rent. The Monthly Ground Rent for the Premises is initially the amount set forth in Paragraph 1.11 above. Within thirty (30) days of Lessee's completion of any Improvements on the Premises, Lessee will provide the GJRAA with a survey acceptable to the GJRAA (as determined by the GJRAA in its sole discretion) which shall be attached to this Lease as **Exhibit B**. Should the actual square footage of the Premises or the Improvements thereon (as determined by the Survey of the Premises to be attached as **Exhibit B**) differ from the initial estimate of the Premises or improvements' square footage (as shown by the Description of the

Premises, attached as Exhibit A), then the Monthly Ground Rent shall be adjusted to accommodate for such difference according to standard GJRAA procedure.

4.2 CPI Adjustment. The Monthly Ground Rent for the Premises may be adjusted by the increase or decrease in the Consumer Price Index, using the U.S. City Average for all urban consumers ("CPI-U"), all items index, set forth in the October to October report published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twenty-four (24) month period ending in the calendar year immediately preceding the calendar year in which the annual cost-of-living adjustment is to be made, or the period since the Commencement Date of this Lease, whichever is less. The initial CPI adjustment under this Lease shall be made on April 1st of the first even calendar year after the calendar year in which the Commencement Date falls, and every even year thereafter. If the CPI-U index is no longer published by the U.S. Department of Labor, the parties to this Lease, as well as any successors or assigns, shall use the U.S. Department of Labor index or report most closely approximating the CPI-U.

4.3 Other Fees and Charges. In addition to the Monthly Ground Rent described above:

4.3.1 Lessee shall pay the GJRAA such fees as set forth in the GJRAA's current Fees and Charges, as they are adopted by resolution of the GJRAA Board of Commissioners (the "Fees and Charges"), and as the same may be amended from time to time, including those Fees and Charges that are adopted or amended after the Commencement Date of this Lease, for the usage of the Airport's disposal station, by Lessee, or by Lessee's successors, assigns, and/or subLessees.

4.4 Manner of Payment. Payment of Lessee's Monthly Ground Rent shall be made in advance, on or before the first day of each and every month during the term of this Lease. Payment of all other fees, if any, shall be made in accordance with procedures adopted by the GJRAA from time to time. All rental payments shall be made to the GJRAA at its address listed in Paragraph 1.5, or at such other address as may be specified by the GJRAA.

4.5 Late Charges. All amounts payable under the Lease may collectively be referred to herein as "Rent." Any payment of Rent, including Monthly Ground Rent, which is not received on the due date will be subject to a late charge equal to five percent (5%) of the unpaid Rent, or \$100.00, whichever is greater. This amount is in consideration of the GJRAA's additional cost of processing late payments. In addition, any Rent which is not paid when due, including Monthly Ground Rent, will accrue interest at a default rate of three percent (3%) per month (but in no event in an amount in excess of the maximum rate allowed by applicable law) from the date on which it was due until the date on which it is paid in full, with accrued interest. Any payments received shall be applied first to accrued interest, and then to the reduction of principal.

4.6 Security Deposit. Lessee shall deposit with the GJRAA, a security deposit in the amount set forth in paragraph 1.19 above. This deposit is to be held by the GJRAA as security during the entire term of the Lease for all of Lessee's obligations hereunder. Any and all accrued interest on Lessee's security deposit shall be applied to Lessee's account, on an annual basis. The



security deposit shall be made at the time the Lease is signed by Lessee, unless the same has been previously paid in the full amount set forth above. The GJRAA reserves the right to withhold some or all of the deposit if Lessee abandons the leasehold in a condition that requires the GJRAA to expend money or labor to repair. A detailed list of expenses shall be provided to Lessee if any or all of the security deposit is withheld.

4.7 No Set Off. Except as may be expressly set forth herein, Lessee shall not have the right to set-off against any amounts owed to the GJRAA for any claims it may have against the GJRAA unless and until said amounts are agreed to by the GJRAA or reduced to final judgment.

4.8 New Federal Regulation. In the event the GJRAA is required to make additional direct expenditures in connection with the implementation of any future federal or state regulation imposed upon the GJRAA as a result, in whole or in part, of Lessee's operation, the GJRAA may call a conference for the purpose of discussing and determining methods of compliance and recovery from Lessee and others similarly situated, if any, of costs so incurred, and Lessee agrees to attend, in good faith, and agrees to reimburse the GJRAA for any reasonable costs it incurs for the implementation of these federal or state regulations.

## 5. Article 5: Improvements

5.1 Construction of Improvements. During the term of this Lease, Lessee shall have the right to construct, at its own expense, Improvements, alterations, or additions to the Premises, or to any Improvements presently located thereon, in furtherance of Lessee's authorized use of the Premises, provided that:

5.1.1 the Improvements, alterations, and additions are performed by qualified and licensed contractors or subcontractors; and

5.1.2 prior to the construction of any Improvements, alterations or additions to the Premises including, but not limited to, new improvements, major exterior changes to any existing improvements, changes in pavement, fences and utility lines, interior renovations that affect the structural integrity of any improvements, or office and hangar configuration, of any Improvements Lessee presently owns or may hereafter construct upon the Premises:

(a) Lessee submits the proposed plans to the GJRAA for its review; and

(b) the GJRAA determines, in its sole discretion, that the proposed improvements, alterations, or additions are consistent with the Airport's master and land use plans, the GJRAA's Development and Architectural Covenants, and if applicable, the Minimum Standards, as the same may be amended from time to time, including those established or amended after the Commencement Date of this Lease

5.2 Cost of Improvements; Bond. Lessee shall construct all Improvements, alterations, and additions to the Premises at its own expense. If Lessee constructs improvements, alterations

and/or additions, the same shall be constructed at Lessee's sole initiative and behest, and nothing herein shall be construed as an agreement by the GJRAA to be responsible for paying for them, and neither the Premises, nor the GJRAA's interest in said Premises or any Improvements, alterations or additions constructed thereon, shall be subjected to a mechanic's lien for any Improvements or alterations constructed by Lessee hereunder. The GJRAA may require Lessee to post a bond, or such other security as the GJRAA deems appropriate, guaranteeing payment for construction of the Improvements alterations and additions involved, as a condition precedent to the commencement of construction of the Improvements and/or alterations. Lessee shall be responsible for assuring that all of said Improvements, alterations and additions to the Premises are constructed in accordance with applicable local, state, and federal law. Lessee shall reimburse the GJRAA for all costs and expenses, including surveying and attorney's fees, that the GJRAA incurs (a) as a result of the fact that the Improvements, additions, or alterations do not comply with local, state, and federal law, (b) in defending against, settling, or satisfying any claim that the GJRAA is responsible for paying in relation to Improvements on the Premises, or (c) in defending against, settling, or satisfying any mechanic's lien and/or other claims, asserted as a result of the non-payment for Improvements on the Premises.

5.3 Timing of Construction. The Parties to this Lease, as well as their successors and/or assigns, hereby agree that Lessee shall have eighteen (18) months from the Commencement Date to obtain a Certificate of Occupancy or to otherwise fully develop the Premises. If such development is not timely commenced or completed, or if due diligence in pursuing such development is not demonstrated to the satisfaction of the GJRAA, then the GJRAA, in its sole discretion, shall have the right to terminate this Lease, and all of Lessee's interest in the Premises shall revert back to the GJRAA. If, however, Lessee has commenced development and is diligently pursuing completion of the development, but such development will not be completed within the eighteen (18) month period allowed, then Lessee may petition, in writing, the GJRAA for an extension of time to complete the development. An extension of time to complete the development is not automatic upon application, but may be granted at the sole discretion of the GJRAA. If such extension is not granted, then the GJRAA shall have the right to declare the Lease void, and all of Lessee's interest in the Premises shall revert back to the GJRAA. The GJRAA makes no representations or warranties with regard to the above contingencies, and Lessee undertakes such efforts solely at its own risk.

5.4 Signs. No exterior signs, logos or advertising displays identifying Lessee or its successors, assigns, subLessees or customers shall be painted on or erected in any manner upon the Premises, or in or on any Improvements or additions upon the Premises, without the prior written approval of the GJRAA, which approval shall not be unreasonably withheld. Any such signs, logos or advertising shall conform to reasonable standards to be established by the GJRAA, with respect to type, size, design, materials and location. All signs shall comply with all applicable city, county and state regulations.

## 6. Article 6: Maintenance, Utilities, Damage and Storage

6.1 Maintenance of Premise. During the term of this Lease, Lessee shall, at its own expense, maintain and keep all portions of the Premises, any Improvements, fixtures, and equipment thereon, any utility lines thereon or thereunder used by Lessee or its successors, assigns, and/or subLessees, and any of Lessee's Improvements, fixtures, or equipment located elsewhere at the Airport, in good operating and physical condition and repair. Lessee shall repair any utility lines located on or under its Premises which are utilized by it or other third parties, if the damage to said utility lines was caused by Lessee, or by Lessee's board members, officers, agents, employees, representatives, contractors, subcontractors, successors, assigns, subLessees, customers, guests, invitees, or anyone acting by, though, or under Lessee's direction and control. During the term of this Lease, Lessee shall maintain, at its expense, all portions of the Premises, any Improvements, fixtures, and equipment thereon, and all of its improvements, fixtures, and equipment located elsewhere at the Airport, in a safe and clean condition, and Lessee will not permit any unsightly accumulation of wreckage, debris, or trash where visible to the general public visiting or using the Airport. The determination of whether any accumulation is unsightly will be made at the sole, but reasonable, discretion of the GJRAA.

6.2 Utilities. During the term of this Lease, Lessee shall also be responsible for providing, at its own expense, all utilities and services, including but not limited to lighting, heating, air conditioning/cooling, water, gas, trash removal and electricity, required for the Premises and any improvements, alterations, or additions thereon. Lessee shall not permit any liens for utilities to be levied against the Premises and, in the event that any liens are so levied, agrees to indemnify the GJRAA and hold it harmless for the same.

6.3 Storage on Premises. Storage on the Premise shall be primarily for aeronautical purposes, including, but not limited to, the parking and storing of aircraft owned or leased by Lessee or other third parties, storage associated with aircraft ownership and aeronautical-related businesses.

6.4 Damage to Airport. Lessee shall be liable for any damage to the Airport and to any Improvements thereon caused by Lessee, or by Lessee's board members, officers, agents, employees, representatives, contractors, subcontractors, successors, assigns, subLessees, guests, invitees, or anyone acting by, through, or under its direction and control, ordinary wear and tear excepted. All repairs for which Lessee is liable shall be made, at the GJRAA's option, (a) by Lessee at its own expense, provided that said repairs are made timely and to the GJRAA's satisfaction as to the quality of repair or, if not timely or satisfactorily made by Lessee, then by the GJRAA at Lessee's expense or (b) by the GJRAA at Lessee's expense.

6.5 Waste Prohibited. Lessee may not conduct mining or drilling operations, remove sand, gravel, rock or related substances from the ground, commit waste of the Premises of any kind, nor in any manner that substantially changes the contour or condition of the Premises without prior written permission of the GJRAA.

## **7. Article 7: Taxes and Assessments**

Lessee shall timely pay all real and personal property taxes related to its possession and operations hereunder and at the Airport or elsewhere; all local, state and federal income, payroll, aviation fuel and other taxes related to its operations hereunder and at the Airport or elsewhere; all sales and other taxes measured by or related to its sales and service revenues hereunder and at the Airport or elsewhere; all license fees; and any and all other taxes, charges, exactions or levies of any nature, whether general or special, which may at any time be imposed by any local, state or federal authorities having jurisdiction over Lessee, or that become a lien upon Lessee, the GJRAA, the Premises, or any Improvements thereon, by reason of Lessee's possession or activities under this Lease and the Airport or elsewhere.

**8. Article 8: Insurance and Indemnification**

**8.1 Minimum Insurance Requirements. At all times during the term of this Lease:**

8.1.1 Lessee shall maintain automobile, general liability, bodily injury and property damage insurance naming the GJRAA as an additional insured covering all of the services, operations, and activities of Lessee, and Lessee's subLessees at the Airport. The initial amount of coverage provided to the GJRAA shall be, at least, the Initial Minimum Insurance Coverage Amount, as that term is defined in Paragraph 1.9, above. The GJRAA may, from time to time, and in its sole discretion (which shall be reasonably exercised), increase the amount of required insurance due hereunder by amending the GJRAA's Fees and Charges, and these amendments shall apply to Lessee, including those amendments that occur after the Commencement Date of this Lease.

8.1.2 Lessee shall maintain such hazard insurance as necessary to cover the full replacement cost of each of the Improvements it, its successors, assigns, and/or subLessees, or the GJRAA own or have constructed upon the Premises, and the proceeds of said insurance shall be used to repair or replace the Improvements involved, as necessary.

8.1.3 Lessee and its subcontractors shall maintain worker's compensation insurance or a self-insurance plan in accordance with the laws of the State of Colorado for all employees or subcontractor employees who perform any work for Lessee in connection with the rights granted to Lessee hereunder.

8.2 Certificate of Insurance. Lessee shall provide a certificate of insurance to the GJRAA of the kinds and amounts of said insurance coverage and shall acquire policies that shall not be subject to cancellation without at least thirty (30) days advance written notice to the GJRAA. Such policies shall provide that they may not be materially changed or altered by the insurer during its term without first giving at least ten (10) days written notice to the GJRAA.

**8.3 Indemnification. Lessee agrees that: :**

8.3.1 It shall release the GJRAA of and from any and all liability for, and shall protect, defend, indemnify and hold the GJRAA harmless from and against any and all claims,

demands, and causes of action of every kind and character that are asserted or brought against the GJRAA on account of the actions, omissions, breaches, negligence, gross negligence, recklessness, willfulness, wantonness, and/or intentional conduct of Lessee, its agents, employees, representatives, successors, assigns, subLessees, contractors, subcontractors, invitees, or licensees. Lessee's indemnification obligations under this provision shall be without regard to, and without any right to contribution from, any insurance maintained by Lessee. Additionally, Lessee's indemnity obligations under this section shall be supported by insurance, but this insurance requirement shall be a separate and distinct obligation from Lessee's indemnity obligations, and the insurance and indemnity obligations shall be separately and independently enforceable. Further, Lessee's indemnity obligations hereunder are not limited by any insurance coverage Lessee may have.

8.3.2 Lessee further agrees to fully defend, indemnify and hold the GJRAA harmless from all legal costs and charges, including reasonable attorneys' fees, incurred in and about the defense of the matters identified above, as well as in any action arising out of those matters or in discharging the Premises, or any part thereof, from any and all liens, charges, or judgments which may accrue or be placed thereon by reason of any act, omission, or breach of or by Lessee.

8.3.3 Lessee also agrees to fully defend, indemnify and hold the GJRAA harmless from any liability on account of or in respect or any mechanic's lien or liens in the nature thereof for work and labor done, or materials furnished at, the request of the Lessee in, on, or about the Premises and, accordingly, Lessee will either satisfy any such lien or, if Lessee disputes the validity thereof, will defend any action for the enforcement thereof (and if Lessee loses any action, will cause such lien to be satisfied and released).

## **9. Article 9: Assignment and Subleasing**

9.1 **Assignment by Lessee.** Lessee shall not assign its interest herein without the written consent of the GJRAA, which consent shall not be unreasonably withheld. All subsequent assignors and assignees shall be subject to this Lease as if they were the original Lessee/assignor.

9.2 **Subletting.** Lessee may not sublease all or any portion of the Premises, or all or any portion of the improvements thereon, without first obtaining written consent of the GJRAA for the sublease, which consent shall not be unreasonably withheld. Any such sublease must be in writing and in a form and for a rental amount and other consideration acceptable to the GJRAA, pursuant to the requirements of the Minimum Standards, by which such subLessee is authorized to do business at the Airport. Any sublease shall be in the form required by the GJRAA for all subleases, as the same may be amended from time to time, or in a form specifically approved by the GJRAA, including those forms that are created or amended after the Commencement Date of this Lease. The existence of any sublease or subleases shall not in any way relieve Lessee from its responsibilities as to the entire Premises under this Lease. Any default by a subLessee of its obligations to the GJRAA under any sublease shall constitute a default by Lessee of its obligations under this Agreement. Lessee shall not allow any subLessee to enter onto the Premises until the

subLessee has properly executed a sublease and that sublease has been consented to by the GJRAA.

9.3 No Consent or Waiver. Consent by the GJRAA to one (1) sublease or assignment shall not be construed as consent or waiver of the GJRAA's right to object to any subsequent sublease or assignment. Acceptance by the GJRAA of rent from any subLessee or assignee shall not be construed to be a waiver of the right of the GJRAA to void any sublease or assignment.

9.4 Assignment by the GJRAA. The GJRAA may assign its interest herein, without the consent of Lessee, to any successor operator or proprietor of the Airport. The GJRAA shall give prior written notice to Lessee of any such assignment and of its rights and obligations hereunder.

## **10. Article 10: Compliance with Applicable Law; Environmental Covenants**

10.1 Compliance with Law and the GJRAA Documents. Lessee shall observe and obey all statutes, rules, regulations, and directives promulgated by the GJRAA and other appropriate local, State, and Federal entities having jurisdiction over the Airport, including the FAA, the TSA, and the Environmental Protection Agency ("EPA"). To the maximum extent applicable, Lessee further agrees to perform all of its operations authorized hereunder in accordance with all of the terms and conditions of the GJRAA's Minimum Standards, Development and Architectural Covenants ("Architectural Standards"), Fees and Charges ("Fees and Charges"), the AOA Safety Procedures ("Safety Procedures"), Fuel Handling and Storage Procedures ("Fuel Procedures"), and Noise Compatibility Procedures, copies of which are on file in the offices of the GJRAA, as the same may be amended from time to time, including as they are established or amended after the Commencement Date of this Lease. Lessee acknowledges that it has reviewed the above documents or has knowingly waived its rights to review such documents. If any inconsistency exists between the terms of this Agreement and the terms of the Minimum Standards, Architectural Standards, the GJRAA's Fees and Charges, Safety Procedures, Fuel Procedures, and Noise Compatibility Procedures, the terms of this Agreement shall control. Lessee further agrees to comply with all verbal and written directives of the Airport Manager regarding Lessee's use of the Premises, the Airport's airfield areas, and other common areas elsewhere at the Airport.

10.2 Reimbursement for Violations. Should Lessee, or Lessee's board members, officers, agents, employees, customers, guests, invitees, subLessees, assigns, successors, contractors, or subcontractors violate any local, State, or Federal law, rule, or regulation applicable to the Airport, and should said violation result in a damage award, citation, or fine against the GJRAA, then Lessee shall fully reimburse the GJRAA for said damage award, citation, or fine and for all costs and expenses, including reasonable attorney's fees, incurred by the GJRAA in defending against or satisfying the award, citation or fine.

10.3 Subordination. This Lease shall also be subject and subordinate to the requirements of any existing or future contracts or agreements between the GJRAA and Federal, State, or local governments, or any agencies thereof, and to the requirements of any Federal, State, or local

statutes, rules, regulations, or directives governing the operation of the Airport, and the GJRAA shall not owe any damages to Lessee, such as lost profits or revenues, as a result of its compliance with said contracts, statutes, rules, regulations, or directives. The GJRAA shall also be excused from its obligations to pay Lessee eminent domain compensation under Article 12, below, or to provide substitute leasehold premises pursuant to Article 13, below, unless the payment of compensation or provision of substitute premises is specifically directed by the contract, statute, rule, regulation or directive involved.

10.4 Deicing Limitations. Lessee shall use only propylene glycol as a deicing agent unless Lessee receives written authorization from the GJRAA to use a different deicing agent. All deicing operations shall be conducted on the Airport deicing pad, and Lessee shall pay its proportion share of glycol disposal costs in accordance with the GJRAA's then current Fees and Charges, which may be established or amended after the Commencement Date of this Lease.

10.5 Security. Lessee is wholly and completely responsible for, and shall comply with, all requirements of the Transportation Security Administration of the United States Department of Homeland Security with respect to security of the gates, doors or other entryways leading to the Airport's air operations area from the Premises.

10.6 Hazardous Materials.

10.6.1 Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Lessee, its agents, employees, representatives, subLessees, contractors, subcontractors, licensees, or invitees, without the prior written consent of the GJRAA. If Lessee breaches this obligation, or if the presence of Hazardous Material on the Premises is caused or permitted by Lessee and results in contamination of the Premises, then Lessee shall indemnify, defend and hold the GJRAA harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, the diminution in value of the Premises, damages for the loss or restriction on the use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on the marketing of space, sums paid in settlement of claims, attorney fees, consultant fees and expert fees) which arise during or after the term of this Lease as a result of such contamination. This indemnification of the GJRAA by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remediation,, or any removal or restoration work required by any Federal, State, or local government agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises is caused or permitted by Lessee and it results in any contamination of the Premises, Lessee shall promptly take all actions, at its sole expense, that are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises, provided that the GJRAA's approval of such actions shall first be obtained. Lessee's obligations in Paragraph 10 of this Lease shall survive the termination of this Lease.

10.6.2 As used in paragraph 10.6.1, above, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental agency, the GJRAA, the State of Colorado, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under the applicable law, rule, or regulation; (ii) petroleum; (iii) asbestos; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1321); (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. § 6903); (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601); (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks) (42 U.S.C. § 6991); or, (viii) lavatory waste.

10.6.3 Upon the GJRAA's request, Lessee shall provide the GJRAA with written certification from a licensed environmental consulting or engineering firm that the Premises are not contaminated with any Hazardous Material.

## **11. Article 11: Nondiscrimination**

11.1 Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that (1) no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the Premises and any improvements thereon on the grounds of race, color, religion, sex, age, disability, or national origin; (2) no person on the grounds of race, color, religion, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the construction of any improvements on, over, or under the Premises and the furnishing of services therein; and (3) Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

11.2 Lessee shall make and/or furnish its accommodations and/or services on a fair, equal, and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

11.3 This Lease is subject to the requirements of the US Department of Transportation's regulations governing nondiscrimination. Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, age, religion, sex, or disability, in connection with the award or performance of any operating agreement relating to this Lease. Lessee further agrees to include the preceding statements in any subsequent sub-operating



agreements at the Airport that it enters into and to cause those businesses to similarly include the statements in further agreements, as required by FAA Rules, Regulations and Directives.

11.4 Non-compliance with subparagraphs 11.1, 11.2, and 11.3, above, after written finding, shall constitute a material breach thereof and, in the event of such non-compliance, the GJRAA shall have the right to terminate this Lease and the estate hereby created without liability therefor or at the election of either the GJRAA or the United States, or both, the GJRAA and the United States shall have the right to judicially enforce the provisions of subparagraphs 11.1, 11.2, and 11.3. However, this Lease cannot be terminated for non-compliance with subparagraphs 11.1, 11.2, and 11.3 until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed, including exercise or expiration of appeal rights.

11.5 Lessee assures that it shall undertake an affirmative action program if so required by 14 C.F.R. Part 152, Subpart E, to insure that no person shall be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, Subpart E on the grounds of race, creed, color, religion, national origin, age, disability, or sex. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it shall require that its covered sub-organizations, successors, sub-Lessees and assignees provide assurances to Lessee that they shall also undertake affirmative action programs and that they shall require assurances from their sub-organizations, if so required by 14 C.F.R. Part 152, Subpart E, to the same effect.

## **12. Article 12: Eminent Domain, Substitution of Premises, & Subordination**

12.1 In the event that all or any portion of the Premises is taken for any public or quasi-public purpose by any lawful condemning authority, including the GJRAA, through its powers of eminent domain, or by private purchase by any public authority in lieu of the exercise of eminent domain, the proceeds, if any, from such taking or conveyance may be allocated between the GJRAA and Lessee according to the applicable law of eminent domain. If a portion of the Premises is so taken or sold, and as a result thereof, the remaining part cannot be used to reasonably continue the authorized purposes contemplated by this Lease in an economically viable manner, then this Lease shall be deemed terminated at the end of a period of sixty (60) days following said taking or conveyance. In that event, and at that time, Lessee shall surrender the Premises, Improvements (and the GJRAA's fixtures and personal property thereon, if any) to the GJRAA, and Lessee may remove its fixtures and personal property located upon the Premises, in accordance with the provisions of this Lease. No severance damages shall be paid by the GJRAA to Lessee as the result of the condemnation nor shall any damages be paid to Lessee as the result of the termination of this Lease.

12.2 The GJRAA may grant or take easements or rights-of-way across the Premises, in addition to the easements or rights-of-way identified in this Lease, if the GJRAA determines it is in its best interests and in accordance with applicable law to do so. If the GJRAA grants or takes such an easement or right-of-way across any of the Premises, in addition to those easements or rights-of-way identified in this Lease, Lessee may request compensation from the GJRAA for that

easement or right-of-way and the GJRAA will determine whether compensation should be paid to Lessee, and if so, the amount thereof, in accordance with applicable law.

12.3 The GJRAA has the right to substitute Comparable Areas for all or any portion of the Premises, and any additions, alterations or improvements thereon, should the GJRAA, in its sole discretion, determine that a taking of the Premises, or any portion thereof or any Improvement thereon, is required for Airport purposes. In the event that the GJRAA elects to exercise its right to substitute, all title, right and interest to the portion of Premises that is taken shall immediately vest in the GJRAA. Furthermore, the GJRAA may require Lessee to vacate the portion of the Premises taken. For the purposes of this Article, the term "Comparable Areas" is defined to mean a parcel of land within the Airport, or any additions or extensions thereof, similar in size to the Premises and brought to the same level of improvement as the Premises. The GJRAA 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, the GJRAA shall replace, at GJRAA's expense, such non-relocatable improvements and other property with comparable property in the Premises, and the GJRAA 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 subparagraph that Lessee be placed, to the extent possible, in the same position it would have been, had the GJRAA not substituted new premises for the Premises; provided, however, that the GJRAA shall not be obligated to reimburse Lessee for any damages, including lost profits or revenues, due to such substitution, should the GJRAA elect to exercise its right to substitute.

12.4 Nothing in subparagraph 12.3, above, shall be construed to adversely affect the GJRAA's rights to condemn or exercise its rights of eminent domain in regard to Lessee's leasehold rights and interests in the Premises, and any improvements thereon, should the GJRAA, in its sole discretion, determine that it requires all or any portion of the Premises, and improvements thereon, for Airport purposes. The GJRAA may, at its sole discretion, exercise its leasehold condemnation rights in lieu of the GJRAA's substitution rights set forth in subparagraph 12.3, above. Nothing in this Article shall be construed as a promise by the GJRAA to substitute Comparable Areas for the Premises. In the event the GJRAA proceeds by way of condemnation or through the exercise of eminent domain, Paragraph 12.3 shall not apply.

12.5 This Lease and all provisions hereof shall be subject and subordinate to the terms and conditions of all existing and future instruments, documents, contracts, or agreements between the GJRAA and any Federal, State, or local government, or any agency thereof, as well as subject and subordinate to the requirements of any current or future Federal, State, or local statute, rule, regulation, ordinance, or directive governing the operation of the Airport, and the GJRAA shall not owe any damages to Lessee, such as for lost profits or revenues, as a result of the GJRAA's compliance with said instruments, documents, contracts, agreements, statutes, rules, regulations, ordinances, or directives. The GJRAA shall also be excused from its obligations to pay Lessee eminent domain compensation or to provide substitute leasehold premises pursuant to this Article for its compliance with said instruments, documents, contracts, agreements, statutes, rules,

regulations, ordinances, or directives, unless specifically directed otherwise by those instruments, documents, contracts, agreements, statutes, rules, regulations, ordinances, or directives.

**13. Article 13: Airport Development Rights; Emergency Use of Premises; Flight Paths; Height Restrictions.**

13.1 In addition to the GJRAA's other rights set forth in this Lease, the GJRAA reserves the right to further develop or improve all areas within the Airport, including landing areas, as the GJRAA may determine, in its sole discretion, to be in the best interests of the Airport, regardless of the desires or views of Lessee, and without further interference or hindrance from Lessee. The GJRAA may, from time to time, increase or decrease the size or capacity of any airfield areas and Airport rights-of-way/facilities, make alterations thereto, reconstruct or relocate them, modify the design and type of construction thereof, or close them, or any portion or portions of them, either temporarily or permanently, without being liable for any damages, including lost profits or revenues, that Lessee may incur, and without being deemed to have terminated this Lease as a result thereof.

13.2 Lessee hereby permits the GJRAA to utilize all, or a portion of, the Premises, as well as the public airfield areas and any other parts of the Airport, should an emergency or other unforeseen circumstance arise at the Airport, and should the GJRAA determine, in its sole discretion, that the GJRAA needs to utilize all or a portion of the Premises, or other areas of the Airport, for business, media, first aid, or other purposes, during the pendency of said emergency or other unforeseen circumstance. The GJRAA shall use best efforts to attempt to locate alternative space on the Airport from which Lessee may conduct its business, while the GJRAA is utilizing all or a portion of the Premises during the pendency of the emergency or unforeseen circumstances. If the GJRAA is not able to find alternate space on the Airport from which Lessee may conduct his business during said emergency or unforeseen circumstances, then Lessee may be entitled to an abatement of ground rent, if permitted by applicable law, allocable to that portion of the Premises utilized by the GJRAA for the length of time that the GJRAA utilizes said portion of the Premises. Finally, regardless of whether the GJRAA is able to locate alternate premises on the Airport for Lessee to conduct its business, Lessee shall not be entitled to any damages, including lost profits or revenues from the GJRAA, as a result of the GJRAA's utilization of the Premises or other areas of the Airport during the emergency or unforeseen circumstances involved, and Lessee shall continue to owe the GJRAA all landing fees and other fees and charges that accrue during said period.

13.3 It shall be a condition of this Lease that Lessee reserves unto itself, its successors, and assigns, 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, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating at the Airport.

13.4 The GJRAA reserves the right to protect the aerial approaches of the Airport against obstruction, including the right to prohibit Lessee from erecting, or permitting to be erected, any

building or other structure on the Premises which would, in the judgment of the GJRAA, limit the usefulness of the Airport or constitute a hazard to aviation. Lessee also expressly agrees, for itself, its successors, and assigns, to restrict the height of structures, objects of natural growth, and other obstructions on the Premises to such a height so as to comply with the Federal Aviation Regulations, including, but not limited to, Part 77. In the event the aforesaid covenant is breached, the GJRAA reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

13.5 GJRAA reserves the right to direct all activities of Lessee at the Airport in the event of an on-site emergency or in the event that Lessee's activities are substantially interfering with the use of the Airport by others.

13.6 Lessee expressly agrees for itself, its successors, and assigns to prevent any use of the Premises that would interfere or adversely affect the operation or maintenance of the Airport or that would otherwise constitute a hazard.

#### **14. Article 14: Cooperation with GJRAA in Collecting Fees**

14.1 Lessee acknowledges that commercial ground transportation operators who pick up their patrons at Lessee's Premises must pay access fees, as well as other fees and charges, to the GJRAA, pursuant to the GJRAA's Fees and Charges, as they may be amended from time to time, including those amounts established or amended after the Commencement Date of this Lease. Accordingly, in order to assist the GJRAA in determining the fees owed to the GJRAA by said ground transportation operators, Lessee will, to the best of its ability, provide in writing to the GJRAA on or before the fifth (5th) day of each month, the following information for each non-local taxicab, for-hire van, for-hire luxury limousine, for-hire people mover, for-hire bus, local hotel/motel courtesy vehicles, and off-Airport rental car operators (i.e., for each ground transportation vehicle operator other than local taxicab or on-Airport rental car operators) that picked up a ground transportation customer on Lessee's Premises during the preceding month: the name, business address, and telephone number of each operator involved; and the date and time of each customer picked up by each such operator during the preceding month.

14.2 Lessee shall provide to the GJRAA, or third-party governmental agency involved, such additional information or clarifications as may be requested, to (a) enable the GJRAA to calculate the landing fees, access fees, and other fees owed by aircraft and ground transportation operators to the GJRAA pursuant to the GJRAA's Fees and Charges, as the same may be amended from time to time, including those amounts established or amended after the Commencement Date of this Lease; (b) further the GJRAA's ability to market, promote and manage the Airport; or (c) to comply with governmental monetary collections and reporting requirements. Any subsequent changes or corrections in the information provided by Lessee shall be reported to the GJRAA and/or governmental agency involved within seven (7) days of Lessee's discovery of said changes or corrections.

14.3 Lessee shall not provide any storage or other services authorized hereunder to any aircraft operator, or permit a ground transportation operator to access its Premises to pick-up or drop off a ground transportation patron, if said aircraft or ground transportation operator is more than ninety (90) days delinquent in any monies owed to the GJRAA, and the GJRAA has sent written notice to Lessee instructing Lessee to cease providing its services or access to said operator.

14.4 Lessee shall comply with such other statutes, regulations, and directives regarding the collection, payment, and reporting of such taxes, fees, and other charges applicable to or for the benefit of the Airport, in the future.

### **15. Article 15: Expiration and Termination**

15.1 Prior to the expiration or termination of this Lease, Lessee shall have the right to sell or transfer any Improvements on the Premises that is not the property of, or owned by, the GJRAA. However, any sale or transfer of these Improvements shall be subject to the consent or approval of the GJRAA, and the GJRAA shall not unreasonably withhold this consent or approval. Should Lessee sell or transfer the Improvements on the Premises that is not the property of, or owned by, the GJRAA prior to the expiration or termination of the Lease, and the GJRAA consents to and approves this sale or transfer, the GJRAA shall, in good faith, negotiate an Aeronautical Use Ground Lease with the new owner of the Improvements.

15.2 Upon the expiration or termination of this Lease, Lessee shall peaceably surrender to the GJRAA possession of the Premises, together with any Improvements, fixtures, or personal property of the GJRAA thereon (such as the GJRAA's security fencing and gating) in as good a condition as the Premises, and Improvements, fixtures, and personal property were initially provided to Lessee, with ordinary wear and tear excepted, without any compensation whatsoever, and free and clear of any claims of interest of Lessee or any other third-party.

15.3 Also upon the expiration or termination of the Lease, and provided that Lessee did not sell or transfer the Improvements on the Premises prior to the expiration or termination of this Lease, Lessee shall have all personal property and trade fixtures removed from the Premises, unless the personal property or trade fixtures are owned by the GJRAA, and shall restore the Premises to a good condition and repair. If Lessee is proceeding with the necessary diligence to remove these items and complete this work, upon thirty (30) days written notice to the GJRAA prior to the expiration or termination of the Lease, Lessee may extend the time to remove these items and complete this work for a period of time not to exceed sixty (60) days. Further, if Lessee is proceeding with "Punch List" work as outlined under Paragraph 3.4 above, Lessee will be provided sixty (60) days to remove the personal property or trade fixtures following the determination of the GJRAA that the Punch List items were not completed to its satisfaction, if that decision is made by the GJRAA. However, Lessee agrees that this additional period of time to remove any personal property or trade fixtures from the Premises, or any work necessary to return the Premises to a good condition and repair, will not create a new tenancy for any additional period of time and that the GJRAA will maintain its rights to terminate the Lease. Following the expiration or termination of the Lease, Lessee shall, at the option of the GJRAA, either (a) leave

the Improvements on the Premises in place, or (b) demolish the Improvements on the Premises, returning the Premises to a flat and level condition, and if the Premises was paved, re-paving the Premises to the same depth and specifications as it existed prior to the expiration or termination of the Lease. If the GJRAA elects to have Lessee demolish the Improvements on the Premises, Lessee will have sixty (60) days to complete this work, but the time period for Lessee to complete this work will not create a new tenancy for any additional period of time.

15.4 The GJRAA shall take title to, and full ownership of, all personal property and trade fixtures not removed by Lessee from the Premises within the time periods identified in Paragraph 16.3, above. Additionally, without any payment to Lessee, the GJRAA shall take title to, and full ownership of, any building, structure, or improvement that was on the Premises at the expiration or termination of the Lease, provided the GJRAA elects to have Lessee leave the Improvements on the Premises in place as outlined under Paragraph 16.3, above. Title and ownership of the personal property, trade fixtures, buildings, structures, or other improvements to the GJRAA under this provision shall be free and clear of any claim of interest by Lessee or that of a third-party.

#### **16. Article 16: Default and Remedies**

16.1 Lessee shall be in default of this Lease upon the happening of any of the following events or conditions ("Events of Default"):

16.1.1 default or breach by Lessee, or any of its successors, assignees, and/or subLessees, in payment or performance of any obligation, covenant, or liability contained or referred to in this Lease, or any approved sublease, as well as any default or breach of any of the terms or conditions of this Lease or any approved sublease;

16.1.2 the Lessee's death, legal incapacity, dissolution, or termination of existence, insolvency, business failure, appointment of a receiver for or the commencement of any proceedings under any bankruptcy or insolvency laws by or against the Lessee, or the general assignment of Lessee's rights, title and interest hereunder for the benefit of creditors;

16.1.3 the Premises being left vacant or unoccupied or apparently abandoned by Lessee for a period of thirty (30) days; or

16.1.4 the placement or assertion of any mechanics' lien or other lien on the Premises due to any act or omission by Lessee or those claiming under Lessee.

16.2 Upon an Event of Default as defined in paragraph 17.1, the GJRAA shall have the right to, and at its option may, exercise any one or more of the following rights and remedies, each of which shall be cumulative, as well as in addition to any and all other rights and remedies authorized by law or equity:

16.2.1 The GJRAA may, with or without terminating this Lease, bring and maintain any action for any amount due and unpaid and/or for specific performance. The GJRAA's damages shall be the total of all rent and costs and expenses of performance of all other covenants

of the Lessee as herein provided due or to become due for the remainder of the lease term, together with the GJRAA's costs, including reasonable attorneys' fees, incurred in retaking possession of the Premises, and bringing and pursuing the action. However, if the GJRAA obtains a judgment against Lessee for damages due to Lessee's breach or default of this Lease, and the GJRAA then leases the Premises to a third-party, the GJRAA shall offset the judgment against the Lessee with any amounts the GJRAA may realize from leasing the Premises to that third-party for the remainder of the lease term with Lessee, after deducting the GJRAA's costs and expenses incurred in connection with obtaining the judgment against the Lessee, as well as leasing the Premises to that third-party, which includes, but is not limited to, redecorating, altering, building, constructing, etc., to prepare the Premises for the lease to the third-party. The GJRAA shall have the sole discretion to determine the terms and conditions of leasing the Premises to the third-party.

16.2.2 The GJRAA may reenter and take possession of the Premises, remove all persons and property therefrom, and declare this Lease and the leasehold estate hereby created to be, and thereupon the same shall be and become, terminated and ended.

16.2.3 The GJRAA may, at its option, with or without declaring this Lease or the leasehold estate created hereby terminated or ended, occupy the Premises or cause the Premises to be redecorated, altered, divided, consolidated with other adjoining premises, or otherwise changed or prepared for re-leasing, and may re-lease the Premises or any part thereof in order to mitigate the GJRAA's damages. The terms and conditions of such re-leasing shall be in the sole discretion of the GJRAA. All rent received by the GJRAA for the remainder of the lease term shall be applied first to the payment of expenses the GJRAA may have incurred in connection with recovery of possession of the Premises and/or preparing it for releasing, and the releasing, including brokerage and reasonable attorneys' fees, and then to the payment of amounts equal to the rent hereunder and the costs and expense of performance of the other covenants of Lessee as herein provided. Lessee shall, whether or not the GJRAA has released the Premises, pay the GJRAA all rent and other sums herein agreed to be paid by Lessee, less the net proceeds of the releasing, if any, as ascertained from time to time, and the same shall be payable by Lessee upon demand. If the GJRAA elects, pursuant hereto, to occupy and use the Premises, or any part thereof, during any part of the balance of the term of the lease as originally fixed or since extended, there shall be allowed against Lessee's obligation for rent or other charges as herein defined, during the period of the GJRAA's occupancy, the reasonable value of such occupancy, not to exceed in any event the rent herein stated, and such occupancy shall not be construed as a release of Lessee's liability hereunder.

16.2.4 The GJRAA may, on reasonable notice to Lessee (except that no notice need be given in case of emergency), cure any breach at the expense of Lessee and the cost of such cure, including attorneys' fees incurred by the GJRAA in doing so, shall be deemed additional rent payable on demand.

16.3 In the event the GJRAA re-leases the Premises as authorized above, any and all of Lessee's improvements, structures, furniture, furnishings, equipment, and trade fixtures that are in or on or about the Premises may be used by the GJRAA or its new Lessee until the expiration of

the term, without any liability for rent, compensation, or other charge therefor; however, in such case, if on the expiration of the term or on an earlier termination of this Lease, the total net amount so collected or received by the GJRAA from and through any such re-leasing or operation has exceeded the total amount accrued and due and unpaid from the Lessee, then such excess shall be applied to the Lessee.

16.4 Whenever a right of reentry is given to the GJRAA by the terms of this Lease, the GJRAA may exercise the same by agent or attorney, and with or without legal process, such process and demand for possession of the Premises being expressly waived by Lessee, and GJRAA may use all force necessary to make such entry and/or hold the Premises after such entry and/or to remove Lessee and/or any other person and property from the Premises; and the GJRAA shall be entitled, on application to a court of competent jurisdiction, to have a receiver appointed in aid of the enforcement of any remedy herein provided.

16.5 Lessee waives all right of redemption to which Lessee or any person claiming under Lessee may be entitled by any law now or hereafter enforced.

16.6 The GJRAA's retaking of possession of the Premises shall not constitute acceptance of surrender, eviction, or forfeiture of the Lease. The GJRAA and Lessee hereby expressly agree that if, after Lessee's default, the GJRAA retakes possession of the Premises, Lessee shall remain liable for all unaccrued rent, and all other obligations of this Lease for the remainder of the lease term, notwithstanding the GJRAA's reentry. Upon default, the GJRAA may exercise any and all of the remedies provided for herein in any order.

16.7 Any default by either Lessee or the GJRAA in the performance of any of the terms and conditions contained herein, other than the payment of Rent, shall be excused where due to force majeure, which, among other things, shall include natural catastrophes such as hurricanes, tornadoes, or floods, acts of God, acts of war, and governmental statutes, regulations, directives, or contracts governing the operation of the Airport, with which the GJRAA or Lessee must comply. This Paragraph shall not apply to a failure to timely pay any monetary amounts due.



## **17. Article 17: Miscellaneous Provisions**

17.1 **Notices.** All notices and communications hereunder shall be given by depositing the same in the United States mail, postage prepaid, registered or certified mail, or via a nationally recognized overnight courier service having proof of delivery, and addressed to the relevant addresses as set forth in paragraph 1, above, or to such other address as either party may specify by notice, in writing, given to the other party. Notices shall be deemed given on the date of mailing and the date of mailing shall be the date shown on the post office registry or express service receipt. Notice given in a manner other than as specified herein shall be ineffective.

17.2 **Subordination.** Lessee's interest in the Premises shall be subordinated to those of any existing or future lender holding a mortgage or deed of trust on the Premises, and Lessee will, at the GJRAA's request, sign such subordination agreements or statements as such lenders may from time to time require.

17.3 **No Waiver.** The failure of either party to insist upon the strict and prompt performance of any of the terms, covenants, agreements, and conditions contained herein, upon the other party imposed, shall not constitute or be construed as a waiver or relinquishment of such party's right or rights thereafter to enforce any term, covenant, agreement, or condition, but the same shall continue in full force and effect. The waiver of any breach of any term, covenant, agreement, or condition contained herein by either party shall not be construed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement, or condition. Should Lessee breach any of its obligations hereunder, the GJRAA may thereafter accept from Lessee any payment or payments due hereunder, and continue this Lease, but without waiving the GJRAA's right to exercise and enforce all available default rights hereunder, or any other remedies provided by law, for said breach or default.

17.4 **Lease Contingent.** If improvements on the Premises have not been constructed as of the date of this Lease, this Lease is contingent upon FAA approval of any construction or development plans by Lessee, and upon the approval of any applicable planning agency. The responsibility for obtaining any authorization from or approval of any federal, state, or local governmental agency shall be the sole responsibility and expense of Lessee. Lessee shall have 60 days from the date set forth in paragraph 1.1, above, to satisfy the foregoing contingencies. If, at the end of such 60 day period Lessee has not provided to the GJRAA clear evidence that such contingencies have been satisfied, or that substantial progress has been made toward satisfaction of same, then the GJRAA may terminate this Lease without penalty to Lessee.

17.5 Entire Agreement; Modifications; Termination of Prior Leases. This Lease constitutes the entire agreement between the parties with respect to the subject matter contained herein. Modifications or amendments to this Lease shall be effective only if made in writing and executed by the GJRAA and Lessee. This Lease shall replace and supersede all prior leases, amendments and addenda thereto and any other agreements between the GJRAA and Lessee with respect to the Premises, all of which shall be deemed terminated upon mutual execution of this Lease.

17.6 Time of Essence. Time shall be of the essence of this Lease, and the terms hereof shall be binding upon the heirs, personal representatives, successors, and permitted assigns of each of the parties hereto.

17.7 Headings. The article or other headings employed in this Lease are for convenience of reference only. Such headings shall not be interpreted as enlarging or limiting the meaning of any portion of this Lease.

17.8 Lessee Representations. Lessee represents that Lessee is the owner of, or fully authorized to use any and all services, processes, machines, articles, marks, names, or slogans used by Lessee in Lessee's operations under this Lease. Lessee shall save and hold the GJRAA, its Board members, officers, employees, agents, and representatives, free and harmless against any loss, liability, expense, suit, or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright, or from any claim of unfair competition or other similar claim, arising out of Lessee's operations under, or in connection with, this Lease. Lessee, and those individuals executing this Lease on behalf of Lessee, represent and warrant that they are familiar with C.R.S. §18-8-301, *et seq.* (Bribery and Corrupt Influences) and C.R.S. §18-8-401, *et seq.* (Abuse of Public Office) and that they are unaware of no violations of the provisions thereof with respect to this Lease or operations to be conducted hereunder. With respect to Lessee, the undersigned warrants and represents he/she is authorized to execute this Lease on Lessee's behalf, and Lessee shall be bound as a signatory to this Lease by his/her execution of this Lease. Lessee also certifies, by signing this Lease, that neither it nor its principals, members, or managers are presently debarred, suspended, proposed for debarment, declared ineligible, or are voluntarily excluded from participation in this Lease by any federal department or agency. Lessee further agrees, by signing this Lease, that it will include this clause, without modification, in all subleases.

17.9 Fees and Memorandum. Lessee shall pay all legal and surveying fees and costs associated with the rental of the Premises under this Lease or any addendum hereto. Furthermore, Lessee shall assist the GJRAA, in any way deemed advisable in preparing, executing or recording a Memorandum of Lease relating to this Lease.

17.10 Invalidity. If any term or condition of this Lease or the application thereof to any person or event shall to any extent be invalid and unenforceable, the remainder of this Lease and the application of such term, covenant, or condition to persons or events other than those to which it is held invalid or unenforceable shall not be affected and each term, covenant, and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

17.11 GJRAA Representations. The GJRAA covenants and represents that it is the owner of the Premises, and has the right to enter into this Lease and grant the rights contained herein to Lessee.

17.12 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third-party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the parties. It is understood and agreed that neither the method of computation of fees, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of landlord and Lessee.

17.13 Attorney Fees. If litigation is required to interpret or enforce this Agreement, the prevailing party shall be awarded its reasonable attorney's fees, costs and other expenses incurred in addition to any other relief it receives.

17.14 Incorporation of Exhibits. The Exhibits to this Lease are integral parts of this Agreement and Lessee is bound by the terms set forth in them. If through oversight or otherwise, those Exhibits are not attached hereto, it is Lessee's responsibility to obtain copies of those Exhibits from the GJRAA.

17.15 Law and Venue. This Lease shall be interpreted in accordance with the laws of the State of Colorado and applicable federal law. Should either party believe it necessary to file suit to interpret or enforce any provisions of this Agreement, the exclusive venue and jurisdiction for said lawsuit shall be in the Mesa County, Colorado, or if federal court jurisdiction would be appropriate, then in the United States District Court for the District of Colorado.

17.16 All Terms Material. Covenants and agreements herein which would ordinarily be considered to be material shall be so considered herein. In addition, the parties recognize the special and unique nature of Airport operations; that the GJRAA operates the Airport under agreements with other government entities, pursuant to numerous laws, regulations and ordinances, and in furtherance of the public need, health and safety; each term, covenant and/or agreement, the breach of which by Lessee might materially adversely affect any such aspect of the GJRAA's operation of the Airport, shall also be deemed material, and any default in any such term, covenant and/or agreement shall be deemed to be a default in the Lease.

17.17 Right of Appeal. Whenever the Airport Manager is authorized by this Lease to make discretionary decisions affecting Lessee, or the Airport Manager is authorized by the GJRAA to make discretionary decisions hereunder, the Lessee shall be entitled to appeal such decision to the Board of the GJRAA. Any such appeal shall be in writing, shall be filed with the GJRAA within thirty (30) days of the complained of decision, shall clearly state each basis for appeal, and shall include copies of any documents upon which the appeal is based. The pendency of an appeal shall not relieve the Lessee from compliance with the decision of the Airport Manager. The taking of such an appeal shall be a condition precedent to the filing of any action by Lessee to enforce or interpret this Lease.

17.18 Limitation of Benefit. This Lease does not create in or bestow upon any other person or entity not a party to this Lease any right, privilege or benefit unless expressly provided in this Lease. This Lease does not in any way represent, nor should it be deemed to imply, any standard of conduct to which the parties expect to conform their operations in relation to any person or entity not a party.

17.19 Non-Exclusive Right. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958, as amended. The GJRAA reserves the right to grant to others the privilege and right of conducting any aeronautical or non-aeronautical activity at the Airport. The GJRAA reserves the right, during the term hereof, to reduce and reallocate space leased for the exclusive use of Lessee in any case where the failure to do so might reasonably constitute the granting by the GJRAA to Lessee of such an exclusive right.

Done and entered into on the date first above written.

**GRAND JUNCTION REGIONAL AIRPORT  
AUTHORITY**

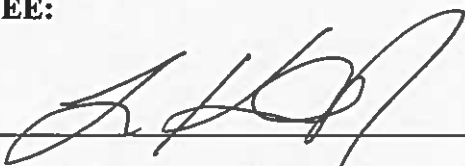
Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**LESSEE:**

Dated: 11-28-18

By: 

Its: HANGER OWNER

**EXHIBIT A**

**Description of the Premises**

**EXHIBIT B**

**Survey Including Common and Particular Description of the Premises**

# Grand Junction Regional Airport Authority

## Agenda Item Summary

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TOPIC:	Motorola Radio Replacement
PURPOSE:	Information <input type="checkbox"/> Guidance <input type="checkbox"/> Decision <input checked="" type="checkbox"/>
RECOMMENDATION:	Board authorize the Executive Director to award the described radio replacement purchase to QDS Communications (Motorola)
DISCUSSION:	<p>We have entered into a three year program to replace all of our existing inventory of Airport hand-held radios.</p> <p>Existing stock of airport radios were purchased in 2009, in which Motorola no longer produces replacement parts. In addition to the production limitations of our existing radios, we are in need of extra radios with the recent/planned additions to our staff. Furthermore, Motorola Radios outperformed competition Kenwood Radios during our two month side-by-side testing.</p> <p>The airport was able to secure larger discounts as we have combined purchasing efforts with multiple surrounding agencies (GJFD, GJPD, MCSO)</p> <p>QDS Communications is the only authorized dealer in the Grand Junction Area.</p> <p>(Due to the lead/delivery time, expected arrival of goods and payment will not be made until 2019.)</p>
REVIEWED BY:	Staff and Legal Counsel
FISCAL IMPACT:	\$28,517.12
ATTACHMENTS:	QDS Communications Quotation
STAFF CONTACT:	Mark Papko Email: mpapko@gjairport.com Office: 970-248-8596

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**MOTOROLA**

Version 2 Updated 11-15-18

Date: 11/15/18 **Good until 12/10/18**

Account Manager: Arn Hayden

Quote#:

**V2**

Prepared by: Dave Petty

Contract Number: NASPO ++++ EXTRA

Customer	Grand Junction Airport Fire	Contact	Mark Papko
Address	2828 Walker Field Dr.		
City	Grand Junction	State	CO
ZIP	81506	Email	<a href="mailto:mpapko@gjairport.com">mpapko@gjairport.com</a>
Phone	(970) 812-2716	Fax	

**GJ Airport Fire**  
*SPECIAL PRICING*  
Portable and Mobile Promotion 350 -400 Radios  
**49-53% Discount**

QTY	Model / Description	Price Each	TOTAL
<b>350-400 Radios Countywide-with trade in XTS/XTL- any combination of Mobiles and Portables (49-53% Discount)</b>			
	<b>APX6000XE PORTABLE RADIOS. (FIRE) UL &amp; Ruggedized</b>		
8	APX6000XE Model 2 Portable Radio With Display, 700/800 MHz, Multikey, <b>Impact Green</b> Ultra High Capacity UL Battery. Bluetooth & GPS included for free. <b>Digital Tone Signal- Like VHF Paging</b>	\$3,381.81	\$27,054.48
8	Trade In <span style="float: right;"><b>Trade-in XTS or XTL</b></span>	<b>(\$140.00)</b>	<b>-\$1,120.00</b>
	<b>Accessories</b> <span style="float: right;"><b>Radio Price Each</b></span>	<b>\$3,241.81</b>	
8	Chargers, Single unit Impress Rapid Rate	\$109.50	\$876.00
8	XE500 Remote Speaker Mic with Flashlight and Channel <b>Control Knob (PMMN4106)</b>	\$401.50	\$3,212.00
8	3 Year Essential Services (Warranty) H885BK	\$90.00	\$720.00
	<b>TOTAL</b>	<b>\$3,842.81</b>	<b>\$30,742.48</b>
	<b>Promotion Q4 for XE500 Mic</b>	<b>-\$200.75</b>	<b>-\$1,606.00</b>
	<b>Promotion Q4 Charger</b>	<b>-\$54.75</b>	<b>-\$438.00</b>
8	<b>Additional Promo- Competitive</b>	<b>-\$22.67</b>	<b>-\$181.36</b>
	<b>Promotional Total Q4</b>	<b>\$3,564.64</b>	<b>\$28,517.12</b>





## Grand Junction Regional Airport Authority

### Agenda Item Summary

TOPIC:	Master Service Agreements General Contractor On-Call
PURPOSE:	Information <input type="checkbox"/> Guidance <input type="checkbox"/> Decision <input checked="" type="checkbox"/>
RECOMMENDATION:	Approval of the Master Service Agreements with FCI and PNCI.
LAST ACTION:	Proposals received on October 30, 2018
DISCUSSION:	<p>A total of two (2) Proposals were received. FCI Constructors, Inc. and PNCI Construction, Inc. both meet the requirements for General Contractor On-Call to provide contracting services for future building projects at the Airport. Staff recommends that both firms be selected when construction projects begin, then can be distributed accordingly. The on-call contractors will be under an Agreement with the Airport for a one-year term with the ability to renew on an annual basis. Pricing rates are included within the Agreements. Staff recommends one-year terms since pricing is fixed, and escalation factors would not be ideal in the current economic environment. Other on-call contracts such as AIP contracts do not include pricing and so they typically use a five-year term.</p> <p>No work is currently contracted, but future terminal renovation projects slated for next year will be performed under these Agreements.</p>
REVIEWED BY:	Proposals were evaluated by the selection committee. The Agreement was reviewed by staff, legal counsel, and the Executive Director.
FISCAL IMPACT:	<b>Total Budgeted Amounts for 2019 Terminal Renovations: \$110,000</b>
COMMUNICATION STRATEGY:	Staff will provide specific contracts for approval to the Board as future on-call contracts are considered, in accordance with Airport Procurement Policy.
ATTACHMENTS:	None.
STAFFCONTACT:	Eric Trinklein <a href="mailto:etrinklein@gjairport.com">etrinklein@gjairport.com</a> Office: 970-248-8597

## Grand Junction Regional Airport Authority

### Agenda Item Summary

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TOPIC:	Rates & Charges Update		
PURPOSE:	Information <input checked="" type="checkbox"/>	Guidance <input type="checkbox"/>	Decision <input type="checkbox"/>
RECOMMENDATION:	N/A		
SUMMARY:	<p>The Airport staff have been working with DKMG, our rates and charges consultants, to establish new rates and charges for the airlines and update the existing leases.</p> <p>We had a preliminary meeting with the airlines in October to go over our objectives for the rate setting and also to give them an update about our operations and upcoming capital projects.</p> <p>We have made some revisions based on the initial meeting and will be working to send out updates to the airlines to keep the process moving.</p>		
REVIEWED BY:	Finance Director and Legal Counsel		
FISCAL IMPACT:	Budget: Operating <input type="checkbox"/> Capital <input type="checkbox"/> Proposed increases to airline revenues dependent on the final approved rates.		
ATTACHMENTS:			
STAFF CONTACT:	Sarah Menge Office: 970.248.8581 Email: <a href="mailto:smenge@gjairport.com">smenge@gjairport.com</a>		

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## Grand Junction Regional Airport Authority

### Agenda Item Summary

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TOPIC:	Asset Disposal Policy Discussion		
PURPOSE:	Information <input checked="" type="checkbox"/>	Guidance <input type="checkbox"/>	Decision <input type="checkbox"/>
RECOMMENDATION:			
SUMMARY:	<p>The staff have identified various “assets” that need to be disposed of.</p> <p>The current scope within the policy does not clearly define what an “asset” is, but simply says “all equipment and materials purchased with GJRAA funds”. Additionally, all disposals must be approved by the board, regardless of the value of the items disposed, or the method of disposal (see paragraphs 3 and 4).</p> <p>With the move to our new office space on the third floor, we have desks and other office furniture that were purchased in the early 2000’s that we will need to dispose of. We also have several pieces of old subway equipment and furniture stored under the terminal ramp area that needs to be moved to free up space for parking the administrative vehicles when we move out of the current temporary office space in the airline ticket office.</p> <p>Given the condition and the age of the furniture and equipment identified, staff would likely recommend that the items are donated to a local charity or taken to the landfill.</p> <p>The approval requirement to dispose of all assets, regardless of value or method, creates an operating inefficiency for staff because it delays their ability to clean out needed space, or to capitalize on opportunities that may arise to sell or trade in used equipment. Another example of this inefficiency was the recent sale of the snow plow hitch to Telluride Airport in November. We had to delay selling and allowing Telluride to pick up the hitch until it could be approved by the Board, even though they had an immediate need to receive the equipment.</p> <p>We are recommending that the board consider modifying the existing policy for the following areas:</p> <ol style="list-style-type: none"><li>1. Re-define the “Scope” to clearly identify assets as being those assets that met the capitalization policy requirements and that are maintained on our fixed asset schedule.</li><li>2. Consider defining disposal methods or asset values that could be approved by a Director, or a Director and the Executive Director. An example of this might be for assets that have a book value less</li></ol>		

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than \$5,000, or any asset that is determined to be useless and recommended to be disposed of as rubbish in the landfill.

We will work with Karl on the wording to revise the policy if the Board agrees with this approach

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REVIEWED BY: Finance Director and Legal Counsel

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FISCAL IMPACT: Budget: Operating  Capital   
N/A

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ATTACHMENTS: Current Asset Disposal Policy

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STAFF CONTACT: Sarah Menge  
Office: 970.248.8581  
Email: [smenge@gairport.com](mailto:smenge@gairport.com)

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**Grand Junction Regional Airport Authority**  
**Policy Regarding Disposal of Assets**  
**Updated 2016**

1. **Purpose.** The purpose of this policy is to establish and define standards and restrictions, and ensure accountability, for the disposal of equipment, vehicles, furniture and other assets owned by the Grand Junction Regional Airport Authority ("GJRAA") in a lawful and cost-effective manner, and which avoids conflicts of interest or their appearance. This policy also promotes reuse of equipment and materials to serve sustainability and repurposing values whenever possible.
2. **Scope.** All equipment and materials purchased with GJRAA funds, including grant funds, are GJRAA-owned and subject to this policy. This policy applies to the proper disposal of all non-leased vehicles, furniture, equipment and other assets (collectively, "Assets") owned by GJRAA. GJRAA owned Assets which are surplus, obsolete or beyond reasonable repair or reuse, or are being replaced, are covered by this policy.
3. **Authorized Disposal Methods.** Acceptable methods for the disposal of Assets may include: (a) Sold in a public forum; (b) Sold as scrap to a licensed dealer; (c) Used as a trade-in against cost of a replacement item; (e) Donated to schools, charities, and other non-profit organizations; (f) Recycled and/or refurbished to leverage further use (within limits of reasonable repair); (g) Discarded as rubbish in a landfill; and (h) Any other method as approved by the Board. Disposal of assets purchased in whole or part from obligated funds shall follow procedures outlined in Paragraph 6.
4. **Board Approval of Assets and Disposal Methods.** From time-to-time as appropriate, the Airport Manager shall present the GJRAA Board with a list of Assets which are recommended for disposal, together with recommendations for the method of Asset disposal and a minimum reserve price if applicable. No Assets shall be disposed of except in accordance with the affirmative vote of the GJRAA Board in open meeting.
5. **Disposal Policies.** It is the responsibility of all employees of GJRAA to ensure that Assets are disposed of according to one or more of the methods prescribed above. Any such disposal shall be conducted appropriately, responsibly and ethically. The following policies must therefore be observed:
  - 5.1. **Trade-Ins:** Where equipment is due for replacement by a newer model, reasonable actions shall be taken to ensure a fair and market trade-in value is obtained for the old Asset against the cost of the replacement. Where the trade-in value is not deemed to be reasonable, another approved disposal method may be used.
  - 5.2. **Income Derived from Disposal:** Whenever possible some residual value shall be achieved from retired or surplus Assets. Any and all receipts from the sale of an Asset must be kept and submitted to the finance department. All such receipts shall state the value received the date and the name of the person or entity to which the Asset was transferred. Income derived from sales to the public must be fully receipted and monies sent to the finance department.
  - 5.3. **Decommissioning of Assets:** All electronic Assets slated for disposal by any means

must be fully wiped clean of all GJRAA data. Any property tags or identifying labels must also be removed from all disposed of Assets.

- 5.4. **Harmful Substances:** Hazardous materials such as lead, mercury, bromine and cadmium shall be thoroughly removed from computer hardware and other Assets before shipment to a landfill as rubbish.
- 5.5. **Donations:** Assets, which are not assigned for reuse, discard or public sale, may be donated to a GJRAA Board-approved school, charity, or other non-profit organization. Donation receipts must be submitted to the finance department stating the name of the organization, the estimated value of the Asset, and the date of disposal.
- 5.6. **Board Members and Employees:** No Board member or employee of GJRAA or members of their immediate family shall be permitted to purchase or otherwise acquire any GJRAA Asset, including through sale in a public forum.
6. **Assets Acquired With Federal or State Funds.** Assets which were acquired with funds derived in whole or in part from federal or state grants, or Passenger Facility Charges, shall be disposed of only in strict accordance with applicable federal or state grant restrictions and requirements.
7. **Lost and Found.** GJRAA will accept, store and log lost items found in the terminal or terminal parking lot. GJRAA will attempt to contact the owner of the lost item if identification is available. If item appears to be a value of \$100 or more, the item will be turned in to the Grand Junction Police Station. Lost and found items will be stored for a minimum of thirty days, after which, unclaimed items will be thrown away or destroyed.

The following items will be turned over to the Grand Junction Police Station

- Items that have an estimated value of \$100 or more.
- Items that contain cash or identification information (i.e. a driver's license, a checkbook, an item with a name engraved on it, etc.
- Articles that are questionable or suspicious in nature (i.e. possibly part of a weapon or drug paraphernalia) should be reported to the GJPD before disturbed. An office will respond and investigate such items where they are found and will make the determination as to whether the office must take possession of the item or leave it with the reporting party.
- Items that are illegal to possess.

# Grand Junction Regional Airport Authority

## Agenda Item Summary

TOPIC:	CMU GJRA Commercial Real Estate Study
PURPOSE:	Information <input checked="" type="checkbox"/> Guidance <input type="checkbox"/> Decision <input type="checkbox"/>
RECOMMENDATION:	
SUMMARY:	<p>In preparation for submitting a request for proposal to develop the unused airport property in 2019, we contacted CMU about providing a study to evaluate the current value, community needs, and review other aspirational airport developments. The intent of the study is to help provide information and context to bidders when we submit our requests to developers.</p> <p>A group of CMU professors have provided us with a proposal to perform the following tasks as part of this study for a total estimated cost of \$30,600.</p> <ol style="list-style-type: none"><li>1. Supply Analysis</li><li>2. Demand Analysis</li><li>3. Review of Other Airport Properties</li><li>4. Property Valuation</li><li>5. Opportunity Surplus/Gap Analysis</li><li>6. Conclusions/Suggestions</li></ol>
REVIEWED BY:	Executive Director and Legal Counsel
FISCAL IMPACT:	\$30,600 Operating Expense
ATTACHMENTS:	Commercial Real Estate Study (DRAFT)
STAFF CONTACT:	Angela Padalecki apadalecki@gjairport.com Office: 970-248-8588





## **GRAND JUNCTION REGIONAL AIRPORT COMMERCIAL REAL ESTATE STUDY (DRAFT)**

### ***WORK AGREEMENT***

Michael Philipp, Dr. Carlos Baldo and Dr. Nathan Perry welcome the opportunity to work with the Grand Junction Regional Airport to assess the options, value, and potential use for the unused airport space. Below is a proposal for approaching the work as well as a budget and timeline.

### ***PROPOSED PLAN***

On the basis of our backgrounds and experience with business research, real estate analysis, and economic analysis we propose a comprehensive report that covers the following:

1) Review of Approach

This section will cover previous reports of a similar nature and both academic and consulting literature that sheds light on best practices for this study.

2) Supply Analysis

Supply analysis is a comprehensive analysis of the supply of commercial real estate (business, commercial, industrial) for the Grand Junction area. This section will examine all relevant types of commercial properties and will provide information on how long each of these competing properties have been on the market. A property that is for sale competes with other properties for sale, hence this section is based on the economic principle of substitution. In the case of real estate, a knowledgeable buyer will not pay more for a comparable substitute. The supply analysis will not just include the current supply of listed properties, but it also needs to include properties that are projected to enter the real estate market during the marketing time of the property.

3) Demand Analysis

The demand analysis will determine the demand for certain types of commercial real estate and assess the demand from growing industries and companies. Real estate demand is the quantity of particular properties and the speed in which they are selling. The demand for commercial properties is driven by economic and industry factors that will be discussed. After understanding the local competitive supply and demand, we will determine the timeframe it would take for different types of commercial properties to be absorbed (absorption rate). Other factors that will be discussed include the free trade zone, the



potential for industry clustering, and any other potential uses that we discover during the study.

4) Property Valuation

Our goal for the study is to provide potential values for different possible uses of the property. As the property could fulfill different uses, we anticipate developing multiple possible values of the property based on these potential uses. We will develop the value indication based on our market analysis and statistical methods.

5) Review of Use of Other Airport Properties

This review will include analysis (contingent to the client's needs & expectations) of other airports' real estate properties, and usage around its facilities. The approach suggested includes visiting three or four aspirational airports (airports which the client thinks are a realistic vision of expectations) and collect information, interviews and images that can provide a comparative perspective to the client in relation to their current real estate properties and potential use. Along with the field work, we expect to incorporate elements inherent to the project identifiable in the academic literature and online content.

- Suggested airports, based on city similarities:
  - Shreveport, LA
  - South Bend, IN
  - Pasco, WA
  - Billings, MT

6) Opportunity/Surplus Gap Analysis

This section will take the work of all previous sections and provide opportunities and suggestions for use of the airport space. Specific ideas for airport usage will be provided and these conclusions will be derived from the analysis in the report.

***DELIVERABLES***

The final deliverable will be a report that covers the following topics listed above as well as the potential of a presentation to interested parties.



***SCHEDULE***

<b>Task</b>	<b>Date Completed</b>
Supply Analysis	December 2018
Demand Analysis	December 2018
Review of Other Airport Properties	January 2019
Property Valuation	January 2019
Opportunity Surplus/Gap Analysis	February 2019
Conclusions/Suggestions	February 2019
<b><i>Final Report</i></b>	<i>March 30, 2019</i>

The schedule above is based on the assumption that the Airport Authority accepts this proposal by no later than Friday, December 7<sup>th</sup>, 2018.

***STAFFING***

***Michael Philipp***

Michael Philipp, CPA, CVA, CDFA, CMCA, is an Instructor of Accounting at Colorado Mesa University and the founder of Valuation Consulting Group LLC, a Colorado Public Accounting firm that specializes in business valuations and litigation support services. He has testified as an expert witness and is a member of the American Institute of Certified Public Accountants, the Colorado Society of CPAs, the National Association of Certified Valuators and Analysts, and the Institute of Divorce Financial Analysts. He has hands-on experience in several different types of valuations, including commercial real estate.

***Carlos Baldo***

Dr. Carlos M. Baldo is an Assistant Professor of Management at Colorado Mesa University. His academic credentials include a Ph.D. in Business Administration and Management, a Masters Degree



in Research Business Administration and Management with a concentration in HR, and an MBA with a concentration on International Business and Licentiate (Bachelor+1) in Business Administration. His research interest focuses on understanding the relations between executive search firms and clients and candidates. Aside from his main investigation, he conducts research on topics related to international business, organizational identity and ethical issues in business. He has scholarly publications in journals and books. He has presented his research in the US, Latin America and Europe. He has traveled to more than 30 different countries, living, working or studying in some of capacity. Before joining academia in 2014, he worked for more than twelve years in accounting and finance positions in sectors like banking, construction, wholesale, entertainment, franchises, and medical devices.

***Nathan Perry***

Nathan Perry, Ph.D. has taught economics and statistics at Colorado Mesa University since 2010. He has published peer reviewed papers, book chapters, a book, and has worked on several large federal government grants and several local grants. In addition to this, he has performed several economic and statistical consulting reports for various Western Slope organizations. He authors economic newsletters for Mesa, Montrose, and Delta Counties.

***PROJECTED BUDGET***

<b>Name</b>	<b>Tasks</b>	<b>Cost</b>
<b>Michael Philipp</b>	Supply Analysis Demand Analysis Property Valuation Opportunity surplus/gap analysis <b>Total Cost</b>	<b>\$15,000</b>
<b>Carlos Baldo</b>	Review of other airports properties (includes visits to 3 aspirational airports, in cases more visits are required by client this may vary) Literature Review <b>Total Cost</b>	<b>\$9,600</b>



<b>Nathan Perry</b>	Economic Analysis Project leadership and organization Statistical Analysis <b>Total Cost</b>	<b>\$3,000</b>
<b>Commercial Real Estate Appraisers and/or Agents</b>		<b>\$1,500</b>
<b>Data Costs</b>		<b>\$1,500</b>
<b>Total Costs</b>		<b>\$30,600</b>

***PAYMENT***

Payment for services will be conducted in two parts: 1) An initial payment of \$8,000 to cover travel costs, data costs, and commercial real estate advise costs. 2) The remaining balance will be due upon completion of the report. CMU will send an invoice when work begins and when work ends to collect for these two phases.

# Grand Junction Regional Airport Authority

## Agenda Item Summary

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TOPIC:	Ground Lease Agreement Benchmark
PURPOSE:	Information <input checked="" type="checkbox"/> Guidance <input type="checkbox"/> Decision <input type="checkbox"/>
RECOMMENDATION:	
SUMMARY:	<p>Throughout the year airport staff and the board have discussed the airport's current Ground Lease Agreement. At the October meeting, the board inquired about how GJT's lease compared to other airports. Airport staff worked on the collection of data from multiple airports highlighting information that includes: term length, rates, insurance and security deposit requirements, lease provisions, along with the incorporation of rules and regulations.</p> <p>Included within this benchmark are airports of varying similarities to GJT. The goal of this benchmark was to see where GJT compared to similar airports, develop trends, and understand gaps that may be present within our current Ground Lease Agreement.</p>
REVIEWED BY:	Airport Staff
FISCAL IMPACT:	None
ATTACHMENTS:	Refer to power point slide deck.
STAFF CONTACT:	Chance Ballegeer Airport Security Coordinator / Property Management Email: cballegeer@gjairport.com Office: 970-248-8586

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## Grand Junction Regional Airport Authority Statements of Changes in Net Position

Unaudited - subject to change

	Year to Date					Month Ending				
	10/31/2018	10/31/2018	10/31/2017	10/31/2018	10/31/2018	10/31/2018	10/31/2018	10/31/2017	10/31/2018	10/31/2018
	Budget	Actual	actual	Budget Diff	Budget % Var	Budget	Actual	actual	Budget Diff	Budget % Var
<b>Operating revenue</b>										
Aeronautical revenue										
Passenger airline revenue										
Passenger airline landing fees	435,700	459,983	447,596	24,283	5.57 %	50,900	44,931	44,942	(5,969)	(11.72) %
Terminal rent	985,000	984,870	988,381	(130)	(0.01) %	98,500	98,487	98,488	(13)	(0.01) %
Other (boarding bridge)	81,600	95,612	86,701	14,012	17.17 %	6,400	4,115	8,436	(2,285)	(35.70) %
<b>Total Passenger airline revenue</b>	<b>1,502,300</b>	<b>1,540,465</b>	<b>1,522,678</b>	<b>38,165</b>	<b>2.54 %</b>	<b>155,800</b>	<b>147,533</b>	<b>151,866</b>	<b>(8,267)</b>	<b>(5.30) %</b>
Non-passenger airline revenue										
Non-passenger landing fees	108,900	160,737	121,739	51,837	47.59 %	7,400	8,079	11,444	679	9.16 %
Cargo and hangar rentals	43,000	43,468	42,599	468	1.08 %	4,300	4,372	4,287	72	1.68 %
Fuel tax & flowage fees	573,500	637,182	537,137	63,682	11.10 %	62,700	68,223	54,156	5,523	8.80 %
Other (ramp parking, rapid refuel)	1,000	4,770	2,190	3,770	377.00 %	100	660	780	560	560.00 %
<b>Total Non-passenger airline revenue</b>	<b>726,400</b>	<b>846,157</b>	<b>703,665</b>	<b>119,757</b>	<b>16.48 %</b>	<b>74,500</b>	<b>81,334</b>	<b>70,667</b>	<b>6,834</b>	<b>9.17 %</b>
<b>Total Aeronautical revenue</b>	<b>2,228,700</b>	<b>2,386,622</b>	<b>2,226,343</b>	<b>157,922</b>	<b>7.08 %</b>	<b>230,300</b>	<b>228,867</b>	<b>222,533</b>	<b>(1,433)</b>	<b>(0.62) %</b>
Non-aeronautical revenue										
Land and building leases	472,081	496,770	476,574	24,689	5.22 %	46,100	49,627	45,691	3,527	7.65 %
Terminal - restaurant & retail	100,900	113,397	103,670	12,497	12.38 %	8,600	11,628	10,739	3,028	35.20 %
Terminal - other	159,000	169,176	212,958	10,176	6.40 %	15,900	15,041	21,296	(859)	(5.40) %
Rental cars	1,016,300	1,095,481	1,014,532	79,181	7.79 %	99,900	127,411	115,324	27,511	27.53 %
Parking and ground transportation	1,176,200	1,140,222	1,183,428	(35,978)	(3.05) %	124,900	122,898	125,717	(2,002)	(1.60) %
Other (security fee, overtime fee, etc)	42,000	57,065	60,647	15,065	35.87 %	4,200	13,098	5,620	8,898	211.84 %
<b>Total Non-aeronautical revenue</b>	<b>2,966,481</b>	<b>3,072,111</b>	<b>3,051,809</b>	<b>105,630</b>	<b>3.56 %</b>	<b>299,600</b>	<b>339,703</b>	<b>324,387</b>	<b>40,103</b>	<b>13.38 %</b>
<b>Total Operating revenues</b>	<b>5,195,181</b>	<b>5,458,733</b>	<b>5,278,152</b>	<b>263,552</b>	<b>5.07 %</b>	<b>529,900</b>	<b>568,570</b>	<b>546,920</b>	<b>38,670</b>	<b>7.29 %</b>

## Grand Junction Regional Airport Authority Statements of Changes in Net Position

Unaudited - subject to change

	Year to Date					Month Ending				
	10/31/2018	10/31/2018	10/31/2017	10/31/2018	10/31/2018	10/31/2018	10/31/2018	10/31/2017	10/31/2018	10/31/2018
	Budget	Actual	actual	Budget Diff	Budget % Var	Budget	Actual	actual	Budget Diff	Budget % Var
<b>Operating expenses</b>										
Personnel compensation and benefits	1,904,790	1,763,934	1,635,594	(140,856)	(7.39) %	174,271	156,392	154,877	(17,879)	(10.25) %
Communications and utilities	277,280	247,899	247,380	(29,381)	(10.59) %	30,358	22,899	22,516	(7,459)	(24.56) %
Supplies and materials	470,445	375,323	352,495	(95,122)	(20.21) %	37,476	55,803	32,074	18,327	48.90 %
Contract services	646,890	470,886	453,971	(176,004)	(27.20) %	36,367	42,829	57,015	6,463	17.76 %
Repairs & maintenance	345,825	254,287	222,256	(91,538)	(26.46) %	29,440	24,431	44,430	(5,010)	(17.01) %
Insurance	77,740	77,878	77,957	138	0.17 %	7,555	7,552	7,993	(3)	(0.03) %
Other (travel, marketing, air service, etc)	288,825	198,255	215,802	(90,570)	(31.35) %	22,335	18,622	23,218	(3,712)	(16.62) %
<b>Total Operating expenses</b>	<b>4,011,795</b>	<b>3,388,462</b>	<b>3,205,455</b>	<b>(623,333)</b>	<b>(15.53) %</b>	<b>337,802</b>	<b>328,528</b>	<b>342,123</b>	<b>(9,273)</b>	<b>(2.74) %</b>
<b>Net Operating income (loss)</b>	<b>1,183,386</b>	<b>2,070,271</b>	<b>2,072,697</b>	<b>886,885</b>	<b>74.94 %</b>	<b>192,098</b>	<b>240,042</b>	<b>204,797</b>	<b>47,944</b>	<b>24.95 %</b>
<b>Non-operating revenue (expenses)</b>										
Passenger facility charges	744,400	761,385	743,303	16,985	2.28 %	68,300	78,299	88,442	9,999	14.64 %
Interest income	37,000	155,930	124,538	118,930	321.43 %	1,000	19,461	10,137	18,461	1,846.06 %
Interest expense	(702,402)	(702,381)	(1,054,817)	21	0.00 %	(69,816)	(69,816)	(73,918)	0	0.00 %
Customer facility charges	596,000	591,356	587,439	(4,644)	(0.77) %	76,600	73,636	77,000	(2,964)	(3.86) %
Capital contributions	11,701,730	2,428,574	3,309,137	(9,273,156)	(79.24) %	177,337	23,375	1,438,387	(153,962)	(86.81) %
Capital expenditures	(22,810,421)	(5,991,627)	(3,798,117)	16,818,794	(73.73) %	(197,041)	(2,887,263)	(1,689,283)	(2,690,222)	1,365.31 %
Debt principal payments	(335,603)	(335,604)	(325,712)	(1)	0.00 %	0	0	0	0	0.00 %
Other (Legal Settlement)	0	0	(151,910)	0	0.00 %	0	0	0	0	0.00 %
<b>Total Non-operating revenue (expenses)</b>	<b>(10,769,296)</b>	<b>(3,092,367)</b>	<b>(566,139)</b>	<b>7,676,929</b>	<b>(71.28) %</b>	<b>56,380</b>	<b>(2,762,308)</b>	<b>(149,235)</b>	<b>(2,818,688)</b>	<b>(4,999.44) %</b>
<b>Excess of revenue over (under) expense</b>	<b>(9,585,910)</b>	<b>(1,022,096)</b>	<b>1,506,558</b>	<b>8,563,814</b>	<b>(89.33) %</b>	<b>248,478</b>	<b>(2,522,266)</b>	<b>55,562</b>	<b>(2,770,744)</b>	<b>(1,115.08) %</b>



## **Variance Explanations - 10/31/18 Financial Statements**

The financial report discussion includes explanations for variances of current YTD or current month versus budget greater than \$10,000 and 10%.

### ***Revenues:***

**Other (boarding bridge)** – Other (boarding bridge) revenue is primarily made up from boarding bridge fees and overtime fees that are charged when flights come in after midnight and require the terminal to stay open. Higher than average boarding bridge usage from increased diversion traffic was the driver behind the YTD variance. October boarding bridge fees were below budget due to lower overtime fees.

**Non-passenger landing fees** – Non-passenger landing fees are up YTD related to the FedEx schedule changes not reflected in the budget. FedEx had 2 flights per day in the first half of the year, while the 2018 budget only assumed one flight per day. October landing fees were within \$700 of budget now that FedEx has returned to one flight a day.

**Fuel Tax & Flowage fees** – YTD Fuel Flowage is up about 19% from 2017, primarily due to 300K gallons more of fuel pumped in July and August 2018 compared to July and August 2017. This increase was primarily driven by the wild fire activities. In October, State fuel tax disbursements were approximately \$14,000 ahead of budget, but was off-set by lower fuel flowage fees for the month. The timing of State fuel tax disbursements are dependent on the timing of when fuel taxes are remitted to CDOT and can vary from month to month. Additionally, it is noted that fuel tax revenues will not necessarily correlate with flowage because of Non-taxable Government and military operations.

**Restaurant & Retail** – Restaurant revenue has been consistently out-performing budget throughout the year. The largest increase was recognized in the third quarter related to increased diversion traffic, but in October, the total year to date increase is now above \$10,000 and 10% for the year. October revenue (September activity) was \$3,000 ahead of budget.

**Rental Cars** – Rental car revenue for October (September rental activity) is \$21K ahead of budget and fuel sales are \$6K ahead of budget and \$4k ahead of October 2017. Rental days in September were down 841 rental days, but the daily rate increased over \$6.50 from 2017, causing the increase in revenues. The increase in fuel sales is a reflection of increased gas prices over 2017.

**Other (security fee, etc.)** - Both security fees and other revenue are both over budget for the year, but within \$3,000 of the 2017 amount. The October increase was primarily driven by SIDA badging renewals.

**Interest income** – Interest income for October and year to date remains over budget, because the budget anticipated \$9M would be spent on the terminal projects this year, beginning in the second quarter. We expect to start making bond draws the next couple of months as the terminal project invoices are starting to come in. Additionally, the scope changes for the terminal projects are expected to reduce the cost by about \$4M. As a result, interest income is anticipated to remain well above budget for the remainder of the year.

**Capital contributions** – Capital contributions continues to be below budget due to the timing of the AIP work being completed. Capital grant reimbursements from the FAA are dependent on project submissions and capital expenditures which are also well below budget.

### ***Expenses:***

**Personnel Compensation & Benefits** – Compensation and benefits for the month are approximately \$18K below budget in October, primarily due to budgeted salary expenses for positions that were un-filled this month. Year to date, we are approximately \$140K below budget.

**Communications and Utilities** – YTD communications and utilities expenses are approximately \$29k below budget, however the expenses are within \$1,000 of the prior year actual expenses so the difference is related to the conservative budget amount that allowed for fluctuating prices and usage.

**Supplies and Materials** – Per their lease, \$59K was budgeted to replace TSA's carpet. This scheduled replacement is targeted to be done in December 2018 or early January 2019. Additionally, the budget for tools and supplies was front loaded in the beginning of the year, but only \$88K has been spent to date of the \$114K budgeted YTD.

**Contract services** – Contract services continues to come in under budget, and our forecast indicates that will continue for the year. The main driver for the YTD variance is the amortization of two of our more expensive software subscriptions that were budgeted to be fully expensed in January. The main drivers for the lower forecast for the year are lower legal fees and \$18K budgeted for the Dynetics ground radar systems that is no longer planned to be spent.

**Repairs & Maintenance** – This account is under budget YTD primarily due to expenses budgeted in the first half of the year but expected to be spent in the second half. All of Fleet repairs and maintenance was budgeted in January for the full year, most of which has not yet been spent. Boarding bridge repairs are under budget YTD due to parts coming in under budget and one bridge having less usage due to the apron project. Additionally, there is a remaining \$20K contingency in the budget for various departments.

**Other expenses** – Other expenses includes marketing and air service development costs that were budgeted for earlier in the year. This is also where additional budget contingency (\$34K) is held.

**Capital expenditures** – The original budget projected that all AIP projects would be completed by the end of September, however, work is continuing on RTR, 27 1/4 Road, and Taxiway A into Q4, which is resulting in the large budget variance. Some of this work will be completed in Q4, but we have estimated that approximately \$3.5M of budgeted 2018 projects will actually be completed in 2019 and this has been included in the 2019 budget.