



# NORTHERN COLORADO REGIONAL AIRPORT COMMISSION

4900 EARHART ROAD • LOVELAND, CO 80538

## MEETING AGENDA MONDAY AUGUST 22, 2022 3:00PM – 4:30PM

### CALL TO ORDER

### ROLL CALL

### PUBLIC COMMENT

### CONSENT AGENDA

1. JUNE 16, 2022 MEETING MINUTES
2. JUNE & JULY FINANCIAL STATEMENTS
3. AIRPORT DIRECTOR'S REPORTS FOR JUNE & JULY
4. PAVEMENT MAINTENANCE AND REPAIR CONTRACT WITH COULSON
5. LAND LEASE ASSIGNMENT AND ASSUMPTION 5232, 5240, 5250, 5260, & 5270 STEARMAN ST.
6. LEASE AMENDMENT FOR 5232, 5240, 5250, 5260, & 5270 STEARMAN STREET

### APPROVAL OF CONSENT AGENDA

### AIRPORT DIRECTOR'S REPORT HIGHLIGHTS

### REGULAR AGENDA

7. U.S. CUSTOMS PROPOSAL FROM DISCOVERY AIR – ACTION ITEM (30 MIN)
8. UNITED AIRLINES/LANDLINE INCENTIVE EXTENSION – ACTION ITEM (10 MIN)
9. TERMINAL DESIGN UPDATE: FINANCIAL & DESIGN OPTIONS – ACTION ITEM (60 MIN)
10. BUSINESS FROM MEMBERS

### PULLED CONSENT AGENDA ITEMS

### ADJOURN

## Meeting Planning Calendar

#### September 15

- Staffing Plan
- 2023 Budget Review
- Hangar RFP Update

#### October 20

- 2023 Budget Adoption
- Aviation Technical Training and Innovation Center Presentation: ARPA Funding Project Proposal
- 5-Year Capital Improvement Plan Draft Review

#### November 10

- Capital Improvement Plan Adoption
- Remote Tower Project Update
- Legal: Commission Roles and Responsibilities Training

Next Regularly Scheduled Planning & Development Subcommittee Meeting: August 24 @3:30.  
Agenda and materials available at [www.flynoco.com/airport-commission/pdsc](http://www.flynoco.com/airport-commission/pdsc).



## June 16, 2022 Meeting Minutes

Chair Overcash called the meeting to order at 3:34

### Call to Order:

**Roll Call:** Chair Overcash, Vice-Chair Fleming, Commissioners Adams, Arndt, DiMartino, and Stooksbury were present. Commissioner Stooksbury attended by teleconference. Commissioner Burger was absent

**Public Comments:** None

### Consent Agenda

Vice-Chair Fleming moved to approve the Consent Agenda. The motion, seconded by Commissioner Arndt carried with all the Commissioners present voting in favor thereof.

**Pulled Items** None

**Consent Follow up** None

**Monthly Report Follow-up:** None due to time constraints

**Public Comments:** None

### Regular Agenda

#### **4. 2021 AUDIT PRESENTATION**

The City of Loveland's Finance Department contracted external auditing firm Plante Moran to complete an annual audit of the Airport's finances. These audits are required as a public entity. City of Loveland Finance Department staff and consultants from Plante Moran presented the 2021 consolidated audited financial statement to the Airport Commission.

**3:40 pm Commission Burgener arrived**

**Public Comments:** None

Vice-Chair Fleming moved to approve the 2021 audit. The motion, seconded by Commissioner Adams carried with all the Commissioners present voting in favor thereof.

#### **5. STAFFING ANALYSIS PRESENTATION**

The airport currently has seven (7) full time equivalent (FTE) employees and an intern. These staff members are tasked with safely operating and maintaining the airport. Staff provide a



variety of functions including maintaining grounds, facilities, equipment, lease management, financial coordination & budgeting, communications with stakeholders and the public, security compliance and badging for 1,200 airport users, plus much more.

A staffing analysis was created in late 2019 with help from a consulting firm specializing in airport staffing and recruitment. Once the analysis was completed, the pandemic arrived, creating an uncertain future that delayed implementation. Fast forward to this year, staff reviewed the draft plan, and elected to update it with current information. Since 2019 much has changed at the airport including the start of testing the remote tower project/provision of air traffic control services, increased security needs, and airport growth requiring greater personnel resources and professional services. The staffing analysis was updated by the same executive search firm that specializes in airport executive recruitment utilized for the study in 2019.

The result of the study showed that there is a great need for additional staff compared to other airports and current workloads. The study also focused on the creation of a longer-term framework for classifying and organizing future personnel needs. The City of Loveland Human Resources Department has reviewed the study, and concurs with implementation of the short-term recommendations. This includes the immediate addition of one staff member to focus on administrative services & security badging support. A Deputy Director position to assist with airport managerial functions this role will be reviewed at the September Commission meeting after further refinement which will also include a final draft of the expanded staffing analysis. These two positions are designed to reduce workloads from most if not all current staff, allowing focus and effective use of time, bringing the total FTE to nine (9).

**Public Comments:** None

**Commissioner DiMartino moved to approve the new Business Services Technician position with approval for the staffing analysis and additional staff position to be suspended until the September 15 meeting. The motion, seconded by Commissioner Arndt carried with all the Commissioners present voting in favor thereof.**

**6. GENERAL**  
**AVIATION HANGAR**  
**DEVELOPMENT**  
**AREA**

Recent hangar development has led to a shortage of shovel-ready land for development. With the likely redevelopment of the Airport-owned T-hangars, the Airport Commission has directed staff and the Planning & Development Subcommittee



**RECOMMENDATION**  
**ITEM**

(PDSC) to work on the creation of an infrastructure plan that will create more improved sites for future hangar development projects. Two sites were discussed as the best options for near-term development, the area east of the existing T-hangars (Site B from the Hangar Development RFP) and the area north of Runway 6/24 (Site C from the RFP).

Dibble engineering prepared high-level cost estimates for improving both sites to shovel-ready condition for basic general aviation hangar development. At the May PDSC meeting, the estimates were analyzed and the pros and cons of both areas were discussed. The PDSC voted unanimously to recommend the area north of Runway 6/24 (Site C) to the Airport Commission as the area where infrastructure planning efforts should be focused for new general aviation hangars. Although infrastructure estimates for this site were 30% higher, the area has more potential with the ability to accommodate many more hangar units.

**Public Comments:** **Diane Jones, PDSC:** This could be an opportunity to look at different ways to fund infrastructure for the long term. Jason mentioned grants and funds available in the budget. But this might be an opportunity really to look at this in a pilot perspective and discover other ways in which we might use revenues off of property taxes or something like that, or look at plant investment fees. Then there is a combination of not only the airport fronting infrastructure costs, but find other ways to financially pay for. So just look at this as an opportunity and if we do it as a pilot, that gives us a chance to look at what works, what doesn't work and tweak it, for the future. I just wanted to put that out as it could be an opportunity to look at other financial approaches. **Ted Rogers, FNL pilot:** Appreciated the advance note sent to T-hangar tenants. Requested the Commission look into the ability to cap rental rates for hangars owned by developers. Asked that the Commission change airport land leases to no longer have a reversionary clause or the ability to guarantee perpetual renewals as that may turn off investors. **Chad Graves, Cichos Construction:** Stated that site C was much more attractive as a developer and agreed with the Commission's direction. Stated they had many years constructing hangars and had just completed two on Gulfstream and Cessna and were aware they did not hold much standing with the GA community. Stated small T-hangars do not make economic sense due to high development costs. Stated they also found the north site attractive and would like to sign a lease and begin building now.

**Direction:** The Commission approved staff to move forward with site C and also requested legal counsel to investigate if the airport is able to cap private developer's lease rates for their buildings.





**7. US CUSTOMS  
PROPOSAL FROM  
DISCOVERY AIR**

At the April 21st Airport Commission meeting, representatives from Discovery Air provided a report on their recent efforts to apply for a US Customs program during other business. Staff were directed at that meeting to investigate options available for partnership possibilities with Discovery Air in support of the U.S. Customs Reimbursable Services Program. This included legal staff review on what would be in compliance with federal requirements and crafting Airport Commission written support for the USCBP application. Since that meeting Discovery Air have met with Airport Staff to discuss the topic further, which has evolved into a request for financial support.

Staff have reached out to the Cities and Larimer County Economic Development staff to discuss the potential of financial support on this item. The service as it is currently proposed would support a number of based businesses within the region, and would be more in line with regional economic development support. During conversations an idea arose where this financial request could be funded through the American Rescue Plan Act resources that the three entities were anticipating to receive this year. This discussion is in the preliminary stages of investigation with no commitments finalized.

- The \$200,000 annual request would require 13% of the airport's \$1.57 million operating and maintenance budget to support.
- Discovery Air provides an annual lease fee to the Airport of \$46,723
- Revenues that would be generated from the service to the airport is unknown, but can be assumed that it may result in additional fuel

**4:56 Commissioner Stooksbury disconnected**

**Public Comments: Delores Wisner, FNL pilot and T-hangar Tenant:** I would just request from Legal that there be a clearly identified set of risks and if possible, monetary risk. But beyond monetary, what they (FAA) can close down because we do this or the private partnership of it. And I'm not saying we weren't, but Laurie's clearly identified that there is a significant risk here and that that can't be forgotten despite any future benefit or secondary benefit that might be available. So that would be just a request from our side. **Scott Schorling, Economic Development City of Loveland:** I just want to mention I've been doing a lot of background economic impact analysis for primary employers. And if we got one new primary employer in Fort Collins or Loveland it would more than pay for what this maximum contribution is. So, whether



they're investing in equipment for their machinery or doing other sales tax, the one million dollars could be offset easily by one primary employer.

**Overcash:** So. So, your department would make a contribution to this?

**Schorling:** It just comes from the general fund, so I guess it would.

**Diane Jones, PDSC:** Just a quick comment, we've worked on this for some time. And I think that in developing the contract that would come back to the Commission as well as the Councils, to be really clear on some of the discussions, i.e., the budget, to be really clear about, you know, anticipated revenues and then how those are expensed. I think also having it would be helpful to have some metrics included so that some of the comments that have been made about, you know, the benefits from refueling, we can really track that and see what those benefits are.

So having some of those metrics as part of the contract and then also really be willing to open up the books both from our side and Discovery Air to see what those expenses really are, because we're estimating and it would be really helpful just to have some of those because then that builds that in into have a real clear review after one year because there may be some tweaks that could happen either way. But if we're going to be in a partnership and contract really being open about both metrics and what goes into it. **Theo Barker, based pilot:** I just want to Emphasize that for an exclamation point on the end of it. Looking at page 148 for the financial plan. I've never seen a financial plan where they only had expenses listed out and have no revenues.

**Direction:** The Commission directed staff to continue working on this potential collaborative effort with Discovery Air and to present a contract back to the Commission at a future meeting. Discovery Air's final proposal must reflect this venture directly benefits the general public by including passport control, the proposal also needs to clearly reflect the expected revenues and expenditures, metrics on scoring the performance of this CBP office, what the future goals would be within what defined period of time to determine success, the defined lost opportunity if the Commission opts to fund the hangar infrastructure development north of 6/24 instead of this venture. The Commission specifically requested Discovery Air provide more analysis and numerical values to build their case for the Commission's support of this proposal. A contract will be drafted to allow Discovery the ability to review it and the Commission would like to have control in the fees and share in revenues.

**Commissioner Adams moved to postpone items 8 and 9 for the next Commission meeting. The motion, seconded by Vice-Chair Fleming carried with all the Commissioners present voting in favor thereof.**

**Adjournment:** Meeting adjourned at 5:31 p.m.

**Respectfully Submitted,**

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**Vice-Chair, Tom Fleming**

**Please Print Your:**

## ORGANIZATION

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# NORTHERN COLORADO REGIONAL AIRPORT

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**ITEM NUMBER:** 2

**MEETING DATE:** August 22, 2022

**PREPARED BY:** Jason R. Licon, Airport Director

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## **TITLE**

June and July 2022 Financial Statements

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Staff recommends acceptance of the preliminary financial statements as presented

## **BUDGET IMPACT**

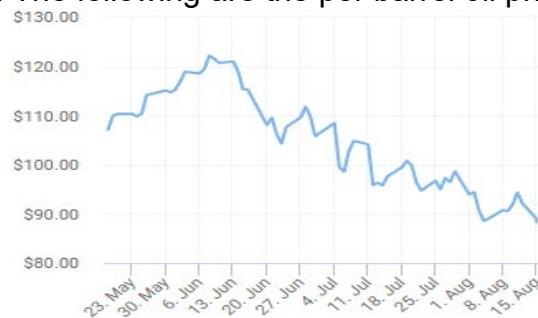
Neutral

## **SUMMARY**

The Airport's financial highlights for the first month of the fiscal year include:

- Revenues and expenses remain on track with the budget.
- Aviation business lease deferrals totaled \$147,546 for the period April 2020 – July 2022 with two companies with remaining balances in the program. These amounts are reflected within the Hangar Rental and Land Lease revenue line items.
- Fuel revenues are expected to be greater than last year due to rising fuel prices coupled with continued strong demand. The following are the per barrel oil price amounts for the past few months:

- May 1, 2022 \$105.17
- June 1, 2022 \$115.27
- July 1, 2022 \$105.39
- August 1, 2022 \$93.89



- Wholesale fuel volumes sold at the airport were reported by jetCenter as follows:
  - June 2020: 87,009
  - June 2021: 92,060
  - June 2022: 111,935
  - July 2020: 87,878
  - July 2021: 157,946
  - July 2022: 151,887

## **ATTACHMENT**

Preliminary monthly financial statement for June and July 2022



# NORTHERN COLORADO REGIONAL AIRPORT

## Airport Statement of Revenues and Expenses From 01/01/2022 to 6/30/2022

PRELIMINARY

	Y-T-D 2022 Actual	Y-T-D 2021 Actual	Y-T-D 2022 Budget	2022 Total Budget	% of Total Budget
<b>OPERATING REVENUES</b>					
Hangar Rental	120,390	123,661	112,500	225,000	54%
FBO Rent	47,086	45,627	48,144	96,287	49%
Gas and Oil Commissions	141,214	82,733	90,000	180,000	78%
Aviation Fuel Tax Reimbursement	99,089	56,036	69,996	140,000	71%
Land Lease	261,437	178,067	184,998	370,000	71%
Land Lease PD Training Ctr	188,626	182,514	189,948	379,900	50%
Terminal Lease and Landing Fees	2,467	766	7,248	14,500	17%
Parking	0	330	37,500	75,000	0%
Miscellaneous	46,776	7,457	10,248	20,500	228%
<b>TOTAL OPERATING REVENUES</b>	<b>907,085</b>	<b>677,191</b>	<b>750,582</b>	<b>1,501,187</b>	<b>60%</b>
<b>OPERATING EXPENSES</b>					
Personal Services	362,485	330,663	413,664	827,312	44%
Supplies	51,450	38,578	50,004	100,000	51%
Purchased Services	182,226	162,756	356,329	679,869	27%
<b>TOTAL OPERATING EXPENSES</b>	<b>596,162</b>	<b>531,996</b>	<b>819,997</b>	<b>1,607,181</b>	<b>37%</b>
<b>OPERATING GAIN (LOSS)</b>	<b>310,924</b>	<b>145,195</b>	<b>(69,415)</b>	<b>(105,994)</b>	
<b>NONOPERATING REVENUES (EXPENSES)</b>					
Passenger Facility Charge	0	0	0	0	
Interest Income	12,181	13,680	25,500	51,000	24%
Capital Expenditures	(491,574)	(338,200)	(11,619,051)	(20,369,053)	2%
<b>TOTAL NONOPERATING REVENUES (EXPENSES)</b>	<b>(479,392)</b>	<b>(324,520)</b>	<b>(11,593,551)</b>	<b>(20,318,053)</b>	
<b>NET INCOME (LOSS) BEFORE CAPITAL CONTRIBUTIONS</b>	<b>(168,469)</b>	<b>(179,325)</b>	<b>(11,662,966)</b>	<b>(20,424,047)</b>	
Capital Contributions	900	253,868	8,290,686	16,581,373	0%
<b>CHANGE IN NET POSITION</b>	<b>(167,569)</b>	<b>74,543</b>	<b>(3,372,280)</b>	<b>(3,842,674)</b>	
NET POSITION, Beginning	19,864,424	16,591,600			
NET POSITION, Ending	19,696,855	16,666,143			
Investment in Capital Assets	15,805,175	13,627,746			
Net Position Available for use	3,891,680	3,038,398			



# NORTHERN COLORADO REGIONAL AIRPORT

## Airport Statement of Revenues and Expenses From 01/01/2022 to 7/31/2022

PRELIMINARY

	Y-T-D 2022 Actual	Y-T-D 2021 Actual	Y-T-D 2022 Budget	2022 Total Budget	% of Total Budget
<b>OPERATING REVENUES</b>					
Hangar Rental	140,293	144,104	131,250	225,000	62%
FBO Rent	54,933	53,475	56,168	96,287	57%
Gas and Oil Commissions	177,840	95,636	105,000	180,000	99%
Aviation Fuel Tax Reimbursement	114,708	67,626	81,662	140,000	82%
State Aircraft Fuel Tax	83,148	49,922	67,081	115,000	72%
County Aircraft Fuel Tax	31,560	17,704	14,581	25,000	126%
Land Lease	307,793	212,884	215,831	370,000	83%
Land Lease PD Training Ctr	188,626	182,514	221,606	379,900	50%
Terminal Lease and Landing Fees	3,063	766	8,456	14,500	21%
Terminal Lease and Landing Fees	2,947	766	7,000	12,000	25%
Concessions	117	0	1,456	2,500	5%
Parking	0	330	43,750	75,000	0%
Miscellaneous	59,344	9,758	11,956	20,500	289%
<b>TOTAL OPERATING REVENUES</b>	<b>1,046,601</b>	<b>767,092</b>	<b>875,679</b>	<b>1,501,187</b>	<b>70%</b>
<b>OPERATING EXPENSES</b>					
Personal Services	422,970	384,080	482,608	827,312	51%
Supplies	55,958	43,589	58,338	100,000	56%
Purchased Services	233,914	207,258	410,258	679,869	34%
<b>TOTAL OPERATING EXPENSES</b>	<b>712,842</b>	<b>634,927</b>	<b>951,204</b>	<b>1,607,181</b>	<b>44%</b>
<b>OPERATING GAIN (LOSS)</b>	<b>333,759</b>	<b>132,165</b>	<b>(75,525)</b>	<b>(105,994)</b>	
<b>NONOPERATING REVENUES (EXPENSES)</b>					
Passenger Facility Charge	0	0	0	0	
Interest Income	13,029	16,321	29,750	51,000	26%
Capital Expenditures	(663,050)	(395,641)	(13,077,384)	(20,369,053)	3%
<b>TOTAL NONOPERATING REVENUES (EXPENSES)</b>	<b>(650,021)</b>	<b>(379,320)</b>	<b>(13,047,634)</b>	<b>(20,318,053)</b>	
<b>NET INCOME (LOSS) BEFORE CAPITAL CONTRIBUTIONS</b>	<b>(316,262)</b>	<b>(247,155)</b>	<b>(13,123,159)</b>	<b>(20,424,047)</b>	
Capital Contributions	900	53,370	9,672,467	16,581,373	0%
<b>CHANGE IN NET POSITION</b>	<b>(315,362)</b>	<b>(193,785)</b>	<b>(3,450,692)</b>	<b>(3,842,674)</b>	
NET POSITION, Beginning	19,864,424	16,591,600			
NET POSITION, Ending	19,549,062	16,397,815			
Investment in Capital Assets	15,805,175	13,627,746			
Net Position Available for use	3,743,887	2,770,069			





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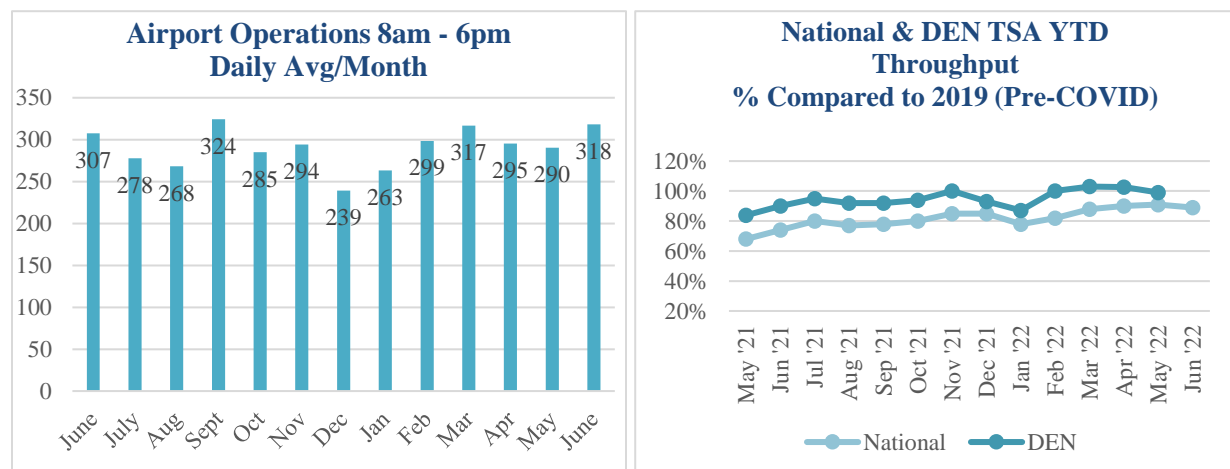
DATE: July 15, 2022  
TO: Northern Colorado Regional Airport Commission  
FROM: Jason R. Licon, Airport Director  
RE: Airport Monthly Report for June

## Executive Summary

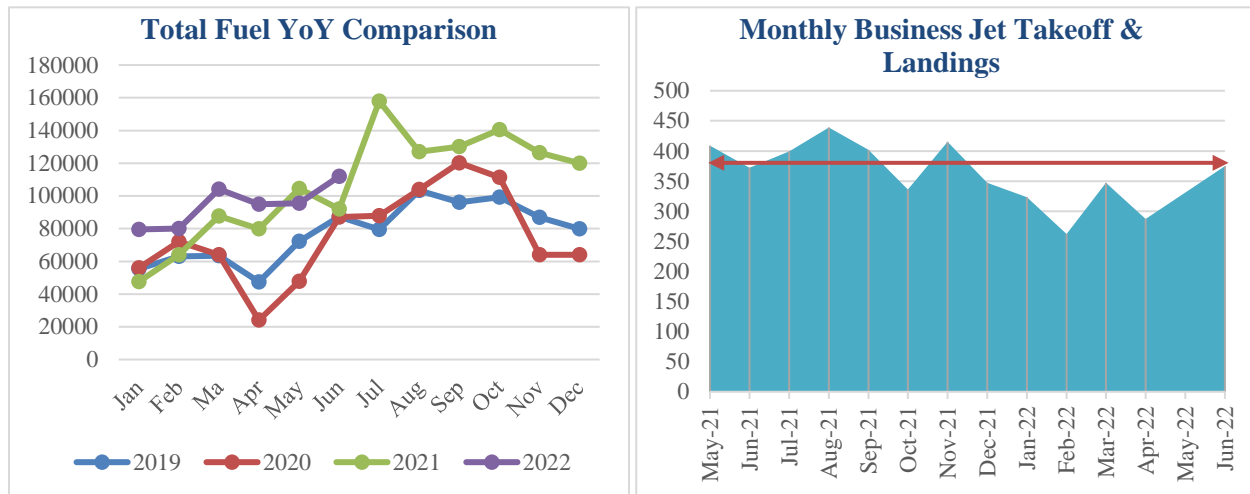
- The 10,000-passenger enplanement count threshold will be met in 2022, unlocking \$1,555,000 in additional guaranteed federal funding in 2024
- The price of fuel continues to climb
- Avelo ended flights in June, final flights had high ridership
- The FAA's Safety Risk Management Panel (SRMP) for the Remote Tower project was originally scheduled July 11<sup>th</sup> to the 15<sup>th</sup>, has been rescheduled for August 1-5 at FAA Headquarters in Washington DC
- The Director met with NFRMPO (North Front Range Metropolitan Planning Organization) and presented an airport update including information on the multi-modal terminal project on June 2<sup>nd</sup>
- Regional Elected Officials Meeting was successfully held at the Airport on June 9<sup>th</sup>
- Staff attended the Airports Council International's Jumpstart Airline Conference held June 13-15 in Reno NV and presented to five airlines

## June Airport Activity Dashboard

- June averaged 318 flight operations a day, twelve-month daily average was 289
- National airline passenger throughput for June was at 89% (vs. 2019)
- DEN Airport May throughput was at 99% throughput (vs. 2019)
- Wholesale fuel ordered by the jetCenter FBO for June was 111,935 gallons, an increase of 18% compared to last year's 92,060 gallons
- Business jet activity for May compared to last year increased by 2.5%







### Airport Enplanement Count for 2022

The Airport will exceed the 10,000 enplanements necessary in 2022 to unlock a much higher amount of guaranteed federal funding in 2024. The 10,000-enplanement threshold was created by the FAA to delineate primary commercial service airports from general aviation airports, and the associated funding that is allocated to each. With the Bipartisan Infrastructure Law (BIL), the allocated funding for the airport in 2024 will be slightly over \$2 million rather than the \$1 million that is traditionally granted after reaching this milestone. This additional \$1 million that is part of the BIL funding may be used to help offset the terminal construction costs or for other higher priority capital improvement projects. This is obviously very good news, and required a great deal of staff time to collect flight information and verify.

Staff also coordinated with CSU Football to verify that they will be traveling to their games this year. They will be traveling to at least five games resulting in 750 outbound passengers, utilizing Sun Country Airlines as the Charter provider. These passengers also count toward the enplanement levels, and will likely contribute to the total, ending the year between 11,000 – 12,000 enplanements.

- Avelo Airlines provided 9,938 outbound passengers according to preliminary enplanement figures
- Charter services have provided approximately 477 passengers
- Anticipated charter activities are expected to bring another 750-1,500 passengers through the end of the calendar year



## Fuel Prices

Fuel prices continued their steep climb during the month of June. Below is a chart for the wholesale spot price for Jet fuel, which has risen 580% since it reached the low of \$0.61 during the peak of the pandemic in 2020.

### U.S. GULF COAST KEROSENE-TYPE JET FUEL SPOT PRICE FOB

Dollars per Gallon as of July 7, 2022



The increased fuel prices have surprisingly not reflected into the volumes of fuel being sold at the Airport. Fuel volumes remain higher on average than previous years 2019-2021 on the year over year comparisons with the three years prior (as shown in the dashboard on page 2 – Total Fuel YoY Comparison).

## Action Plan Update

The chart below will be updated monthly to provide information on work in progress or accomplished that is associated with each task within the Action Plan.

Objective	Focus	Target	Update
Enhance and Increase Airport Staffing	Organization Excellence	9/15/22	Commission approved Business Services Tech position to be filled immediately and further analysis and refinement will be provided for the remaining recommendations at the September Commission meeting.
Complete planning and design of new terminal building	Multi-modal transit & terminal	12/15/22	The design team and Hensel Phelps have completed the design at the 60% level. Four levels of design are being created to align with available resources to provide options for the Cities to consider.

Complete planning relevant to the hangar proposal submitted by Jet Center, which led to the ongoing request for proposals (RFP)	Capital Projects	10/20/22	PDSC representatives have been directed to enter into negotiations with jetCenter on Site A which is still ongoing. The site C development needs are being assessed and a draft plan for the site is in process of being created with engineering and airport staff collaboration for sharing at the upcoming July 20 PDSC meeting for input.
Enhance political support for the remote tower project	Multi-modal transit & terminal	ongoing	Testing for Phase 1 is completed in April. SRMP (safety risk management panel) planned for July 11-15 has been rescheduled for August 1-5.
Develop local support for an education and training center/facility focused on Innovation, Technology, and Aviation	Private & Public Economic Development	7/21/22	Legislation was passed at the end of the Colorado General Assembly session (House Bill 22-1350 or the “Regional Talent Development Initiative Act”) provides direction to the State to create a grant application process for this funding with a requirement to have them available no later than December 1, 2022. Staff will be participating in a regional ARPA funding meeting on Thursday July 14, where each project will be discussed.
Enhance commercial air service	Multi-modal transit & terminal	ongoing	The Airport Director attended the Airports Council International Air Service Development Conference June 13-15. From the conference most air carriers reported that they have no intention of route expansion or entering into new markets until pandemic impacted routes are brought back up to pre-pandemic levels. Most air carriers are still cutting routes, and the Spirit-Jet Blue – Frontier merger talks are front and center for airline network planners to focus on.
Establish the airport as a true Multi-modal transportation hub, including exploration of Union Pacific Railroad opportunities	Multi-modal transit & terminal	2023	The Airport will be participating and presenting at the June 2 North Front Range Metropolitan Planning Organization NFRMPO meeting. The NFRMPO is the transportation and air quality planning agency for our region.

Complete the 2022 scheduled capital improvement projects	Capital Projects	10/20/22	The capital project for this year is the terminal design, which at the end of May reached a 60% design milestone. During the month of June and July the 60% design will be evaluated for additional ways to reduce costs.
Develop sub-area land plans and procedures for on-airport development	Private & Public Economic Development	2023	This item is to be budgeted for in 2023. Costs are being estimated for this and a draft scope of work will be developed.

### Homestead Hangars

A lease termination notice was sent to Homestead Hangars on June 30<sup>th</sup>. This notice was provided as the account is not in good standing. The company has not provided lease payments since the COVID Business Assistance Program ended in 2021 and have not committed to a repayment plan with staff for their deferred lease balance. The company has 60 days to remedy the lease payment defaults and create a repayment plan on the outstanding balance.

### Strategic Plan Actions: Multi-modal Terminal and Remote Tower Support

The June 9<sup>th</sup> Northern Colorado Regional Elected Officials meeting was hosted by the City of Fort Collins at the airport. Normally these events are solely for networking; however, the airport was able to include strategic action plan items within the evening's agenda:

- The Director educated elected officials on the Remote Tower Project and its impact to the region
- Representatives from Dibble and VFLA provided information on the new terminal project and its role as an economic engine for the entire region
- Landline - United provided a luxury coach to provide the group a demonstration on the connectivity gained by their new innovative service to Denver
- Aims Community College representatives attended with their aircraft and informed the group on the critical education and training that they provide for aviation workforce development





### **Avis-Budget Fully Operational in Airport Terminal**

The car rental company Avis Budget Group is now operational in the terminal building. Their services are being offered to the public, general aviation, and commercial aviation customers. The terminal had car rental agencies serving it in the past; however, since the pandemic these companies have been very slow to recover. Staff have been working to bring the return of car rental services back to the airport for over a year, and issued an RFP to seek qualified companies. The Avis Budget Group lease half of the car rental counter in the terminal and 10 parking spots at the terminal building.

### **ACI-NA Jumpstart Conference & Airline Meetings**

The Director attended the Airport Councils International Jumpstart Airline Conference June 12-15. The conference consisted of officials from the airport and airline industries where informational sessions were provided to give everyone a picture of the industry as a whole in addition to prearranged meeting schedules between airline network planners and airports. These meetings enable airports to pitch their regions for new air service opportunities. The director was able to meet with multiple carriers and network with others that have shown interest in serving FNL in the past.

Unfortunately, most carriers are facing cuts as a result of post pandemic staffing issues and quickly escalating fuel prices. No carriers were looking to enter into any route expansions and instead were focused on serving their existing schedules and reducing schedules to better align with staffing availability. The hot topics focused around pilot and crew supply shortages, schedule cancellations, and the proposed merger between Spirit Airlines and the two bidders Frontier and Jetblue.

While at the conference information was shared about Northern Colorado with many representatives from other airports, air service consultants, and airlines that included Allegiant, Breeze, Sun Country, Southwest, and United. A copy of the marketing brochure created by Airport Staff is attached.



## **Airport Rescue and Fire Fighting**

Loveland Fire and Rescue Authority and qualified airport staff conducted annual recertification training at Denver International Airport for Airport Rescue and Fire Fighting (ARFF) during the months of May and June. A total of 14 staff participated in the FAA required live burn training to meet regulations to maintain the Airport's operating certificate to support larger commercial air carrier aircraft.

Work continues on the planning for the full-scale airport disaster drill planned for September 20 with area agencies that provide emergency services for the Airport. In June the fifth meeting with these agencies was conducted to focus on the logistics and planning for this FAA required exercise. Gina Gonzales has been working hard to coordinate all of the moving parts to ensure this drill is effective and provides a great training opportunity enabling all the first responders to be prepared in the event of a real emergency.

## **Airport Pavement Maintenance**

Staff have been working on annual crack seal pavement maintenance this month and into the month of July. Crack sealing must be conducted annually during the warmer months to ensure the pavement surfaces are maintained to limit moisture and freezing from occurring that causes damage to pavement areas. This maintenance is done each year, typically during the summer months.



The two largest T-hangar condo associations, FNL Condo Association and Fort Collins-Loveland met with the Airport on seal coating surface areas around their hangars. A positive partnership was created as a result, where the associations would share the cost with the Airport for the pavement areas that they are responsible for. The Airport provided funds from its maintenance balance for areas under the airport's responsibility at a cost of \$14,000. Unlike past projects, this maintenance was scheduled and led by the hangar associations which allowed the Airport to share in costs leveraging bulk savings for all parties. The seal coat maintenance was completed June 7-10.



### Planning & Development Update

- In June, Airport staff participated in two concept review meetings for prospective developments near the Airport.
- Planning & Business Development Specialist Ehle was invited to participate in the American Association of Airport Executives Geospatial Working Group which also happened to be the first meeting he attended. The group meets every two months to share trends on how geographic information can be collected, analyzed, and shared to assist in airport decision making and marketing efforts.
- Airport staff met with representatives of a planned development adjacent to the northeast area of the Airport to discuss a potential joint effort to extend Rockwell Ave to the west.



### Attachments

1. WEPA Remote Tower Project Report for June
2. ACI-NA Jumpstart Conference Air Service Development Presentation
3. In the media:
  - a. Northern Colorado Regional Airport could host new customs facility
  - b. 'Travel Armageddon' as flight delays, cancellations pile up- What's going on?
  - c. A pilot shortage is adding to the travel chaos this summer





June 30, 2022

From: William E. Payne, P.E.  
To: Colorado Division of Aeronautics

### Section A – Remote Air Traffic Control Contract Progress Report #12

Re: Period: June 1 through June 30, 2022

Colorado Remote Tower Project Activity Status			
Activity	Status/Start Date (Projected)	Finish Date (Projected)	Remarks
<b>Remote Tower Implementation</b>			
STARS FTI Comm line	Complete	5/15/2022	Awaiting FTI installation of communication
<b>Remote Tower System</b>			
System Upgrade - Tech Refresh	In-Progress	TBD	Continuing
<b>Remote Tower Testing</b>			
Serco Controller Staff Remote Tower	10/1/2021	Ongoing	Controllers familiarization exercise underway
<b>Phase 1 - Passive Testing</b>	3/21/2022	4/29/2022	Complete
Period 1	3/21/2022	Complete	Flight test scenarios 4/30/22
Period 2	4/18/2022	Complete	Flight test scenarios 4/19,20,22/22
Reduce Phase 1 Data - Produce Report	5/2/2022	7/15/2022	Submit to the SRMP
Safety Risk Manage Panel	8/1/2022	8/5/2022	FAA Forecast Schedule 1 week duration
Safety Risk Management Document Signed	TBD	TBD	FAA Forecast Schedule 6 months
<b>Phase 2 - Active Testing</b>	TBD	TBD	Subject to FAA Phase 1 SRMD Signatures
Safety Risk Manage Panel	TBD	TBD	
Safety Risk Management Document Signed	TBD	TBD	
<b>Phase 3 - Validation &amp; Verification</b>	TBD	TBD	Subject to FAA Phase 2 SRMD Signatures
Safety Risk Manage Panel	TBD	TBD	
Safety Risk Management Document Signed	TBD	TBD	
<b>Operational Viability Decision (OVD)</b>	TBD	TBD	
<b>Phase 4 - Post OVD Validation</b>	TBD	TBD	Subject to FAA Phase 3 SRMD Signatures
Safety Risk Manage Panel	TBD	TBD	
Safety Risk Management Document Signed	TBD	TBD	
<b>Certification/Commissioning</b>	TBD	TBD	

Note: All dates reflect latest FAA proposed schedule and are subject to change based on FAA SME's ability to travel t

## **Remote Tower Project Narrative:**

The Phase 1 Safety Risk Management Panel (SRMP) previously scheduled to begin on July 11, 2022 has been rescheduled to begin on August 1, 2022. Rescheduling of the Phase 1 SRMP was necessary because of conflicts within the FAA. The successful outcome of the Phase 1 SRMP will allow the project to move into Phase 2 active testing, which will have Serco controllers providing air traffic control from the remote tower facility. A benefit of moving the SRMP to August 1<sup>st</sup> instead of July 11<sup>th</sup> is the NATCA Article 114 NextGen Representative, who is familiar with the Colorado Remote Tower system at FNL, will be on the panel as a voting member. The NextGen human resources contractor is finalizing the Phase 1 test report. Preliminary review of the findings indicates the ability of controllers to visually detect an aircraft in the local airspace is less than the 3 NM in the Operational Visual Requirements (OVR). The 3 NM requirement in the OVR is ambiguous and in conflict with other requirements in the document. The ability for a controller to visually detect an aircraft is dependent on a number of variables, as follows:

1. Distance from the camera;
2. Atmospheric conditions i.e., visibility, cloud cover, sun location, etc.;
3. Location of the aircraft relative to geographic features (aircraft against the foothills, etc.);
4. Aircraft size;
5. Aspect ratio of the aircraft relative to the observer, head-on, side-on, turning, climbing, descending, etc.

It has long been known that the view of the airspace provided by the video displays does not faithfully reproduce that from a legacy airport traffic control tower (ATCT). It is for this reason that a radar display was a requirement of the Colorado Remote Tower Project from the beginning. It has been my contention that the disparity between the visual presentation provided by today's remote tower systems and a legacy ATCT would necessitate a radar display as the mitigation. Another mitigation strategy would be integration of high resolution infrared cameras. As video camera resolution and displays improve, the controller's view of the airport environs will approach the out-of-the-window view from a legacy ATCT.

The ability of an air traffic controller to safely provide airport traffic control services from the remote tower facility using a variety of sensors (track-based radar, electro-optical, etc.) without direct visual observation of the airport surface and local airspace is the question, not that remote towers and legacy ATCT are linearly equivalent. The answer to this question is critical to the success or failure of remote towers. Any diminution of the ability to visually detect and track an aircraft in the local airspace is more than mitigated by a radar display as a situational awareness tool. This is true for legacy ATCT as well as remote towers. If not, why do so many VFR tower have expensive radar displays? The larger question is should we be looking at hybrid radar training for controllers in VFR towers, remote and legacy ATCT.

There are 17 system deficiencies that remain unresolved at the conclusion of Phase 1 testing. The criticality of the deficiencies range from high to low with the majority being medium and low. Searidge has committed to addressing the deficiency list prior to the

SRMP in August. It is important that the deficiency list be addressed in advance of the SRMP meeting to permit the panel members to review for corrective actions and to demonstrate to the FAA Searidge's responsiveness.

Revised schedule of upcoming meetings (dates are tentative based upon FAA and NATCA availability):

1. July 7, 2022 – Air Traffic Safety Oversight Service (AOV) and NextGen - system familiarization and evaluation - FNL
2. July 25, 2022 – Technical Operations (AJW) team, NextGen and Searidge preliminary System Design Approval meeting to allow TechOps the opportunity to begin evaluation of the remote tower system – FNL
3. August 1, 2022 – Phase 1 SRMP

#### Other Remote Tower News:

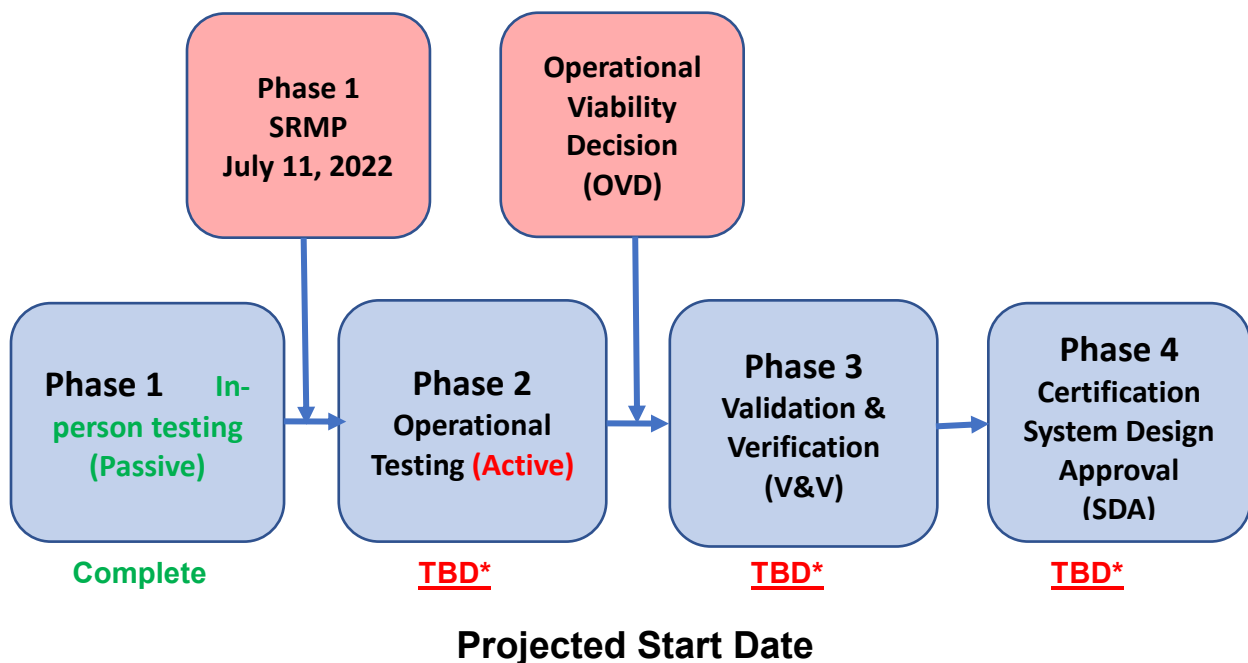
The FAA has indicated that it is considering a different approach to evaluation of future remote tower systems. This new approach would have the remote tower vendor bring their system to the Tech Center in Atlantic City to be tested. This would certainly slow down, if not outright kill, remote tower development in the United States. This process, if followed, would add cost to a vendor as well as an airport. Aside from the cost, the time this process would take would make implementing a remote tower solution impractical for most airports, as most funding streams have time limits. The efficacy of the current method of deploying and testing remote towers at different airports has proven itself by comparing the two remote tower systems currently under evaluation in the United States. The Colorado Remote Tower Project at the Northern Colorado Regional Airport (FNL) and the Leesburg Executive Airport (JYO) differ in some important ways. The system at JYO employed a single camera mast that provides a 360° view of the airport surface and local airspace and did not originally include radar. This configuration resulted in the FAA limiting deployment of this system to airports with a 5,500' runway or less and radar was eventually added to the tools available to the controllers. The system at FNL consists of 3 distributed camera arrays (1 - 360° central mast and 2 - 220° runway end masts) and from the beginning had the requirement for radar as an additional tool. The distributed masts nullified the 5,500' runway limit. It is my opinion that this FAA approach to requiring Tech Center evaluation for development of remote towers will be too constraining and will hamper the creativity needed for this paradigm changing technology.

#### **Remote Tower Approval Phases:**

- ❖ Operational Testing
  - Phase 1 - Passive Op Evals (Mobile ATCT staffed controlling traffic, passive data collection from Remote Tower (RT)) – **Complete**.
  - Phase 2 - Active Op Evals (RT staffed controlling traffic, Mobile ATCT staffed as safety back up); operating under an AOV (Aviation Safety) approved Phase 2 test plan - **TBD**

- Phase 3 – Validation and Verification (V&V) (RT staffed controlling traffic; Mobile ATCT unstaffed) operating under an AOV approved V&V test plan -**TBD**
- ❖ Operational Viability Decision
  - Phase 3 - Extended Monitoring (RT staffed controlling traffic, existing ATCT can be deactivated or MATCT can be removed); operating under an AOV approved extended monitoring plan - **TBD**
- ❖ System Design Approval (SDA) - **TBD**
- ❖ Remote Tower System/Facility Commissioning -**TBD**

## Proposed Remote Tower Testing Phases:

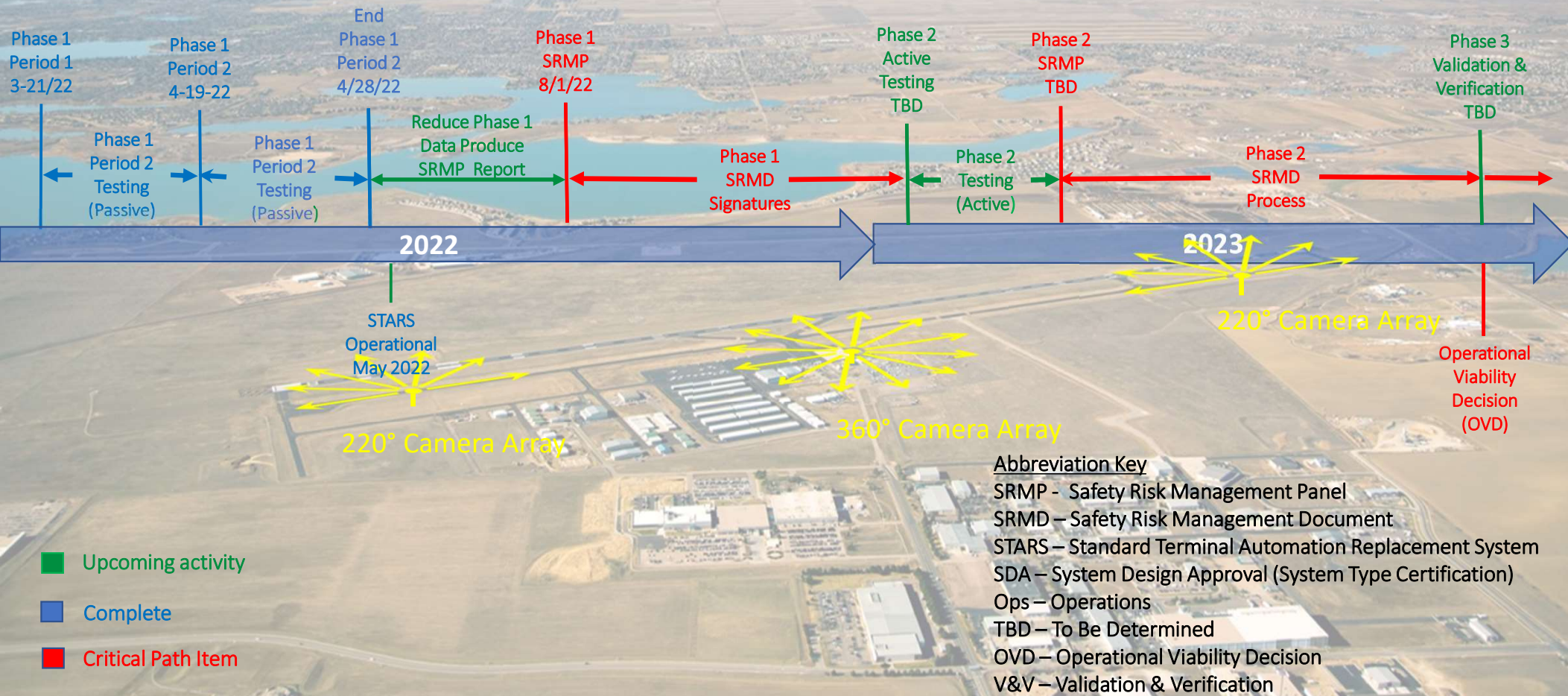


**\*Dependent on local resources' ability to travel to FNL and COVID status**

**Schedule Note:** This status is based on the latest proposed schedule and is dependent upon availability of FAA resources to staff the remote tower and support the Phase 1 SRMP.

Note: The FAA has replaced the term Initial Operating Capability (IOC) with Operational Viability Decision (OVD). This may change again as the terminology of remote tower certification is in flux.

# Colorado Remote Tower Timeline (Draft)





# ***AIR SERVICE INFORMATION***



NORTHERN COLORADO  
REGIONAL AIRPORT

**FLY**

*Serving the Growing  
Northern Colorado  
Region*



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# Executive Summary



- Northern Colorado is a large and quickly growing region
- Regional discretionary airline travel spending is higher than the national average
- Thousands of airline passengers each day drive past FNL on their way to DEN, and have demonstrated they are willing to pay a premium for convenience
- Demographic comparisons meet or exceed similar regions like Colorado Springs
- FNL now provides air traffic control services, with uninterrupted operation since March 2020
- FNL is an absurdly low cost per enplanement airport compared to similar airports
- FNL has an aggressive incentive partnership program
- Is the closest airport to Rocky Mountain National Park with over 4.5 million visitors annually
- Has unlimited growth potential, unlike other nearby airports
- Northern Colorado is an established market, having been successfully served by air carriers
- Represents over 20% of the DEN O&D market



# Introduction



Northern Colorado is a scenic and vibrant area consistently ranked as one of the top places to live and work in the United States. A mild climate, close proximity to abundant outdoor recreational activities, and a resilient economy have made the region very popular; resulting in sustained population growth rates of two and a half times greater than the national average. Approximately 800,000 people call Northern Colorado home, which is expected to reach over 1 million by 2040.



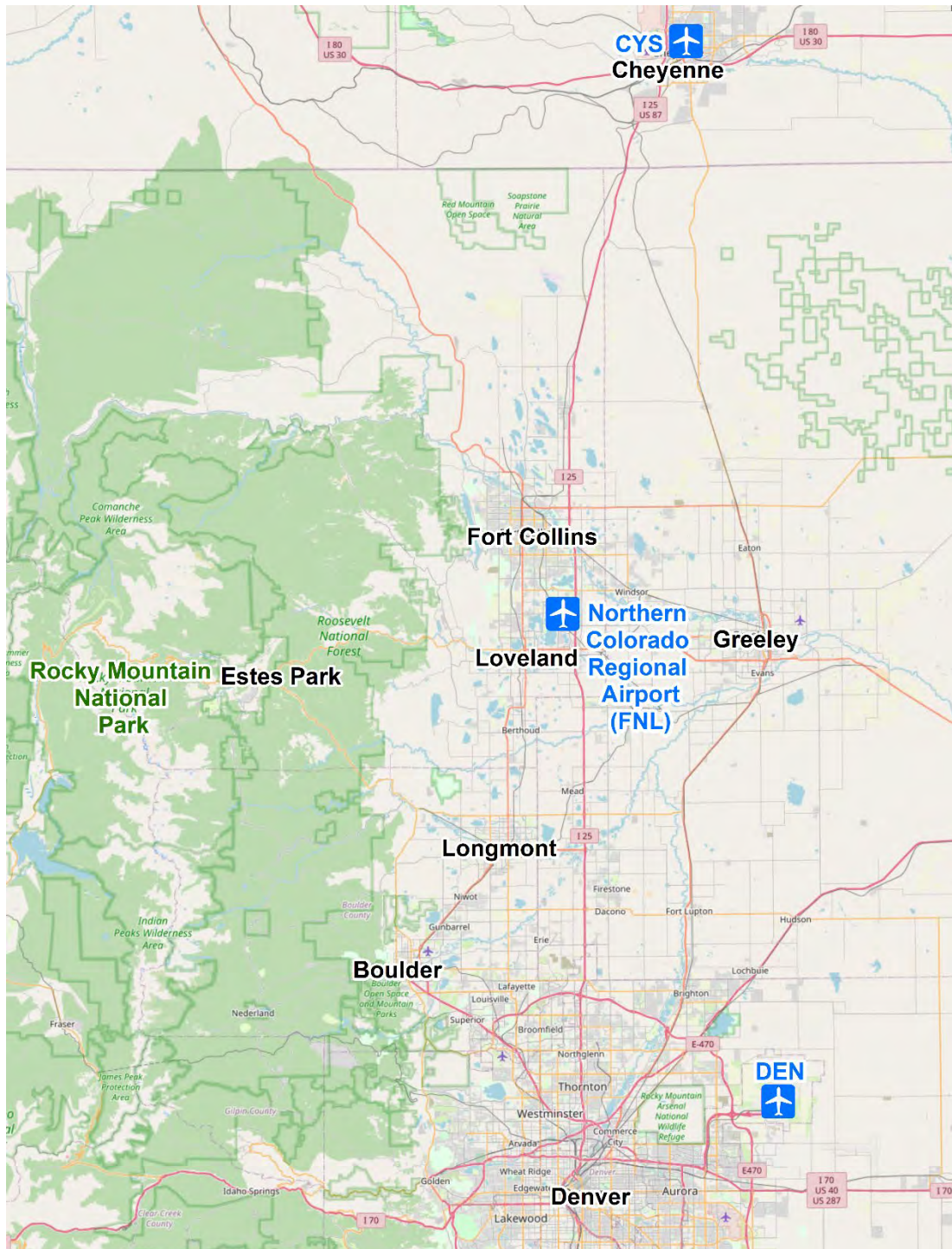
The Northern Colorado Regional Airport (FNL) is centrally located in a major population center and has convenient access to the adjacent Interstate 25 and US Highway 34 travel corridors. The Airport is 55 miles North of the Denver International Airport, and serves a population that supports a high demand for air travel. Residents of Northern Colorado have demonstrated that they are willing to pay a premium for convenience as seen through the hundreds that are using ground transportation services to get to DEN every day!



# Location



The Northern Colorado Region is located north of the Denver Metropolitan Area. The Airport is centrally located among the major population centers of Fort Collins, Loveland, and Greeley. It is the closest airport to Rocky Mountain National Park.

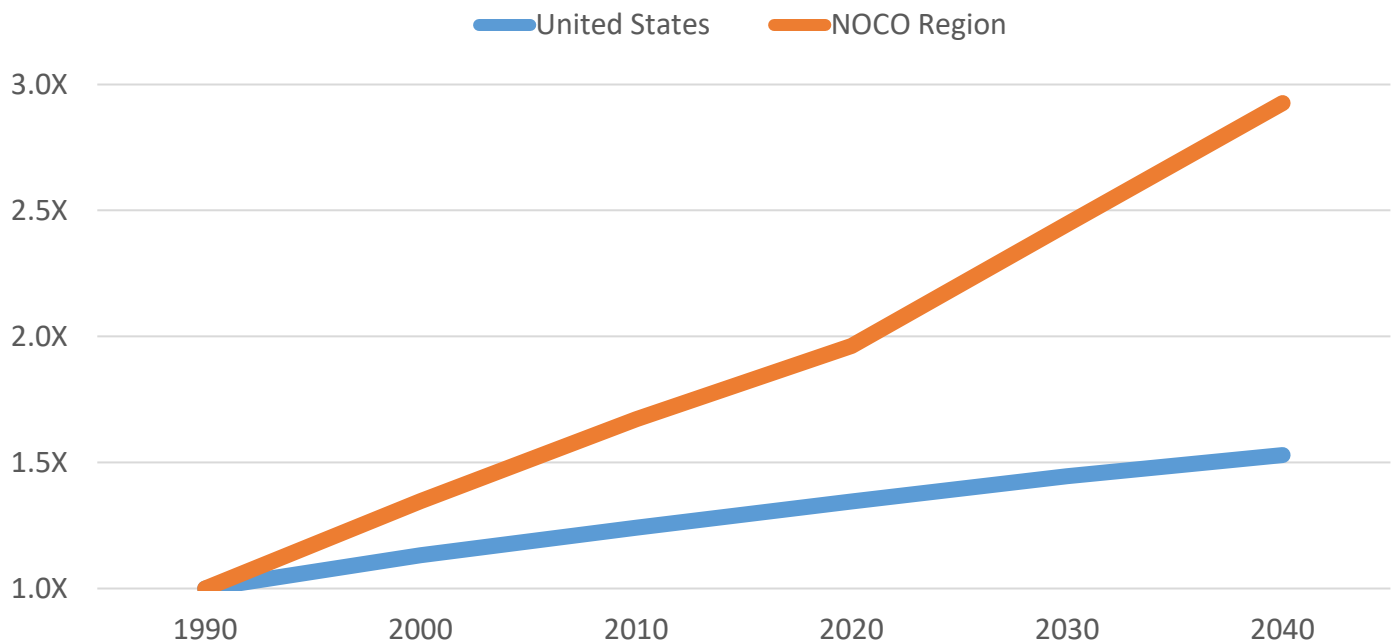


# Population Growth



The Northern Colorado Region has experienced significant population growth over the past three decades, doubling in size since 1990. The population within the defined catchment area that the Airport serves has grown from 400,000 people in 1990 to over 800,000 in 2020. Much of this growth has been fueled by net migration from other states.

## NOCO Region Population Growth Comparison



**Historical Population Source:** U.S. Census Bureau Population Estimates Program, U.S. Census Bureau American Community Survey (ACS) and Colorado State Demography Office Historical Census.

**Forecasted Population Source:** U.S. Census Bureau Population Projections and Colorado State Demography Office Population Forecast.

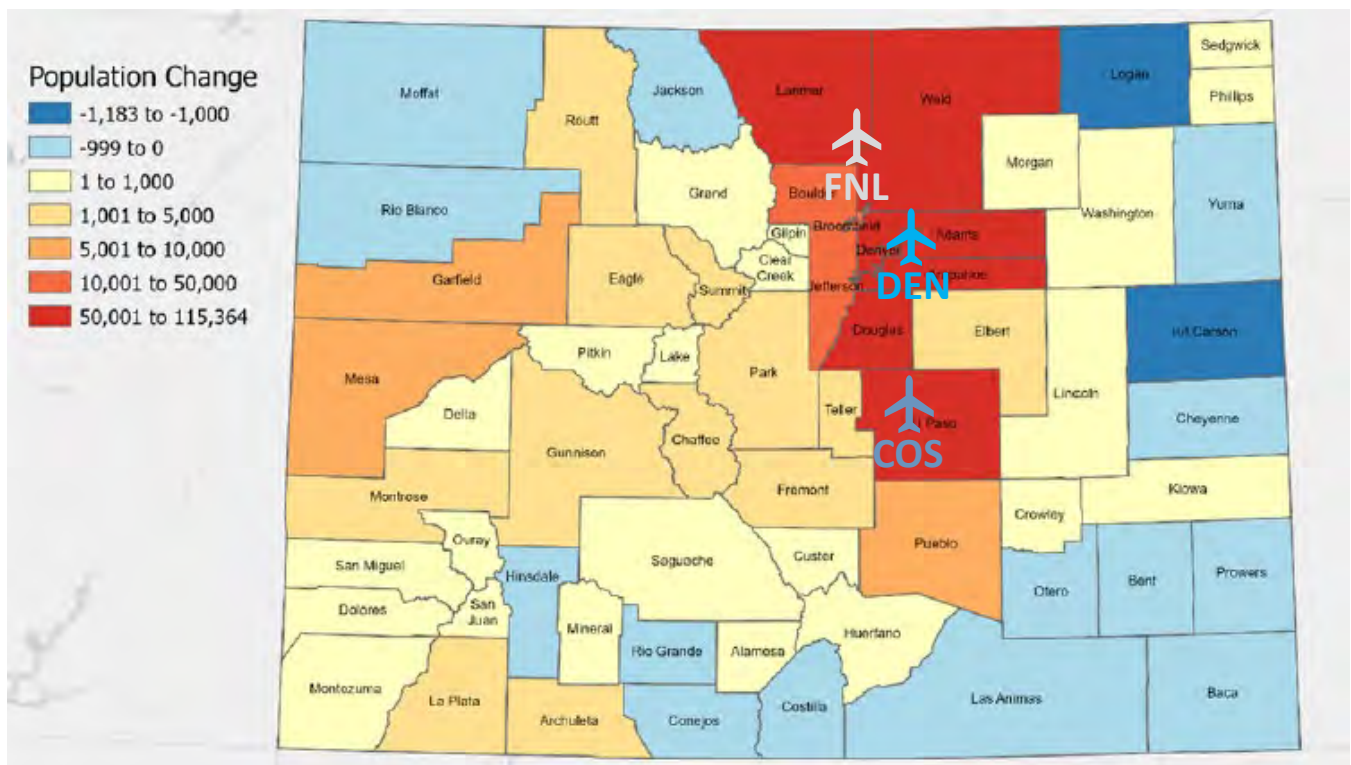
**Expenditures Source:** Derived from the 2015 and 2016 Consumer Expenditure Surveys, Bureau of Labor Statistics. Esri.

# A Quickly Growing Area



Colorado's population was 5,773,141 according to the 2020 Census , ranking 21st most populous state in the country. Colorado's ten year population growth trend added approximately 15 percent or 744,518 since the 2010 Census. Colorado's growth over the last decade was the sixth-highest among U.S. states.

## Population Change by County 2010 - 2020



The Northern Colorado Region is projected to be the fastest growing in the state during the next two decades, surpassing one million people by 2040. This area includes Weld and Larimer Counties or the Fort Collins and Greeley Metropolitan Statistical Areas (MSA). The Cheyenne MSA just to the North in neighboring Wyoming adds an additional 100,000 people to the total.



# Travel Demand Influences



FNL has some key indicators that put the Northern Colorado market into perspective. Understanding and evaluating each market and its potential can be a difficult task.

These indicators include:

- Population growth
- Regional demographics and consumer spending
- Migration trends
- Ground transportation offerings
- Area corporations and organizations
- Comparison to similar airports
- Area attractions and tourism

These factors can aid in the evaluation and determination of potential profitability a new route or market offering may realize.

## Colorado State University Football Charter 2022



# Travel Demand: Ground Transportation



United Airlines in partnership with Landline offers “wingless flights” with five times daily roundtrips between the FNL and DEN airports. This service is specific to United Airlines passengers, and serves as an alternative to driving to Denver International Airport. The service starts at \$80 per roundtrip.



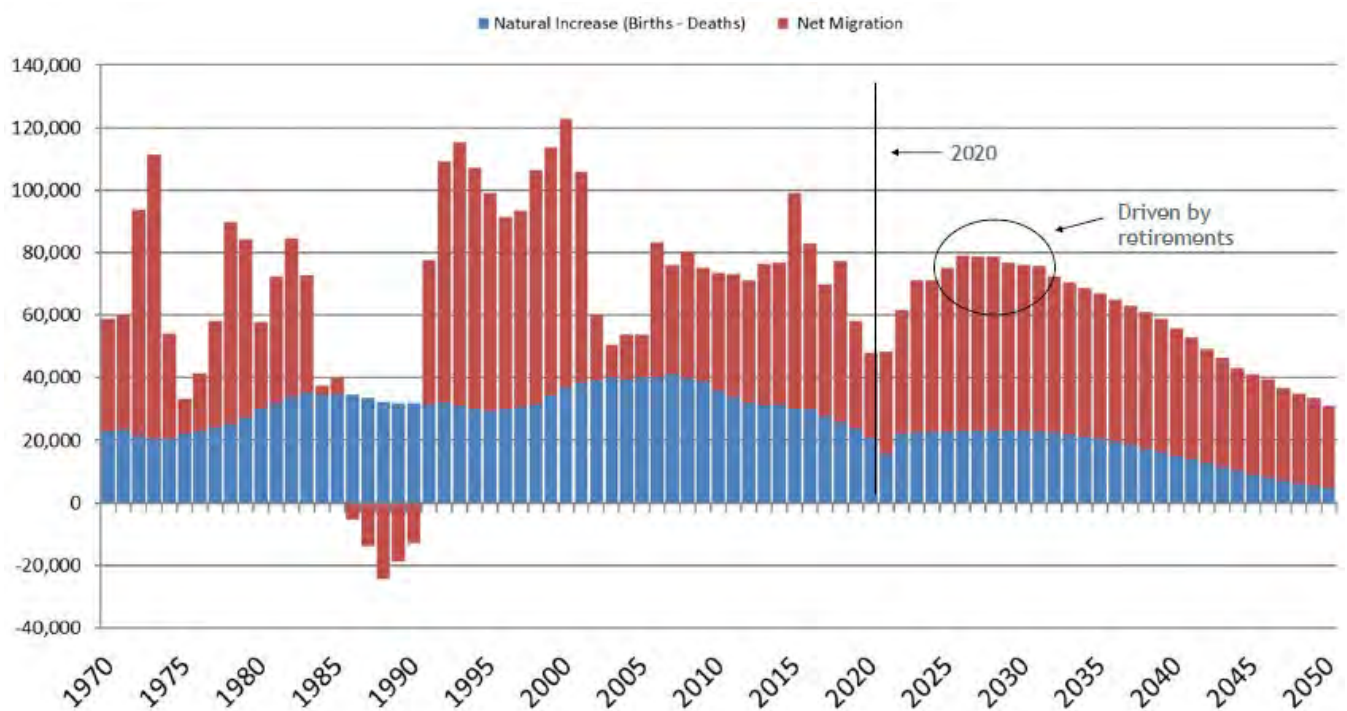
FNL supports a park and ride facility operated by Groome Transportation. The company provides ground transportation services from FNL to Denver Airport. The company offers 18 daily roundtrips from Northern Colorado and provides additional routes for nearby Southeastern Wyoming using 11–55 passenger buses. The lowest published rate from the FNL park and ride is \$90 per roundtrip between FNL and DEN, and the company estimates they support ridership of 500 – 1,500 passengers daily.



# Population Migration & Universities



Population growth attributed to relocation from other states influence leisure travel demands. The relocated populace still have connections in their original locations, mostly from California, Texas, and the Midwest. These travel demand connections are bi-directional and linked to locations of high migration origination.



UNIVERSITY OF  
NORTHERN  
COLORADO



University  
of Colorado  
Boulder

The region is host to three Universities including Colorado State University with nearly 33,700 enrolled students, University of Northern Colorado with 13,400, and University of Colorado in Boulder with 34,500. The three Universities have 81,600 students enrolled and of that nearly 24,000 are out of state students originating primarily from California, Texas, and Illinois.

# Comparison: FNL vs. COS



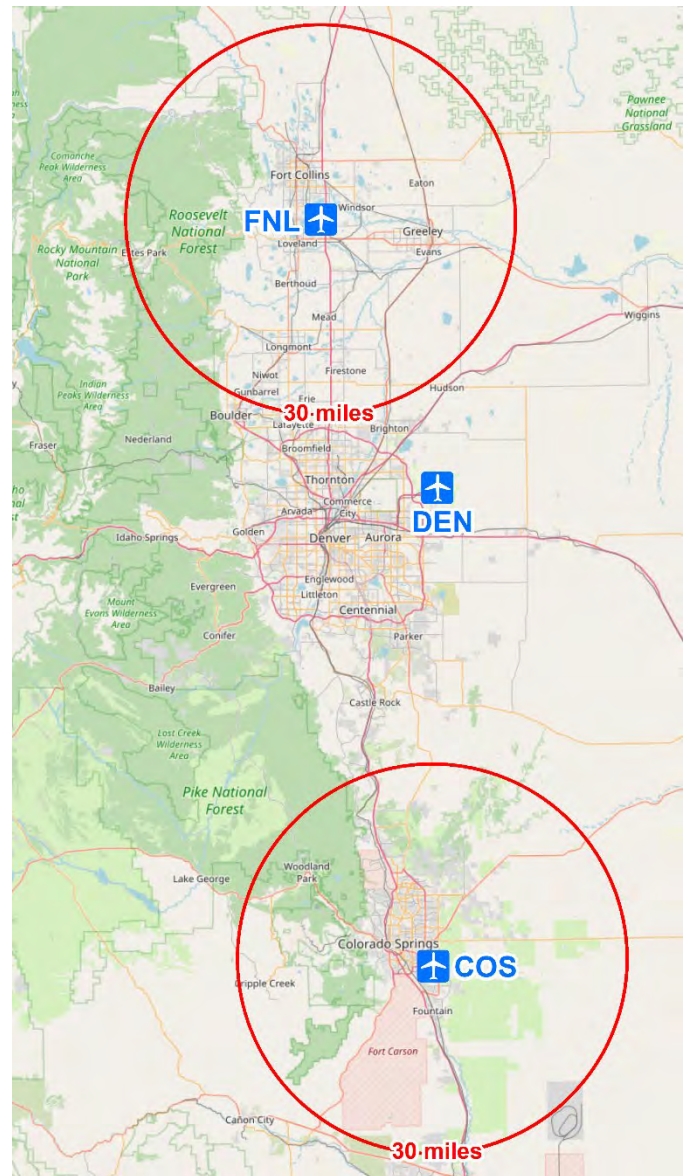
The Northern Colorado Region has many similarities to the Colorado Springs area and a similar proximity to Denver International Airport. Due to the geographical and air service market similarities, it serves as an ideal comparison for air service opportunities.

## 30-Mile Radius Comparison

	FNL	COS
Population	827,532	768,393
Median Household Income	\$78,729	\$73,060
Median Disposable Income	\$61,553	\$57,322
Cost Per Enplanement	\$1.26	\$7.15
Annual Expenditures on Airline Fares per Household	\$706	\$656

Advantage = FNL

The Northern Colorado region is growing so quickly that it is not "on the radar" for many air carriers.



**Population and Income Source:** U.S. Census Bureau, Census 2020 Summary File 1. Esri forecasts for 2021.

**Expenditures Source:** Derived from the 2018 and 2019 Consumer Expenditure Surveys, Bureau of Labor Statistics. Esri.

**CPE Source:** FAA CATS form 2020

# Comparison: FNL vs. PVU vs. OGD



The Colorado Region Front Range has many similarities to the Salt Lake City area. Due to the geographical and air service market similarities, it serves as a relevant comparison for air service opportunities.

## 15-Mile Radius Comparison

	FNL	OGD	PVU
Population	465,649	518,703	551,606
Median Household Income	\$79,187	\$76,878	\$75,702
Median Disposable Income	\$61,916	\$59,337	\$59,281
Landing Fees per 1,000 lbs GLW	\$0.90	\$1.25	\$0.65 (+pax fee of \$0.65-\$1.25)
Annual Expenditures on Airline Fares per Household	\$705	\$633	\$648
2021 Enplanements	5,248	29,857	118,740
Distance to Large Hub Airport (miles)	55	34	50

All have very similar attributes



**Population and Income Source:** U.S. Census Bureau, Census 2020 Summary File 1. Esri forecasts for 2021.

**Expenditures Source:** Derived from the 2018 and 2019 Consumer Expenditure Surveys, Bureau of Labor Statistics. Esri.

**Landing Fees:** Published rates and fees for all airports



# About the FNL Airport



- ✈ "Turn-Key" ready to go
- ✈ FAA commercially certified
- ✈ Actively operated and maintained TSA security checkpoint & ASP
- ✈ FAA Contract Air Traffic Control
- ✈ Airside designed for the Boeing 737 & Airbus A320 series aircraft
- ✈ Airport has ability to support up to 190 passengers at a time
- ✈ All weather capability with a full Instrument Landing System (ILS)
- ✈ Car Rental services provided onsite by Avis & Budget



## New Air Traffic Control Services

A new innovative remote air traffic control system is operational. The system is one of two in the U.S. currently being evaluated for certification. The FNL remote tower project is being managed by the FAA NextGen Division and Colorado Department of Transportation Aeronautics. Air traffic control services have been provided without interruption since March 2020.

# Airport Investment



FNL is enhancing the ability to accommodate travelers. A brand new airline terminal and widening of the primary runway are two large projects currently being designed and slated to be completed by 2026. Funds for these projects are being derived from a variety of sources including Federal and State grants.



The new terminal will be 26,600 square feet and is striving to become LEED Gold certified. This will provide passengers space and comfort while they travel, as well as west (mountain) facing office space for airlines. The design supports a future build-out design to accommodate increased travel demand and space requirements.





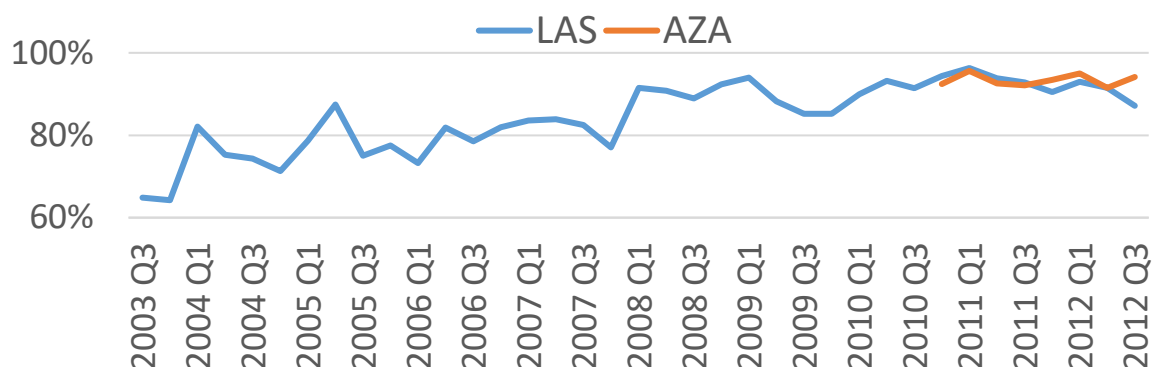
# Historical Air Service Allegiant



In 2003 Allegiant Air began providing air service from FNL to Las Vegas adding another route in 2010 to Phoenix-Mesa. Both routes were discontinued by Allegiant in late 2012 citing operational risk due to the lack of an air traffic control tower. Additionally the MD-83 Aircraft were not ideal for the Airport's elevation and runway length, where more modern aircraft have no trouble operating from FNL. The table below provides historical air service figures for calendar years 2004 through 2012.

FNL Historical Allegiant Service									
	2004	2005	2006	2007	2008	2009	2010	2011	2012
Las Vegas	257	285	284	223	218	227	217	201	153
Phoenix - Mesa							24	98	74
Total Flights	257	285	284	223	218	227	241	299	227
Total Seats	38,550	43,074	42,762	33,612	33,834	34,536	36,312	44,850	34,050

For the first several years of service, load factors for Las Vegas (LAS) averaged less than 80 percent. Loads began to increase in 2007 and exceeded 90 percent for the first time in 2008. Strong Loads were maintained until service ended in 2012. At Phoenix-Mesa (AZA), load factors exceeded 90 percent on average in all three years of service, indicating strong passenger performance.



# Historical Air Service Avelo



In the last quarter of 2021 Avelo Airlines began providing service twice weekly to Burbank California and shortly after that began serving Las Vegas, Nevada. The service frequency began on Wednesdays and Sundays, and was changed to Mondays and Fridays in early 2022. It was again changed to Thursdays and Sundays. The service is scheduled to suspend in late June, citing fuel costs and ridership as reasons for the service end.



Avelo Airlines did have strong ridership numbers going outbound from FNL on the weekends, and loads were slowly building once more people were made aware of the service. Two flights offered each week created a challenge to those that did not have a great amount of flexibility in their travel.

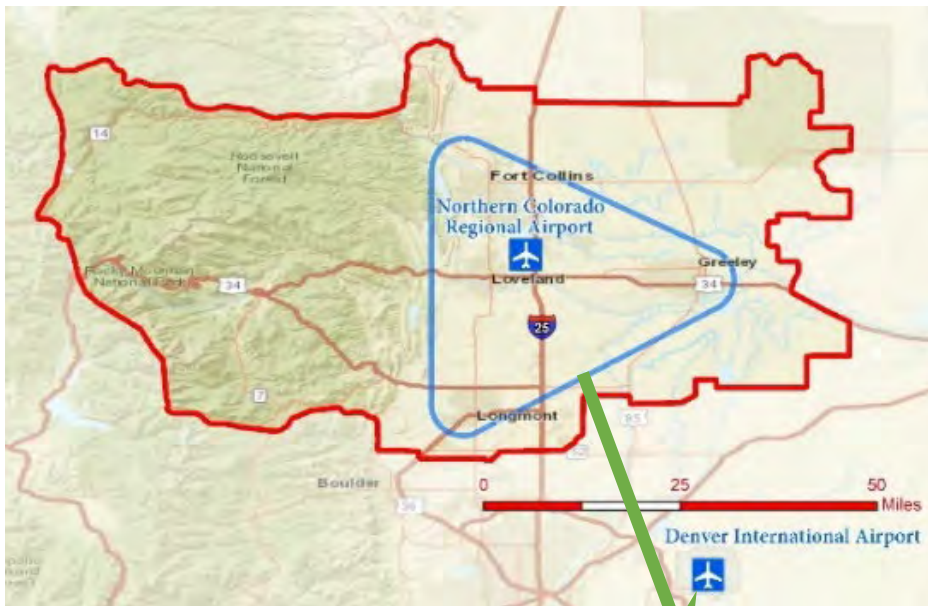
Ways that Avelo could have been more successful at FNL:

- Provide more frequency to one location versus attempting to support both destinations, i.e. 4 times weekly to BUR instead of 2x to both BUR and LAS
- Investing more into marketing and following through with support initiatives
- Having the fleet and staff to support the expansion of the carrier
- Providing more options for booking than just the airline website

# Catchment Area

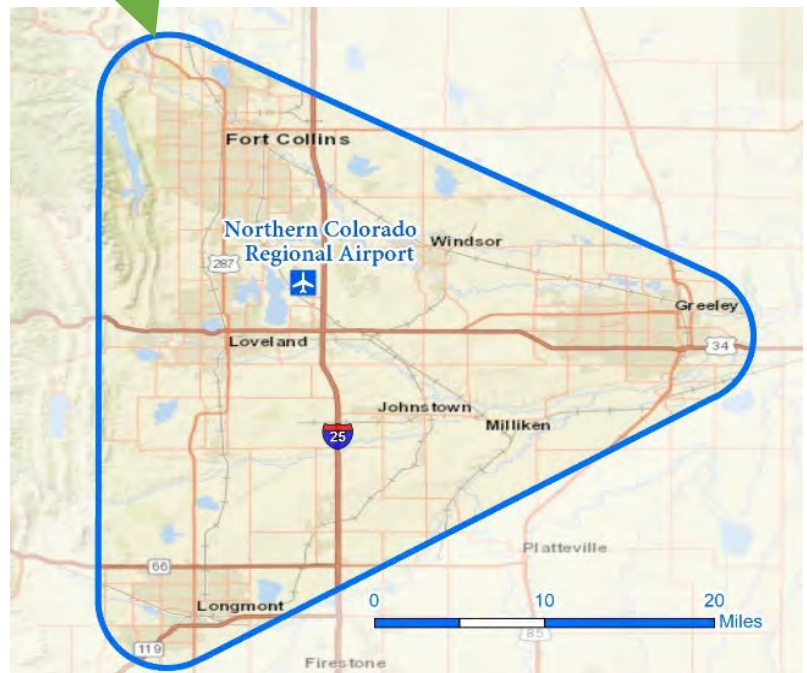


The NOCO region is home to approximately 800,000 people within 32 zip codes, and serves as the basis for the Northern Colorado Regional Airport's primary local market and identified primary catchment area. A conservative approach was used in defining the catchment area, and air service offerings would easily draw travelers from further North and East into Wyoming.



The catchment area shown in red includes 32 zip codes. FNL has excellent accessibility, located adjacent to Interstate 25 and US Highway 34.

The Airport is centrally located between the major urban area of Fort Collins, Loveland, Longmont, and Greeley. Over 90% of the catchment area's population is located within the blue triangle.



# Top 25 Domestic Destinations



Below is the O&D data for the top 25 destinations within the catchment area. This does not include demand from nearby Boulder CO or Cheyenne WY. The data is from 2019 derived from the DB1B reports from the US Bureau of Transportation Statistics.

Rank	City or Region	Airport Code	O&D PAX	PDEW
1	Los Angeles, CA	All Airports Total	120,567	330
		LAX	70,456	193
		SNA	29,683	81
		BUR	8,769	24
		ONT	11,658	32
2	San Francisco, CA	All Airports Total	82,990	227
		SFO	48,923	134
		OAK	13,173	36
		SJC	20,894	57
3	Las Vegas, NV	LAS	76,805	210
4	Phoenix, AZ	PHX	74,879	205
5	Chicago, IL	All Airports Total	74,318	204
		ORD	50,035	137
		MDW	24,283	67
6	New York	All Airports Total	73,576	202
		JFK	16,018	44
		LGA	35,639	98
		EWR	21,919	60
7	Dallas, TX	All Airports Total	64,920	178
		DAL	20,648	57
		DFW	44,272	121



# Top 25 Domestic Destinations Cont.



Rank	City or Region	Airport Code	O&D PAX	PDEW
8	Washinton D.C.	All Airports Total	63,496	174
		DCA	18,924	52
		IAD	24,540	67
		BWI	20,033	55
9	Seattle, WA	SEA	47,203	129
10	Minneapolis St. Paul, MN	MSP	44,421	122
11	San Diego, CA	SAN	43,592	119
12	Orlando, FL	MCO	42,372	116
13	Atlanta, GA	ATL	37,746	103
14	Salt Lake City, UT	SLC	37,049	102
15	Boston, MA	BOS	31,961	88
16	Portland, OR	PDX	27,509	75
17	Austin, TX	AUS	30,025	82
18	Philadelphia, PA	PHL	25,275	69
19	Detroit, MI	DTW	24,597	67
20	Kansas City, MO	MCI	24,593	67
21	St. Louis, MO	STL	21,356	59
22	Tampa Bay, FL	TPA	23,620	65
23	Fort Lauderdale, FL	FLL	22,074	60
24	Nashville, TN	BNA	20,012	55
25	San Antonio, TX	SAT	17,206	47



# Destination NOCO



Rocky Mountain National Park



Northern Colorado tourism numbers continue to break records every year. FNL is the closest airport to Rocky Mountain National Park, a short 40 mile scenic drive to the popular destination.



Embassy Suites - Airport

Estes Park



Old Town Fort Collins






The region continues to grow in popularity, serving as a destination for many outside the state seeking to reconnect with nature, or to see and explore the many attractions the region has to offer. Whether it is visiting one of the 57 area craft beer breweries, or planning a visit to Rocky Mountain National Park, which set a record last year with 4.6 million visitors, there are a multitude of reasons to travel to and explore NOCO.



# FNL: Ski-Port Travel



Drive times to world class ski resorts are very similar to those from DEN. Since DEN is located on the far East side of the Mile High City, it takes just as long to drive from DEN to all of the great ski resorts as it does starting from FNL. See average drive times from both airports below obtained from Google Maps:

	From FNL	From DEN
<b>Winter Park</b> RESORT 	1:50 – 2:20	1:40 – 2:00
 K E Y S T O N E	2:10 – 2:50	1:50 – 2:30
 C O P P E R M O U N T A I N	1:50 – 2:30	1:40 – 2:10
 B R E C K E N R I D G E	2:00 – 2:50	1:50 – 2:30
 V A I L	2:10 – 3:00	2:00 – 2:40

Opportunity exists to partner with many of the ski resorts to offer packages that air carriers can market to travelers.



# Advantage: FNL



- FNL has substantial localized demand for multiple sustainable daily routes to numerous destinations
- FNL provides a unique opportunity for an airline to capture or enhance market share in Colorado
- FNL offers opportunities for higher yields to airlines than DEN or COS due to a low average cost per enplanement
- FNL is a low cost airport, ideal for creating a long term alternative to Denver
- The location of FNL is only 15 minutes farther on average than DEN from downtown Denver and to the great ski resorts in Colorado

## Contact Information

Jason R. Licon, Airport Director  
970-962-2852  
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JUNE 13, 2022 | 3:08:51 PM

# Northern Colorado Regional Airport could host new customs facility

**Katherine Stahla**

PRINT

LOVELAND — Northern Colorado could soon be host to a new outpost from U.S. Customs and Border Protection. The Northern Colorado Regional Airport Commission is set to vote on five action items at its meeting Thursday, with two major decisions set to take place.

Following an initial proposal at the airport commission's April 21 meeting, the commission will vote on whether to enter an agreement with Discovery Air to apply for a U.S. Customs program. The airport is working on securing assistance from local governments and discussing using American Rescue Plan Act funds.

The proposal includes the airport applying for U.S. Customs and Border Protection's Reimbursable Services Program, which would fund the customs facility through a public-private partnership. Discovery Air has already invested in pre-construction of a facility with room for CBP, according to documents filed with the airport commission.



A chart included in the airport commission's packet for its upcoming meeting estimates an annual cost of \$200,000, or 13% of the airport's operating budget, to operate the facility. Centennial Airport in Centennial pays \$221,030 annually in custom fees, and Rocky Mountain Metropolitan Airport at Broomfield pays \$133,900, according to the packet.

The establishment of a customs office would create a foreign trade zone at the airport, according to the proposal. Increased fuel sales and attractiveness to international companies are also benefits that could come with the establishment of a customs office, documents say.

The airport commission is also set to vote on the creation of an infrastructure plan to enable future development at the airport site. A map included in the packet for the airport commission's upcoming meeting indicates the airport has more than 170 acres available for development, with most of it being on the west side of the runway.

The vote would decide which parcel of land the airport commission should focus on making shovel-ready. The recommendation included in the packet indicates a site directly north of existing runways would be a good candidate for preparing, with a focus on general aviation hangars. Hangars to be built at that location would replace T-hangars that would be displaced by a commercial jet hangar.

The Northern Colorado Regional Airport Commission meets at 3:30 p.m. every third Thursday at 4900 Earhart Road in Loveland.





Travel issues continued piling up for fliers as flight delays and cancellations topped 10,000 — a tumultuous weekend for holiday travel blamed on staffing shortages, packed planes and the ripple effects from previous bad weather.



On Monday, more than 3,000 flights within, into, or out of the U.S. were delayed and about 370 flights canceled, as of 5 p.m. ET, [according to FlightAware](#). TSA projected on Twitter that Monday could be Seattle-Tacoma International Airport's [busiest day since the start of the pandemic](#).

"This has been another travel Armageddon weekend," James Ferrara, co-founder and president of global host travel agency InteleTravel, told USA TODAY. "But it's not isolated, or really a surprise."

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Friday was the busiest day for air travel this year with over 2.4 million people passing through security at U.S. airports, according to the [Transportation Security Administration](#). On Saturday, there were 2.1 million travelers.

The U.S. has dominated global flight issues, but it isn't the only country having airline issues; worldwide, an additional 3,500 flights have been canceled and over 23,000 have been delayed this weekend.

Currently, passenger volumes nationwide for this month are 87.7% of 2019 volumes, according to TSA spokesperson Lorie Dankers. The average number of people screened per day is 2.24 million compared to 2.56 million in June 2019.

"This is the highest sustained level we have seen since travel began to recover from the pandemic," Dankers told USA TODAY on Monday.

Nationwide, Delta and United have the highest number of cancellations, with 7% and 3% of flights canceled, respectively, not including flights on their regional affiliates. Airports that are seeing the most issues include Hartsfield-Jackson Atlanta International Airport, John F. Kennedy International Airport and LaGuardia Airport in the New York City area.

**SATURDAY:** [US flight cancellations, delays continue Saturday: More than 4,000 flights affected so far](#)

**FRIDAY AND THURSDAY:** [6,000+ US flights canceled or delayed Friday after one of worst summer air travel days yet](#)

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## Why are flights being canceled and delayed?

There are several factors contributing to the ongoing situation at the nation's airports, notably the [severe storms that hit much of the country the past week](#), the increased number of travelers during the Father's Day and Juneteenth weekend and staff shortages.

"A variety of factors continue to impact our operations, including challenges with air traffic control, weather and unscheduled absences in some work groups. Canceling a flight is always our last resort, and we sincerely apologize to our customers for the inconvenience to their travel plans," Delta spokesperson Emily Cashdan said in a statement to USA TODAY.

Ferrara said the loss of skilled positions, such as pilots and aircrew, is "really what's driving" all of the airline issues. Pilot unions at Delta, American and Southwest have said airlines haven't been quick enough to replace pilots who retired or took leaves of absences when the pandemic began.

"We're in a boom time for travel. We're blowing away all records all previous years. So you've got this surge in demand, and you've got limitations on staffing," Ferrara said.

Memorial Day holiday weekend, [when around 2,800 flights were canceled during the five-day stretch](#).

"That is happening to a lot of people, and that is exactly why we are paying close attention here to what can be done and how to make sure that the airlines are delivering," [Buttigieg told The Associated Press](#) on Saturday, one day after his own flight from Washington, D.C. to New York City was canceled.

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## How long will flight cancellations and delays continue to happen?

"I'm not a betting man. But I would absolutely bet that this will continue through the summer," Ferrara said.

Josh Verde, former pilot and aviation expert with airline consultation group [Aerovise](#), said he wouldn't be surprised if travel woes continue throughout the rest of the year. Summer is expected to be the busiest time of the year, but holidays like Thanksgiving and Christmas might bring similar issues for travelers. "I think we're probably going to be dealing with headaches for the rest of this year. Hopefully, they'll get a handle on things," Verde said.

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## What should travelers do?

If your flight is canceled, [the U.S. Department of Transportation requires airlines](#) to rebook you on the next available flight with space. You are not obligated to accept it, and if so, the airline is required to give a refund, which can be given as your money back, travel credit or voucher.

If your flight is delayed, the length of the delay matters. The DOT says passengers are eligible for a refund regardless of cause as long as it is a "significant delay." However, the definition of a "significant delay" depends on the airline.

"Learning that your flight is canceled, kind of unexpectedly, really just causes chaos," Verde said.

Verde recommends travelers try to keep a flexible schedule so if flight plans change, vacation plans and other scheduled activities aren't heavily affected. He also advises people bring essential items, like water, medication and toiletries, in their carry-on bag, so they are available at any moment if people are unavailable to get to their checked bag.

*Contributing: Zach Wichter, USA TODAY; The Associated Press*

*Follow Jordan Mendoza on Twitter: [@jordan\\_mendoza5](#).*

# A pilot shortage that's been brewing for years adds to the summer travel chaos

July 1, 2022 · 11:25 AM ET

ALEJANDRA MARQUEZ JANSE



The number of new pilots entering the industry is below the demand.

*Nelson Almeida/AFP via Getty Images*

High gas prices. Bad weather. Too many people traveling.

Those are some of the factors causing travel chaos this summer, but a shortage of pilots that has been brewing for years has also added strain to the industry.

"The problem at airlines is, when you're short on ramp staff, when you're short on ops agents, it just delays flights," Captain Casey Murray, president of the Southwest Airlines Pilots Association, said. "But when you don't have a pilot, they are canceled or delayed for hours as pilots are moved into position to move that airplane."

During the pandemic, thousands of pilots took early retirement packages, and because of disruptions in pilot training programs, there were also fewer people joining the industry.





## BUSINESS

More than 1,200 Delta pilots picket at 7 major airports to call for higher pay

This exacerbated an existing problem, as the pipeline of new pilots was already too low before the virus hit, according to Faye Malarkey Black, who leads the Regional Airline Association (RAA).

"This is something that we've been warning about for over a decade and certainly the pandemic has made it worse, but I really want to emphasize we've got to get away from the notion that the pilot shortage is just following the pandemic," Black said.

To fight the economic impact of the pandemic, airlines received \$54 billion in taxpayer-funded relief as payroll support. Its purpose was to keep pilots and other airline employees so they would be ready to go when air travel demand returned. Instead, the airlines provided pilots and other workers with those early retirement packages and incentives to leave, leaving them even more short-staffed now.

Still, Captain Casey Murray said the pandemic offered a short-term reprieve from the shortage because people were traveling less, meaning those who were still flying could meet the reduced demand. But now that demand has returned, airlines have been trying to catch up on hiring.

For that, they turned to regional airlines that usually act as career entry points.

"That's the natural career order," Black said. "It's always been the case, but what the pandemic did was accelerate it because there were early exits that happened. So, this

sort of big confluence of retirements that we saw approaching, suddenly happened years ahead of schedule."



People pass through Salt Lake City International Airport Monday, June 27, 2022, in Salt Lake City.

Rick Bowmer/AP

So, as airlines filled their openings with pilots from regional carriers, and fewer new pilot certificates were issued in the last two years, there were "fewer pilots than ever" to take the positions, Black said.

This has made it hard for regional carriers to keep up their service and partner up with major airlines, directly affecting the connectivity of small communities, Black said.

"So a community like Chattanooga, for example, where they've lost over a third of their air service, they might have lost their direct flight to D.C. or their direct flight to New York," she said. "It's that meaningful measure of their connectivity that was at one place before the pandemic and coming out of the pandemic is in another place altogether."

## Years of shrinking pipeline, and more to come

Black said part of the reason there had been a low supply of pilots over the years was how expensive it was to get started in the field. Pilot training can cost \$80,000 to



\$100,000 or more, and financial aid doesn't cover it all.

"You can't just get a student loan and expect it to cover the full breadth of your pilot training costs," she said. "It falls far short of the actual cost, and so aspiring pilots are left to make up that difference out of pocket and a lot of them can't."

Some airlines have created training programs or even their own flight schools to help assuage the shortage. But those may not be able to solve the shortage immediately.

"It takes 60 to 90 days to interview, hire and put a pilot through training," Murray said. "So, the airlines have to be very proactive, and everybody's competing for the same shrinking pool."



The unofficial start of summer over the Memorial Day weekend offered a troubling glimpse of what was ahead for travelers during the peak vacation season.

David Zalubowski/AP

The Bureau of Labor Statistics projects there could be about 14,500 pilot openings each year for the next decade, but it is unclear how many new pilots will be there to fill those jobs.

The Federal Aviation Administration, which issues new pilot certificates, has issued an average of just 6,500 certificates a year in the past decade. And as the virus disrupted training programs, there was a decrease in applicants and, in turn, a slight dip in certificates in 2020 and 2021.

Aspiring pilots also have to log 1,500 hours of flight time, and once they become airline pilots, they're required to retire at 65 years old.

"So just as the pandemic didn't start this pilot shortage, it's not temporary. It's something that's going to get worse unless we take action on several fronts," she said.



NATIONAL

Few women of color are pilots. United Airlines' flight school is changing that

Some of those actions, she said, include reducing the financial barriers in aviation education, so more people, especially those from underrepresented and diverse backgrounds, had an easier time entering the workforce.

Black said policymakers also had a role to play.

"There are not enough training institutions. Those that exist are oversubscribed. There [is] not enough financial support for individuals who want to become a pilot," she said.

"And so for all these great industry investments to truly bear fruit, we need some support for pilots of the very early stages from policymakers so they can get into this great career and access the high wages and rewards on the other side; and we can also keep communities connected," Black said.

*The radio interview between Ari Shapiro and Captain Casey Murray was produced by Brianna Scott and edited by Kathryn Fox. David Schaper contributed reporting to this article.*

pilots airlines



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538  
(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

DATE: August 11, 2022  
TO: Northern Colorado Regional Airport Commission  
FROM: Jason R. Licon, Airport Director  
RE: Airport Monthly Report for July

## Executive Summary

- The FAA's Safety Risk Management Panel (SRMP) for the Remote Tower project has been postponed until certain changes are made to the remote tower system by the vendor, Searidge Technologies. The Airport Director and Colorado Aeronautics team met with Searidge, who are working to provide solutions to the identified deficiencies.
- The Larimer County Board of Commissioners authorized a \$1.5 Million commitment towards the proposed terminal and aviation technology innovation center concept that was shared with Governor Polis and Congressman Neguse.
- The Thunderbirds successfully completed another Cheyenne Frontier Days Airshow event utilizing FNL as their base of operations July 24 – 28.

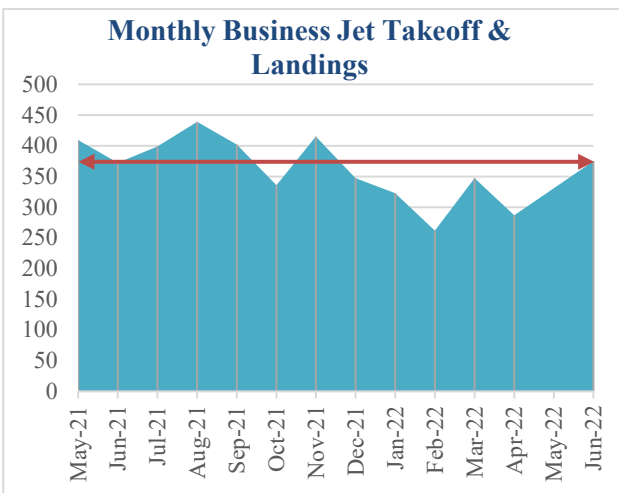
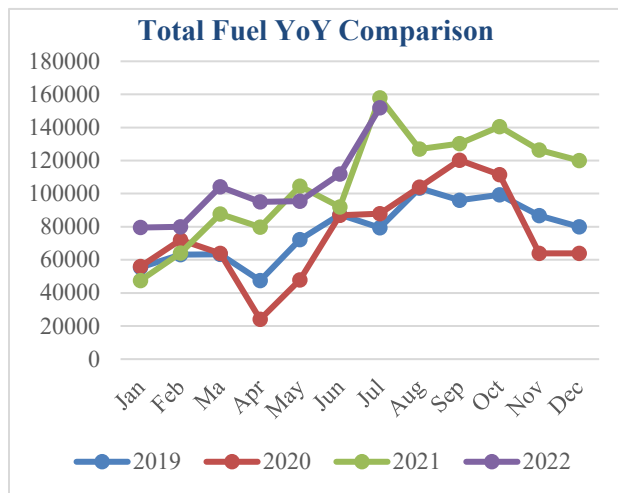
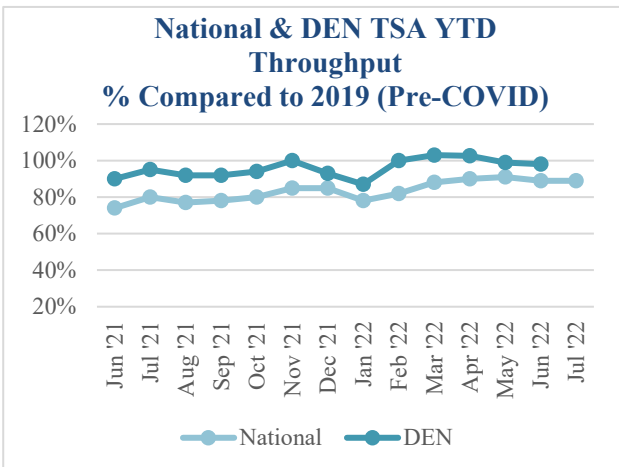
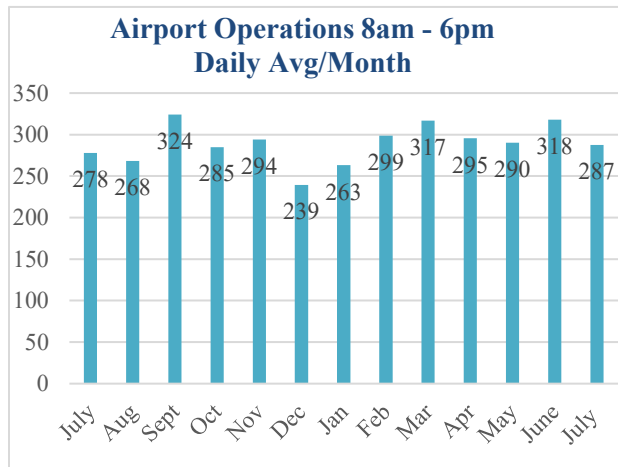


## July Airport Activity Dashboard

- July averaged 287 flight operations per day just under the twelve-month rolling daily average of 290



- National airline passenger throughput for July was again at 89% (vs. 2019)
- DEN Airport June throughput was at 98% throughput (vs. 2019)
- Wholesale fuel ordered by the jetCenter FBO for July was 151,887 gallons, a slight decrease of 3.8% compared to last year's 157,946 gallons
- Business jet activity for June compared to last year increased by 2.4%



## Remote Tower

The FAA's Safety Risk Management Panel (SRMP) for the Remote Tower project has been cancelled until Searidge Technologies is able to implement new requests to the system. The FAA has introduced new safety requirements for the Remote Tower which were not part of the original scope. This is a big concern as this would be similar to moving goalposts after the ball has been kicked.

Meeting are being performed weekly with all parties including the Airport Director to help mitigate the risk to ensure the system moves forward to the next step. Some time will be

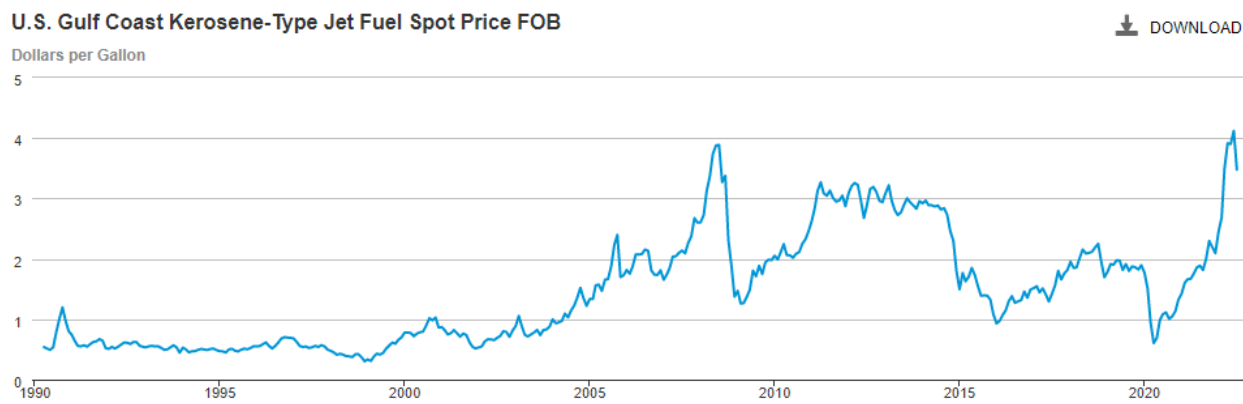


needed for Searidge to add the additional modifications to the system to maintain the momentum and avoid any further significant delays. The FAA will be onsite August 11, and Searidge will meet with FAA NextGen Director Fontaine that same day. More information will be made available after that meeting occurs.

David Ulane, Aeronautics Director for Colorado, Bill Payne, and Director Licon are prepared to travel to FAA headquarters to advocate for continuation of testing and provide Searidge a fair chance to implement any necessary changes if a clear path forward is not determined within the next two weeks.

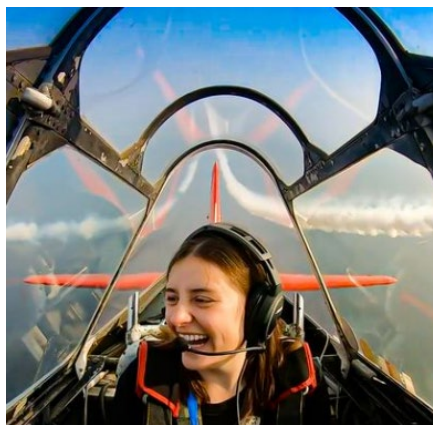
## Fuel Prices

Average monthly aviation turbine fuel wholesale prices have dipped for the month of July to \$3.478 after peaking in June at \$4.12. Below is a chart for the wholesale spot price for Jet fuel, which has risen sharply since it reached the low of \$0.61 during the peak of the pandemic in 2020:



The increased fuel prices are still not evident with the volumes of fuel being sold at the Airport. Fuel volumes remain higher on average than previous years 2019-2021 on the year over year comparisons with the three years prior.

## Aims Community College



Aims Community College with Women in Aviation International (WAI) Aims Chapter Club are co-hosting an event, Aviation Day on August 13. A limited number of discovery flights will be available \$25 with the first 25 girls receiving their flights for free through WAI. Games, giveaways, and opportunities to tour the United “Wingless Flight” coach and fly Aims’ drones will also be available. This should be a great family event.

EAA AirVenture Oshkosh was held July 25-31 where Aims Community College also participated as an exhibitor. They were prominently on display with two of their aircraft among the many highly prestigious national colleges and universities that provide aviation training programs like Embry-Riddle,

University of North Dakota, Lewis University, Southern Illinois University, and Purdue:



### Action Plan Update

The chart below will be updated monthly to provide information on work in progress or accomplished that is associated with each task within the Action Plan.

Objective	Focus	Target	Update
Enhance and Increase Airport Staffing	Organization Excellence	9/15/22	Recruiting for the Business Services Tech position has begun with the position closing August 8. Further analysis and refinement of the staffing plan is scheduled for discussion the September Commission meeting.
Complete planning and design of new terminal building	Multi-modal transit & terminal	12/15/22	The design team and Hensel Phelps have completed the design at the 60% level. Four levels of design are being created to align with available resources to provide options for the Cities to consider. The CMaR contract has finally been drafted and will soon be routed for signatures.
Complete planning relevant to the hangar proposal submitted by Jet Center, which led to the ongoing request for proposals (RFP)	Capital Projects	10/20/22	PDSC representatives have been directed to enter into negotiations with jetCenter on Site A which is still ongoing. The site C planning needs are being developed with a preliminary draft plan for the site was shared at the July 20 PDSC meeting, with the next step being further refinement and obtaining engineer estimates on the proposed layout. The preliminary design provides flexibility in supporting

			the immediate hangar demand needs and does allow for expandability if the Cities desire to convert the crosswind runway into a taxiway in the future (which would require amending the Airport Master Plan & City Council approval).
Enhance political support for the remote tower project	Multi-modal transit & terminal	ongoing	Testing for Phase 1 is completed in April. SRMP (safety risk management panel) rescheduled for August 1-5 has been further postponed. Staff is working with project managers from the State and FAA to determine the next steps.
Develop local support for an education and training center/facility focused on Innovation, Technology, and Aviation	Private & Public Economic Development	7/21/22	Legislation was passed at the end of the Colorado General Assembly session (House Bill 22-1350 or the “Regional Talent Development Initiative Act”) provides direction to the State to create a grant application process for this funding with a requirement to have them available no later than December 1, 2022. Staff participated in a regional ARPA funding meeting on Thursday July 14, where each project was discussed. Additionally, the Larimer County Board of Commissioners approved a \$1.5 million commitment toward funding the project.
Enhance commercial air service	Multi-modal transit & terminal	ongoing	Most air carriers are still cutting routes, and the Spirit-Jet Blue merger talks are front and center for airline network planners to focus on. A strategy to hire an air service development consultant is in process for drafting an RFP, and aligning resources to submit for a 2023 USDOT grant for air service as the airport will be eligible again to apply.
Establish the airport as a true Multi-modal transportation hub, including exploration of Union Pacific Railroad opportunities	Multi-modal transit & terminal	2023	Staff continue to work with Landline and United to enhance the service offering. Staff is working to market the free parking at the airport and ease of use of the wingless flight service with United/Landline.

Complete the 2022 scheduled capital improvement projects	Capital Projects	10/20/22	The capital project for this year is the terminal design, which at the end of June reached the 60% design milestone. During the month of June and July the 60% design have been evaluated for additional ways to reduce costs, and will be presented at the August 22 Airport Commission meeting for direction.
Develop sub-area land plans and procedures for on-airport development	Private & Public Economic Development	2023	This item is being budgeted for in 2023. Costs are being estimated for this and a draft scope of work will be developed.

### **Homestead Hangars**

The company has been sold to IC Loveland, LLC. the holding company for BA Group. An assignment and assumption for the lease will be within the August 22<sup>nd</sup> meeting for approval and a lease amendment which will require scheduled repayment of the remaining COVID Business Assistance balance to be paid in full by December 31, 2024. This business exchange is great news for airport users as this project will be able to move forward and provide hangar units to meet the demand for on-airport hangars.

### **Airport Rescue Fire Fighting and Triennial Drill**

Loveland Fire and Rescue Authority (LFRA) coordinated and led mutual aid training on airport with help from Aims Community College, Hensel Phelps, and Nutrien's flight departments. Training was completed for LFRA, Poudre Fire Rescue Authority, Windsor Fire, and Severance Fire Departments.

Work is ongoing for the planning for the full-scale airport disaster drill planned for September 20 with area agencies that provide emergency services for the Airport. Work continues to create the plan for the drill and coordinating logistics.

### **Airport Maintenance**

Staff continued required pavement maintenance throughout the airport, which includes painting. All work to repaint airport markings on all the surfaces began in July and will continue throughout August. Overnight runway closures are scheduled for the week of August 22<sup>nd</sup> provided the weather continues to cooperate. This work is necessary to meet the 139 certificate standards set by the FAA.

### **Planned Events**

- Saturday August 13: Aims Community College Aviation Day – Up to 1,000 people are anticipated to attend between 9:00 am – 2:00 pm. This free, fun and family-friendly



event features demonstrations from the Aims Aviation Program, games and activities for the whole family and a mini-car show. For more information on the event visit

[https://events.aims.edu/event/aims\\_aviation\\_day](https://events.aims.edu/event/aims_aviation_day)

- Friday August 19: The Airport Director invited the Fort Collins Chamber of Commerce's Local Legislative Affairs Committee to attend a tour of the Airport with the goal to learn about the Wingless Flight program, remote tower project, the new terminal, and private development on and adjacent to the Airport.
- Friday August 19: NoCO Unify will be hosting their annual "Suitcase Party" event at the new Discovery Air hangar on the Airport. Staff have coordinated with TSA to obtain the necessary special approvals to enable the event to be conducted in a facility with access to the airside. The Airport has been the site for the event for many years, and were glad to see their return again this year where one lucky winner will be taken on a trip on a private aircraft to Napa Valley California for a weekend getaway. See <https://suitcaseparty.com/> for more information.
- August 21-27: The US Army will be utilizing the Airport and portions of the terminal facility to conduct high altitude flight training. The terminal modular building will be set up as a classroom and they will operate four UG-60 Blackhawk helicopters.
- August 28- September 10: The US Army will be operating another high-altitude training for a group of Boeing CH-47 Chinook helicopters utilizing the airport as the classroom and base of operations. Below is a photo of the UH-60 Blackhawk in front and two CH-47 in the back.



#### Attachments

1. WEPA Remote Tower Project Report for July
2. Small Airports Hit Hard by Pilot Shortage
3. Why Digital Towers May Be the Future of FAA Contract Towers
4. The 1,500-Hour Rule Has Broken the Pilot Pipeline in The U.S.



July 31, 2022

From: William E. Payne, P.E.

To: Colorado Division of Aeronautics

### Section A – Remote Air Traffic Control Contract Progress Report #13

Re: Period: July 1 through July 31, 2022

Colorado Remote Tower Project Activity Status			
Activity	Status/Start Date (Projected)	Finish Date (Projected)	Remarks
<b>Remote Tower Implementation</b>			
STARS FTI Comm line	Complete	5/15/2022	Awaiting FTI installation of communication
<b>Remote Tower System</b>			
System Upgrade - Tech Refresh	In-Progress	TBD	Continuing
<b>Remote Tower Testing</b>			
Serco Controller Staff Remote Tower	10/1/2021	Ongoing	Controllers familiarization exercise underway
<b>Phase 1 - Passive Testing</b>	3/21/2022	4/29/2022	Complete
Period 1	3/21/2022	Complete	Flight test scenarios 4/30/22
Period 2	4/18/2022	Complete	Flight test scenarios 4/19,20,22/22
Reduce Phase 1 Data - Produce Report	5/2/2022	7/25/2022	Complete
Safety Risk Manage Panel	TBD	TBD	FAA Forecast Schedule 1 week duration
Safety Risk Management Document Signed	TBD	TBD	FAA Forecast Schedule 6 months
<b>Phase 1B - Passive Re-testing</b>	TBD	TBD	Resolution of System Deficiencies
<b>Phase 2 - Active Testing</b>	TBD	TBD	Subject to FAA Phase 1 SRMD Signatures
Safety Risk Manage Panel	TBD	TBD	
Safety Risk Management Document Signed	TBD	TBD	
<b>Phase 3 - Validation &amp; Verification</b>	TBD	TBD	Subject to FAA Phase 2 SRMD Signatures
Safety Risk Manage Panel	TBD	TBD	
Safety Risk Management Document Signed	TBD	TBD	
<b>Operational Viability Decision (OVD)</b>	TBD	TBD	
<b>Phase 4 - Post OVD Validation</b>	TBD	TBD	Subject to FAA Phase 3 SRMD Signatures
Safety Risk Manage Panel	TBD	TBD	
Safety Risk Management Document Signed	TBD	TBD	
<b>Certification/Commissioning</b>	TBD	TBD	

Note: All dates reflect latest FAA proposed schedule and are subject to change based on FAA SME's ability to travel t

## **Remote Tower Project Narrative:**

At the conclusion of Phase 1 testing, seventeen system deficiencies were identified ranging in importance from visual acuity (ability to detect and visually track aircraft) to placing cardinal compass directions and screen numbers at the top of the video wall display.

The 3 major deficiencies which affect the system's ability to deliver airport traffic control services are:

1. **System visual acuity**, inability of a controller to consistently acquire and maintain visual contact with an aircraft in the local traffic pattern.

There are two primary reasons for the visual acuity issue.

- a. NextGen continues to stipulate that the video wall be the primary display. This is true for the system at Leesburg (JYO) that has a single camera array with a video wall only. The system at the Northern Colorado Regional Airport (FNL) employs a distributed camera array configuration with video displays at the individual controller working positions that permit a controller to view the stitched 360° center camera array as well as the 220° end mast stitched display and approach cameras.
- b. The distance of the video wall from the controller working positions; 7' to the closest display, 9.5' to the center display and 13.8' at the furthest display.

It is instructive to note that as previously stated the video displays do not faithfully reproduce the out-of-the-window-view from a traditional airport traffic control tower (ATCT). This is not a new observation and was addressed by the VP of Air Traffic Services at the United States Contract Tower Association meeting in Washington.

2. **Video display stability**, display blinks off and on.

This display instability may be due to the graphics card.

3. **Center Camera mast stability**, under high wind conditions 20 kts and higher the video wall display exhibits jitter or rolling.

NextGen and their consultants believe that the video instability is the sole result of camera mast motion. I disagree and believe that the motion of mast under certain wind conditions is the forcing function, and the instability is the result of stitching synchronization. The stitching algorithm attempting to compensate for the motion of the mast results in the instability of the displayed image.

Of the 3 major deficiencies, visual acuity is the most critical and must be resolved for the program to proceed. The remaining deficiencies are straight forward and either have been addressed or are being addressed.

Air Traffic (AJT) and NextGen (ANG-C) have identified system visual acuity, which could result in loss of visual situational awareness by controllers as a high hazard.

The visual acuity issue must be corrected or mitigated to a medium or acceptable risk before moving forward with the SRMP and subsequently into Phase 2 (active) testing.

NextGen has forwarded a Memorandum from Air Traffic Services (see attached) under their cover letter (see attached) saying they do not want to proceed with the Safety Risk Management Panel (SRMP) scheduled for the first week of August 2022 until the vendor has addressed the deficiencies.

The visual acuity of the system does meet the original requirements provided to the vendor. However, after testing at JYO and FNL, the visual acuity requirements have been modified, rendering the original requirements invalid. At this point, it must be pointed out that there are not visual acuity requirements for a traditional ATCT.

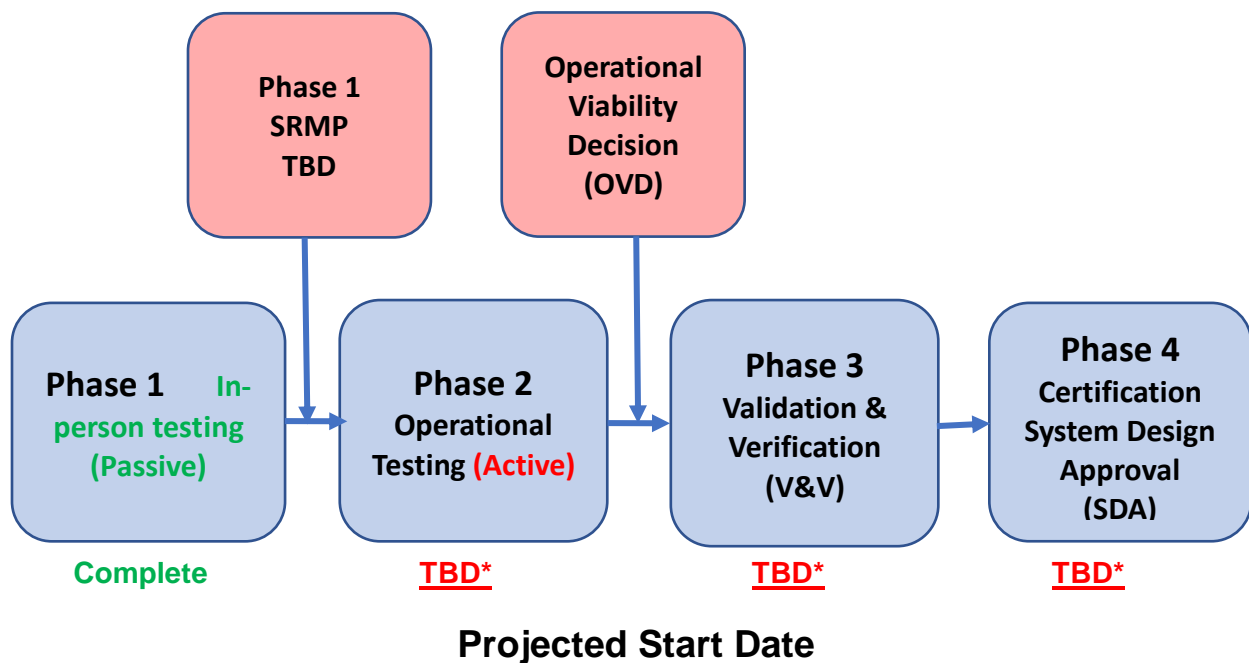
As stated last month the FAA is considering requiring the remote tower vendors to bring their system to Technical Center in Atlantic City, New Jersey for testing and certification. In response to this proposal, I have generated a “white paper” suggesting an alternative and the reasons why (see attached).

#### **Remote Tower Approval Phases:**

- ❖ Operational Testing
  - Phase 1 - Passive Op Evals (Mobile ATCT staffed controlling traffic, passive data collection from Remote Tower (RT)) – **Complete**.
  - Phase 2 - Active Op Evals (RT staffed controlling traffic, Mobile ATCT staffed as safety back up); operating under an AOV (Aviation Safety) approved Phase 2 test plan - **TBD**
  - Phase 3 – Validation and Verification (V&V) (RT staffed controlling traffic; Mobile ATCT unstaffed) operating under an AOV approved V&V test plan -**TBD**
- ❖ Operational Viability Decision
  - Phase 3 - Extended Monitoring (RT staffed controlling traffic, existing ATCT can be deactivated or MATCT can be removed); operating under an AOV approved extended monitoring plan - **TBD**
- ❖ System Design Approval (SDA) - **TBD**
- ❖ Remote Tower System/Facility Commissioning -**TBD**



## Proposed Remote Tower Testing Phases:

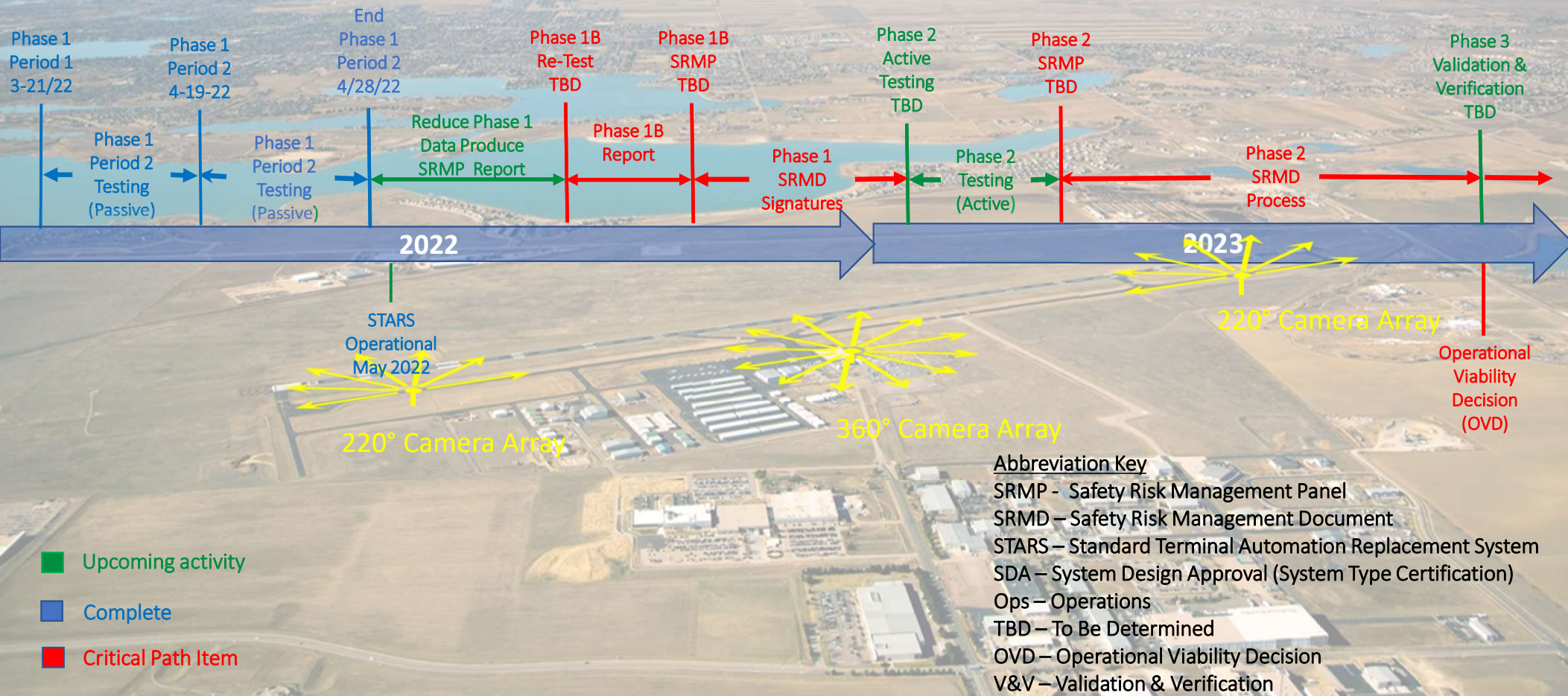


\*Dependent on local resources' ability to travel to FNL and COVID status

**Schedule Note:** This status is based on the latest proposed schedule and is dependent upon availability of FAA resources to staff the remote tower and support the Phase 1 SRMP.

Note: The FAA has replaced the term Initial Operating Capability (IOC) with Operational Viability Decision (OVD). This may change again as the terminology of remote tower certification is in flux.

# Colorado Remote Tower Timeline (Draft)



## **Remote Tower Testing Alternative**

Presented by:  
William E. Payne, P.E.  
July 10, 2022

### **Remote Tower Testing Protocol:**

NextGen's approach to testing remote tower systems involves a vendor providing the intake documentation, deploying their system at a candidate airport and the agency committing resources to test and evaluate the individual system. This process is both innovative and effective in that it creates an environment that permits individual vendors to propose and deploy systems without preconceived ideas or undue constraints. Ultimately, this results in superior remote tower systems. Employing this innovative approach to remote tower development supports the FAA's goal of establishing a list of qualified system vendors. While on-site evaluation requires travel by FAA to airports around the country, this seems a small price to pay when compared with the unique opportunity to observe and collect real time in situ test data.

### **Remote Tower Development Overview:**

Remote tower technologies represent a paradigm shift for the safe and efficient delivery of airport traffic control services to uncontrolled airports that would benefit from enhanced air traffic control or to replace an aging control towers. In the 2018 FAA Reauthorization Act, Congress established the Remote Tower Pilot Program and identified six slots for eligible airports.

The advantage to the agency of the current approach is clearly that they can continue exploring remote tower technologies as an alternative to traditional and costly sticks and bricks control towers by allowing sponsors to fund the projects while the FAA evaluates the various systems and their individual operational concepts. The FAA has indicated that for the foreseeable future the agency does not intend to establish a remote tower program. However, it is believed that as remote tower systems mature, are certified and proliferate throughout the NAS, the FAA will at some point establish a Remote Tower Program Office.

The two systems being evaluated by the FAA are the Colorado Remote Tower Project at the Northern Colorado Regional Airport (FNL) in Loveland, CO, and the Virginia SATLab remote tower at the Leesburg Executive Airport (JYO) in Leesburg, VA. These two systems pursued different paths for development and deployment. The Colorado Remote Tower Program at FNL from its inception engaged the FAA as a partner to develop a remote tower at a Colorado Airport. The State of Colorado provided \$8.8M in funding to the FAA, who then developed the preliminary concepts of operation, evaluated 5 candidate airports and selected the vendor with direct input from the State. Conversely, at JYO, the Leesburg Executive Airport teamed with Saab and Virginia SATLab, Inc. to fund development of the remote tower and deploy the system with little or no input from the FAA. They then requested that the FAA evaluate and test the system.

These two systems are similar but differ in the following ways.

Functionality	FNL	JYO
Central Mast - 360° Camera Array	X	X
Distributed Camera Arrays (2 runway end masts)	X	
Stand-alone Radar Display*	X	X
Radar ingested into the automation tags displayed on the video displays	X	
Video display at each controller working position (CWP)	X	
360° Video Wall	X	X
Video Tracking	X	X
Stitched Video permitting panning at the CWP display	X	

\* Radar was an initial requirement of the FNL system. FAA added a stand-alone STARS radar to the JYO system after completion of initial testing and evaluation.

**Note:** This comparison is intended to demonstrate the two remote tower concepts and does not imply the efficacy of either system.

A single central mast configuration was employed at JYO, which has a field elevation of 390' msl and a runway length of 5,500', and tested by the FAA. The FAA then stipulated that the single central mast configuration can only be deployed at airports with runway lengths no greater than 5,500'. FNL has a field elevation of 5,015' msl with a 8,500' primary runway and a 2,273' crosswind runway. The distributed camera mast configuration (1-360° central mast and 2-220° end masts) was chosen for implementation at FNL to mitigate the runway length. This configuration provides controllers with an improved view of the runup area and runway hold short line. Both airports, while being evaluated, are designated Class E airspace with a control tower. It should be noted, as a complicating factor, that JYO lies under the Washington Dulles International Airport (IAD) Class B airspace shelf.

A third remote system is proposed at the Friedman Memorial Airport (SUN) in Hailey, ID. The Airport elected to pursue a remote tower as the replacement for its aging airport traffic control tower (ATCT), which lies within the Runway Obstacle Free Area (ROFA). The Airport has been mandated to move the ATCT out of the ROFA by the Airports District Office. The Airport Authority Board has selected the Raytheon-Frequentis team to implement a remote tower known as the SUN Digital Tower (SDT) Project. The SDT would be similarly configured to the system at FNL. It would consist of a distributed camera system to mitigate the runway length (7,550'), would include a radar display to support controller situational awareness and employ video stitching. The Raytheon-Frequentis team has proposed deploying the SDT at the Friedman Memorial Airport and remoting a real-time video feed to the Tech Center or other FAA location to facilitate evaluation and testing. This proposal is novel and would definitely be valuable in supporting visual testing of the system by FAA resources by reducing the travel requirement and cost.

FNL and JYO have been designated as the first two Remote Tower Pilot Program airports pursuant to the 2018 FAA Reauthorization Act. FAA has indicated that SUN would be the third Pilot Program airport.



## **Remote Tower Operational Concepts:**

The remote tower testing to date has primarily concentrated on visual certification of the system with limited or no use of radar as a tool. The current state of today's cameras and display systems does not exactly replicate the out-of-the-window view from a legacy ATCT. This can lead to loss of visual situational awareness due primarily to several factors including:

1. Distance from the camera array;
2. Aircraft size, color and type;
3. Atmospheric conditions – cloud cover, visibility, etc.;
4. Aspect ratio of the aircraft relative to the camera – profile, head-on, turning, etc.

Testing at FNL and JYO has borne out this hypothesis.

It is for this reason that a radar display to mitigate the difference in visual presentation and to provide enhanced situational awareness to the controller is a critical tool in any remote tower system. This is particularly true at medium to high activity airports with annual operations approaching or exceeding 100,000. A visual only remote tower system may well work at low activity airports  $\leq 50,000$  operations per year. However, there are airports in the NAS with lower levels of annual operations that experience seasonally or event peaked operations that would benefit from the situational awareness provided by a radar display. There are several examples of this in the NAS.

## **Remote Tower Testing Today:**

The process currently being followed for the deployment of remote tower systems by individual vendors allows for the maximum flexibility essential for a developmental program of this nature. The rapid pace at which camera, sensor and display technologies are changing makes flexibility even more important.

There are two major components involved with the evaluation, testing, and certification of remote tower systems:

1. Visual Performance – Ability of the system to present to a controller located in the remote facility without direct view of the airport environs a picture of the airfield surface and local airspace sufficient for the controller to safely provide VFR separation based on inputs from a variety of sensors, electro-optical (visual), Infra-Red (IR) and track-based (radar), etc. The controlling documents are the Draft Operational Visual Requirements (OVR) and Draft Remote Tower Advisory Circular (AC).
2. Non-Fed Remote Tower Equipment – Confirm the reliability, maintainability, and availability (RMA) of the remote tower system components to a sufficient level to ensure system availability. It is the stated position of the agency to certify the remote tower equipment as Non-Fed. The controlling documents are the Draft Remote Tower Operational Safety Assessment (OSA) and Draft Remote Tower AC.

## **Proposed Remote Tower Testing Protocol:**

NextGen in conjunction with AJW and other lines of business is considering a different approach to evaluating, testing and certification of remote tower systems. This new process would involve a vendor taking their system to the FAA Technical Center in Atlantic City, New Jersey for visual and equipment testing and certification. This proposal has distinct advantages and disadvantages.

### **Advantages:**

1. Easy access to the system by FAA resources.
2. Changes to the system could easily be evaluated by FAA in real time.
3. Upon completion of testing, the vendor may be able to take the system to any number of airports with, in theory, only a local adaptation and limited testing/observation needed to certify the system for operation.

### **Disadvantages:**

1. This process would add considerable time to the deployment of a remote tower system.
2. This process would necessitate the vendor either installing the system at the Tech Center and after testing moving the system to the candidate airport or deploying the system at the airport and a copy at the Tech Center.
3. The additional time could adversely affect the airport's funding timeline.
4. The cost to a potential vendor of deploying a system at the Tech Center could make this process unattractive.
5. The testing environment at the Tech Center would be different than that of a candidate airport at which the system would be deployed.
6. Requiring certification of Commercial Off the Shelf (COTS) equipment at the Tech Center presents a logistics problem.
7. This process is similar to the FAA's Acquisition Management System (AMS), which is cumbersome at best, and is unnecessary in that this is not an FAA Program requiring the AMS protocol be followed.

The equipment required for a Non-Fed remote tower system falls into three primary categories:

1. Remote tower visual equipment – Commercial-Off-the-Shelf (COTS) – **Non-Fed**
  - a. Video cameras;
  - b. Video displays;
  - c. Servers (computers);
  - d. Routers;
  - e. Etc.
2. ATCT Minimum Equipment List (MEL) - **Non-Fed**
  - a. Radios;
  - b. Voice Switch;
  - c. Lighting control panel;
  - d. DASI;
  - e. Wind instruments;

- f. Etc.
- 3. **FAA Equipment- FAA certified**
  - a. STARS;
  - b. FDIO;
  - c. Etc.

### **Alternative Hybrid Testing Solution:**

As FAA considers the merits of moving remote tower testing functions to the Tech Center, a hybrid approach should also be considered. The major component of the remote tower system which is unique to each vendor's system is the software driving the automation platform. The benefit gained by requiring a vendor to bring a complete remote tower system to the Tech Center would be minimal and costly, as it would require installation of camera masts, a fiberoptic communication system in addition to the servers, displays and human machine interface (HMI) etc.

Alternatively:

1. The vendor software could be loaded on servers at the Tech Center and tested using replay or real time data from a specific airport at far less cost than requiring the entire system to be stood up.
2. The vendor would provide the FAA with individual manufacturer's specifications, test data and maintenance manuals. The vendor would arrange for FAA personnel to visit the manufacturers' facility to witness testing as required. Requiring a remote tower vendor to certify a COTS manufacture's equipment creates undue complexity and would best be accomplished by the individual equipment manufacturers providing the FAA with the necessary data.

Employing this or a similar hybrid approach to testing of remote tower systems would take advantage of both current and proposed testing protocols.

It is unclear if the FAA intends to require vendors from the two projects already in place to bring their systems to the Tech Center. The vendors for FNL and JYO could bring their software to the Tech Center for testing, as this should not impose an undue burden on them and would support testing by the FAA.

### **Conclusions:**

The remote tower systems presently being assessed by the FAA, as well as those proposed, must be evaluated and tested to ensure they can safely deliver airport traffic control services before being given operational approval. This does not imply the system is 100% risk free. Any system operated by humans will always have some degree of risk, which should be mitigated to the greatest degree possible.

The real evaluation of these systems will only occur when being operated by certified air traffic controllers in an operational environment. As controllers use the system and become more familiar

and comfortable with the system functionalities, unique and innovative ways to use the system to its maximum benefit will be discovered. Conversely, unforeseen shortcomings invariably will be discovered that necessitate changes to the system. Instead of trying to lock down a configuration, why not allow these systems to proceed as true developmental projects and learn from actual operations? Obviously, a remote tower system would not be put into operation until it has been fully tested and has received Operational Viability Decision (OVD).





# Federal Aviation Administration

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## Memorandum

Date: 7/18/2022

To: Paul Fontaine, Acting Assistant Administrator, NextGen

LAURA G

STENSLAND

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STENSLAND  
Date: 2022.07.18 08:36:24  
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From: Jeffrey Szczygielski, Director, Operational Policy and Implementation, AJT-2

Subject: Post-Phase 1 Operational Assessment of the Searidge Technologies Remote Tower System at Northern Colorado Regional Airport

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This memorandum provides Air Traffic Services' (AJT) operational assessment of Air Traffic Control Specialist's evaluation of the Airport Traffic Control Tower services utilizing the Searidge Technologies (SRT) Remote Tower (RT) system facility at Northern Colorado Regional Airport (FNL) in Loveland, Colorado. Phase 1 operational evaluations were conducted in March and April of 2022 at FNL. Based on the Phase 1 results, the following RT system deficiencies were identified:

### Primary Display Resolution/Acuity

- The Operational Visual Requirement (OVR) requires that the remote tower primary video wall display must allow controllers to visually detect aircraft at a minimum of 3 miles laterally from the active runway (RWY) surface area (OVRs V047, V076, and V077). Target detection on the primary video wall display during Phase 1 evaluations averaged 1.27 nautical miles from the active runway surface area.
- OVRs V067 through V075 require that the remote tower primary video wall display must permit the controller to visually observe an aircraft on all legs of the airport traffic pattern. During Phase 1 evaluations, there were numerous instances where controllers lost acquisition of targets and were unable to observe aircraft as required.

### Mast Instability

- The camera mast sways at wind speeds above 20 knots, causing the primary video wall images to move, resulting in a loss of situational awareness and inability to use the primary display for control of traffic. This was observed and communicated multiple times from November 2018 through Phase 1 evaluations.

### **System Instability**

- Various components of the RT system blink on and off without prompting or warning, and there are multiple instances of frame rate warnings. This creates a distraction, loss of situational awareness, and creates issues regarding the trust/reliability of the equipment and information displayed.

### **Video Stitching – Double Targets and Disappearing Targets**

- Targets disappear off the system, and the system sometimes displays multiple images for a single target. This results in not being able to accurately determine aircraft position or provide separation.

### **Lack of Ambient Airfield Audio at All Controller Working Positions**

- This is a technical requirement as noted in the Technical Requirements document, Version 3, Section 2.1.6. Lack of airfield audio information impacts situational awareness and creates a safety issue in that control personnel cannot hear engine or other noises that may alert to potential issues.

### **Insufficient Controller System Training**

- Currently, the training package does not adequately describe or provide instructions on how to use the various components of the system.

### **Removal of Air Situational Display**

- The Air Situational Display requested in the Request for Information functions similar to a Standard Terminal Automation Replacement System (STARS) display; however, the information for the Air Situational Display is based upon System Wide Information Management (SWIM) data, which is not certified for operational use. The Air Situational Display will be replaced by the STARS system.

### **Bounding Box Target Blockage**

- Bounding boxes can obscure the target being tracked and overall accuracy is limited (e.g., does not adequately track targets, creates multiple boxes for a single target). Controllers sometimes cannot see targets, which creates a distraction and loss of situational awareness.

### **Data Tag Target Blockage**

- The data tags are placed inconsistently in relation to the targets. The data tags also obscure targets, not just the target being tracked, but other targets. This creates a loss of

situational awareness and also creates issues with separation of traffic, since targets are blocked and cannot be seen.

### **Positioning of Runway 33 Approach View**

- The camera is positioned too low and does not capture the full/optimal portion of the approach to RWY 33. The camera cannot be used to detect other aircraft above the camera's current field of view. Due to the acuity and resolution deficiencies of the primary display, this is a critical component of the system, especially for aircraft on straight-in approaches.

### **Mouse Wheel Scroll Speed Usability**

- The scroll speed on all views is too slow for use in operational situations. Controllers cannot scroll and zoom in on aircraft in a timely fashion, which prevents controllers from performing basic ATC functions.

### **PTZ Usability**

- The automatic tracking of aircraft function is tied to SWIM data, which was demonstrated to be unreliable and not sufficient for operational use. Manual tracking was also attempted during Phase 1; however, it proved to be too cumbersome and was not used. PTZ usability is seen as being critical, since the function of the PTZ camera is analogous to use of binoculars in a traditional "brick and mortar" tower. Without use of the PTZ, there is a loss of situational awareness and controllers are unable to gather other information critical to job functions (e.g., identify aircraft landing gear is down, aircraft tail numbers, bird/wildlife activity).

### **At-The-Glass Video Recording Quality and Retention**

- Retention of data for 45 days in a manner that ensures that there is no loss of fidelity (i.e., 25 frames per second) in recording is a technical requirement, per the Technical Requirements document Version 3, Section 2.1.4.

### **Overlay Instability**

- Overlays were observed to move, which seemed to be related to mast instability. The overlays block aircraft, ground markings (e.g., hold short lines), and airport lighting. This results in being unable to determine the position of aircraft relative to ground markings when the overlays are enabled.

### **RWY Position Markers Usability**

- The RWY position markers were observed to move, which seemed to be related to mast instability. Additionally, there is no way to display the position information for a single

runway, as information for both RWY 15 and 33 could only be displayed together. Due to the inaccuracy and amount of information displayed, the position markers become unusable and cannot be utilized for same RWY separation.

### **Insufficient Screen and Cardinal Direction Identifiers**

- The screen numbers are located at the bottom of the display monitors and are not visible. There are also no cardinal direction identifiers, which are needed for situational awareness and provision of air traffic control services.

### **Lack of video wall lighting Mode Identifiers**

- There are three day and night modes available; however, there are no instructions on when to use each mode, and there is no consistent indication across the working positions as to what mode the system is in. This results in mode errors for suboptimal lighting and resolution of targets, which created distractions.

AJT, in collaboration with Air Traffic Safety and Technical Training (AJT), NextGen Technology Development and Prototyping Division (ANG-C5), and other lines of business, has determined that the Searidge RT system in its current state is not ready to proceed to a Safety Risk Management Panel due to the above identified deficiencies.

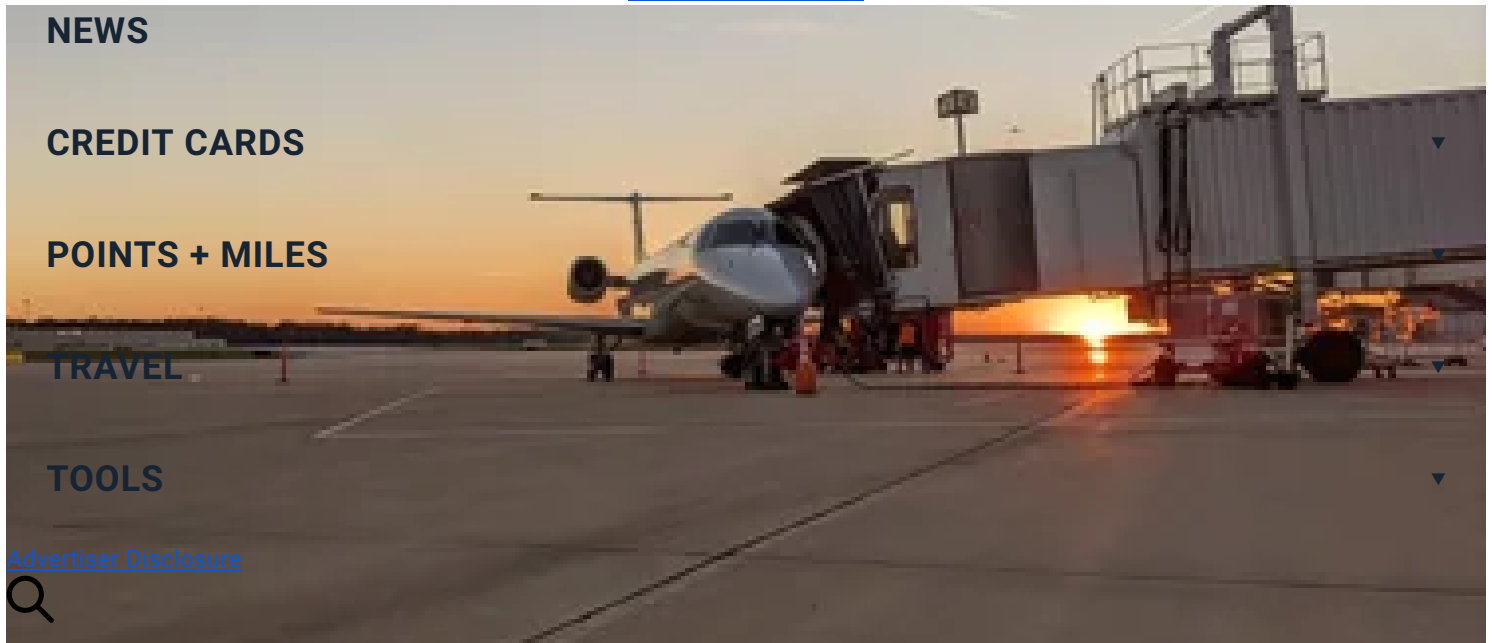
If you have any questions or need further information, please contact Frank Lias, Group Manager, AJT-22, at [Frank.Lias@faa.gov](mailto:Frank.Lias@faa.gov).

Attachments:

1. FNL Airport Remote Tower Project: Phase 1 Results, Version 1.0
2. Deficiencies and Requirements Table



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## NEWS Small airports hit hard by pilot shortage, route cuts

**Sean Cudahy**

Jul 23, 2022

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Joe Cappel thinks of 2019 as a year when things were truly firing on all cylinders. As vice president of business development at Eugene F. Kranz Toledo Express Airport (TOL) in Ohio, he saw growth in the airport's passenger traffic, and was in discussions with American Airlines about adding flights to an additional destination, given demand on its short list of flights.

"We were fairly optimistic, and then COVID struck, and business travelers stopped flying and it started to snowball from there," Cappel told TPG.

Fast forward to the summer of 2022, and things look a lot different.

While passenger enplanements in Toledo rebounded in 2021 with a nearly 30% jump over 2020 levels, the airport received bad news in June. Toledo passengers learned American Airlines service at the airport — along with three airports in other parts of the country — [would be ending](#) in the coming months.

"Certainly something like this ... it hurts," Cappel said.

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*An American Eagle jet waits at the gate at Philadelphia International Airport (PHL) ahead of a flight to a small regional airport. (Photo by Sean Cudahy/The Points Guy)*

It's fair to say airport officials knew something like this was possible. American Airlines flights in and out of Toledo, traditionally operated by regional affiliates, had been slowly disappearing.

First, service to Charlotte Douglas International Airport (CLT) ended, leaving the airport with American flights only to Chicago's O'Hare International Airport (ORD). The single destination still made up 44% of the airport's traffic, Cappel said.

Now, with this change, Chicago flights will end come September leaving the airport with commercial service only aboard low-cost carrier Allegiant.

"Certainly, it does have an impact," Cappel said, adding a factor that makes the change all the more disheartening.

"Once you lose something," he said, "it makes it even more challenging to bring it back."

Toledo is far from alone, though.



*Dubuque Regional Airport in Dubuque, Iowa. (Photo courtesy of Dubuque Regional Airport/Twitter)*

## A growing trend affecting small airports

When you think of the challenges airlines have faced this summer, the first things that come to mind are scenes at large airports. In particular, those days when an airport such as New York's

LaGuardia Airport (LGA) [saw hundreds of flights get canceled and delayed](#) or when thunderstorms at [large Florida hubs snowballed into mass disruptions](#) at hubs up and down the East Coast.

Airlines have [cited a variety of factors](#), including staffing challenges, as a major source of disruptions and as the reason for the flight schedule reductions that some airlines have made this summer. A shortage of pilots is one of the most critical factors.

While the trend has perhaps led to a less convenient experience for passengers at large hubs during portions of this summer travel season, the impact at small, regional airports has — in a lot of cases — been that the flights just end entirely.

When American Airlines announced in June that it would pull out of Toledo, travelers who use Dubuque Regional Airport (DBQ) in Iowa, Long Island MacArthur Airport (ISP) in Islip, New York and Ithaca Tompkins Regional Airport (ITH) in Ithaca, New York got similar news.

That's not to say the problem is limited to American and its regional affiliate airlines, either.

In fact, when comparing the first quarters of 2019 and 2021, 106 communities lost more than a quarter of their departures, according to a [recent report](#) from the Regional Airline Association, a trade group representing regional carriers.

Regional carrier SkyWest [proposed pulling out of dozens of airports](#) earlier this year.



*(Photo by David Slotnick/The Points Guy)*

The source of the problem is a trickle-down effect from the pilot shortage at the major airlines, [TPG senior aviation reporter Ethan Klapper](#) said. The problem started before the pandemic and accelerated when major carriers like Delta, United and American offered early retirement to older pilots when demand cratered in the early days of COVID-19.

Now, the big airlines are looking to fill spots.

“Essentially, the regional airlines are being raided of pilots,” Klapper said.

That means regional airlines are looking to hire pilots — but these are prospective pilots that require significant [training](#). That means fixing the problem takes time.

## Small numbers, but still a sizable impact

There’s no doubt that service cuts at small, regional airports affect far fewer passengers compared with the major international airports.



For perspective, Toledo saw more than 85,000 enplanements in 2021, according to data from the Federal Aviation Administration (FAA). That's less than a tenth of a percent of the 36.6 million enplanements at the nation's busiest airport, Hartsfield-Jackson Atlanta International Airport (ATL).

Still, Cappel said, it has a profound impact on the travel habits of his airport's loyal customer base. Indeed, Toledo-area travelers could drive an hour or so north to Detroit for their service.

"A lot of people like the smaller airports," Cappel said, citing the convenience of having a small airport close to home where short drives and security wait times can be an endearing factor for some travelers.

"Not everyone wants to travel through a huge airport like Detroit," he added.

In Dubuque, while the list of commercial flights offered was already short, the airport will now be left with none, meaning travelers in that area will need to pick one of several airports one to two hours away.

Quad City International Airport (MLI) in Illinois, for instance, is just over an hour away.

In a statement last month, the local chamber of commerce in Dubuque said it was "incredibly disappointed" to learn of the decision.

"Unfortunately, this is the current trend in the aviation industry, and regional airports are taking the brunt of the impact," president and CEO Molly Grover said in the statement.

## Looking ahead

Despite the looming end of American Airlines service in Toledo, it's not like the airport is having a hard time filling the flights it does offer.

With Allegiant flying from Toledo to popular leisure destinations in Florida like Punta Gorda, Tampa and Orlando, on most days, flights are at least 95% full, Cappel told TPG.



*An Allegiant jet at the gate at Toledo Express Airport (TOL) in Ohio. (Photo courtesy of the Toledo-Lucas County Port Authority)*

He believes the Toledo market is well suited for discount airline service to leisure destinations, though he noted airport officials will actively court a return of American Airlines, as well as Delta and United.

In other words, there's some optimism there.

"We're just hoping that somehow this opens up a new opportunity for us," he said.

That's not to say the future will be easy for the smaller airports.

"I'm afraid there's probably more to come, with the pilot shortage, the price of fuel and just the economics of regional jets in general," Cappel said.

His concerns come as airlines [work to find solutions](#) for the pilot shortage, though Klapper anticipates the problem "will continue to be an issue for months and years to come."

*Featured photo courtesy of the Toledo-Lucas County Port Authority.*

# Top Stories for Wednesday, July 27, 2022

## Why Digital Towers May be the Future of FAA Contract Towers



FAA Vice President for Air Traffic Services Jeffrey Vincent speaks at AAAE's Contract Tower Program Annual Conference in Washington today

Digital technologies provide the greatest opportunity to address issues with staffing at FAA contract towers across the country.

Speaking today at AAAE's FAA Contract Tower Program Annual Conference in Washington, FAA Vice President for Air Traffic Services Jeffrey Vincent explained that now is a great time to come into aviation with all the new technologies. Digital towers, in particular, Vincent explained, provide solutions to several problems facing contract towers, especially those in remote locations, such as rural Alaska.

"Digital towers — that is the wave of the future," he said. "It's an opportunity for us to address some of our difficulties (around) staffing." For example, at those remote towers, he explained, digital towers give FAA the ability to staff the tower and provide reliable service.

Vincent noted that a frequent criticism of digital towers is that they may not provide an exact replica of what the human eye can see. But, he said, at the busiest air traffic control towers in the country, including Atlanta, Boston and Los Angeles, there is a some phenomenon that obscures a clear view of the airplanes as they are cleared by controllers for take-off or landing.

As a result, he said that there are no concerns using digital towers that don't fully replicate what the human eye can see. "We don't need new rules," he concluded. "It happens every single day today."

Separately, Vincent said that FAA has plans to add four contract towers to the existing program. In Fiscal Year 2022, FAA will add Austin Executive in Texas and Lewis University Airport in Romeoville, Ill. Then in Fiscal Year 2023, FAA will add Houston Executive and Boulder City Municipal in Nevada.



AEROSPACE & DEFENSE

# The 1,500-Hour Rule Has Broken The Pilot Pipeline In The U.S.

**Ben Baldanza** Contributor ⓘ

*I write about airlines and travel to explain this crazy industry.*

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The U.S. airline industry is facing demand for pilots that won't be met by the current training ... [+] GETTY

In 2009, Colgan Air flight 3407 crashed just outside of Buffalo, NY. It was a terrible accident and killed 50 people, including one in a house. Following this, the Federal Aviation Administration (FAA) passed two new regulations in reaction to the crash. One, the flight

time and duty rule regulations, [also known as FAR 117](#), put more science to how much rest pilots need. These rules are widely accepted as important and necessary by airlines and pilot groups. The second was a ruling changing the minimum flight hours needed to earn an Air Transport Pilot (ATP) license from 250 hours to 1,500 hours. This has become known as the 1500 Hour rule.

The 1500 Hour rule is not as universally accepted as being helpful as the flight time and duty rule regulation. The rule has made it very expensive to decide to become a pilot — about \$250,000 out of pocket and two or three years for people not trained by the military. It also has made it difficult to attract new populations, including women and minorities, into the pilot profession. Most importantly, [it is seen by some as actually reducing safety](#) since people spend years getting flight experience in areas not necessarily associated with flying commercial aircraft in a complex system, and end up entering that system unprepared.

## **Pilot Supply Is Not Keeping Up With Pilot Demand**

According to the FAA, there are about 164,000 ATP licenses granted in the U.S. This includes people who can no longer legally fly commercially due to age or illness, and pilots who have not maintained medical certification. Estimates for pilots needing to be hired by the airlines for 2022 range from 12,000 to 15,000. Yet, the current rate of training is expected to produce only about 6,000 pilots this year. This means the pilot pipeline in the U.S. is producing less than half of the pilots needed to support the fleet plans of the U.S. airlines.

The biggest reason for this is the huge hurdle it takes to enter into this career now. Prior to the 1500 Hour rule, prospective pilots could earn their ATP with a Commercial pilots license, a minimum



of 250 hours of flying, plus airline-specific training. Typically, new hires had closer to 500 hours before being hired. This process created an apprentice-based solution. New first officers were paired with seasoned captains over their next 1,000 or so hours, learning how to fly in the U.S. airspace system, and into big commercial airports. This apprentice-based system produced the safest air transportation system in the world and operated for over 80 years in the U.S, and was copied by virtually every other nation on the globe.

Having to get 1,500 hours before being hired [requires an enormous financial and time commitment](#) that effectively shrinks the number of people who are willing to become pilots. As importantly, these 1,500 hours can all be earned flying small, single engine planes in rural areas, or even flying hot air balloons. During the years of building these hours, most applicants do very little to train themselves in the career they plan to enter, such as flying big jets into New York and Chicago.

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By **Amy Danise** Editor

## Best Covid-19 Travel Insurance Plans

By **Amy Danise** Editor

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# Paying Pilots More Will Help, But Not Fix, The Problem

Economists don't like the word shortage. They see shortages as a pricing problem, and when goods are priced correctly, markets will always clear. Using this idea, the simple answer to this issue would

be to [raise pilot pay](#) until the incentive to become a pilot overwhelms the investment needed to make it happen. There is little doubt that, to some extent, raising pilot pay is part of a complete solution.

There are two big challenges with this as a unique response, however. The airline pilot career is the [second-highest paid in the U.S.](#), behind only medicine. In 2021, the median airline pilot pay in the U.S. was \$202,000. Maybe pilots should be paid more than all doctors eventually, but the point is that there isn't significant headroom for a career that already is paying its participants at the top end of all career choices. The second is that the higher pay would go to pilots after they are hired and working for a number of years. This is a long way off to a young person wanting to earn their ATP but looking at three years and \$250,000 just to get their first, low-paid pilot job. Yes, eventually they will earn more pay, but at that decision point many other career choices may have more pragmatic economics.



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**Gas Prices Fall Below \$4-But Are Still Higher ...  
Before Russia Invaded Ukraine**

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# The 1500 Hour Rule Was Not Related To The Cause Of The Colgan Crash

The National Transportation Safety Board (NTSB) ruled that the [Colgan crash was primarily due to the pilot inappropriately responding to his situation](#), and they pointed out that fatigue was a contributing factor — the captain had chronic sleep loss in the days before the accident and both he and the first officer had interrupted and poor-quality sleep in the 24 hours before their 9:18 p.m. takeoff. However, the 1500 hour rule does nothing about pilot fatigue — no post-Colgan regulation has addressed that. And the NTSB did not conclude that either of the pilots were inexperienced. Each of the pilots had over 2,000 flight hours so the 1500 hour rule would not have kept either of them out of that cockpit.

[The families who lost people in the Colgan crash](#), and anyone who wants the safest air transportation system, deserve regulations that will in fact make the system safer. There is no evidence that the 1500 Hour rule has made our air transportation system safer. There is some evidence that it has been made it less safe. When a child bruises their knee, and the mother kisses the bruise and says everything will be okay, that mother knows the act of kissing does nothing to actually heal the bruise. But it does tell the child that the mother cares, is there for support, and gives the child confidence. The 1500 Hour rule is like that kiss - it makes people feel good that something changed, but the change does nothing to address the NTSB-determined cause of that crash.

## No One In The World Has Matched This, And The U.S. Has Become Uncompetitive As A Result

The apprentice-based pilot system, pioneered in the U.S. and used around the world, is still in effect everywhere outside the U.S. Since

the 1500 Hour rule was enacted in 2010, 12 years ago, not a single country has matched it. You'd think that if this really was a safety issue, at least some countries would have moved to this new standard by now. The European Union requires a minimum of 230 hours along with specific airline training, and Canada still requires what the U.S. used to — a Commercial license, minimum of 250 hours, and specific training.

Every day, hundreds of foreign airline airplanes land at U.S. airports with first officers using this apprentice-based system. If there is really a safety issue with this, why would the FAA allow all of these flights to operate at our airports? This regulation has put U.S. airlines in a uncompetitive position with foreign airlines worldwide. If there was a clear safety advantage to this, it would be fine being uncompetitive in this way. However, no such safety advantage has been proven for the 1500 Hour rule.

## **A Practical Solution To The Problem**

An outright repeal of the 1500 Hour rule would require an act of Congress, and that is highly emotional, not likely, and would take years even if there were support. But within current FAA authority, Secretary Buttigieg could create a probationary ATP and offer it to pilots with 500 or 750 hours, and specific airline training. This probation could be removed, becoming a standard ATP license, after a pre-defined set of hours and experiences gained on the job and certified by check airmen. This approach still is more onerous than the original 250 hour standard used by the rest of the world, but significantly lessens the financial commitment and time to get into the workplace for aspiring pilots.

This proposal is practical, and puts the U.S. airlines back on a somewhat even playing field as they compete with airlines from the rest of the world. It would still take time to rebuild the pipeline,

meaning that for the next few years, the smallest U.S. airlines, including the regional airlines, will still struggle to find the crews they need. Temporary financial incentives can help this. The real fix, though, is to be able to attract a wide, diverse group of men and women to become commercial airline pilots. With only 5% of ATPs being female today and only 14% non-white, the net can clearly be cast much wider. The training academies started by many airlines are a good way to get started, and having a more realistic target of hours before earning a paycheck will balance the scales and bring supply in line with demand. Most importantly, it will do this with no reduction in safety of our national air transport system.

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**Ben Baldanza**

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# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 4

**MEETING DATE:** August 22, 2022

**PREPARED BY:** Jason R. Licon, Airport Director

---

## **TITLE**

Pavement Maintenance and Repair Contract with Coulson Excavating

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion authorizing the Airport Director to approve a contract that exceeds his purchasing authority on behalf of the Airport Commission

## **BUDGET IMPACT**

Negative: Total cost as presented is \$128,885.

## **SUMMARY**

This is an administrative action providing an approval to a contract is greater than the Airport Director's approved expense authorization limit of \$100,000. The airport requires frequent pavement maintenance and preservation projects. The funding for this project is within the Airport's approved budget. This year the pavement repair needs extended from the terminal parking lots over to the taxiways within the hangars.

The procurement process required that a request for proposals be solicited and sealed bids provided for the work. Coulson Excavation was the low bidder at \$128,885. Photos of example areas to be repaired can be seen below:



Terminal Parking Lot



Staggerwing Taxi Lane



Stearman Taxi Lane

A map of the project areas and the associated cost amounts are as follows:



## **ATTACHMENT**

None



# NORTHERN COLORADO REGIONAL AIRPORT

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**ITEM NUMBER:** 5

**MEETING DATE:** August 22, 2022

**PREPARED BY:** Aaron Ehle, Business Development Specialist

---

## **TITLE**

Land Lease Assignment and Assumption for 5232, 5240, 5250, 5260, & 5270 Stearman Street

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Staff recommends acceptance of the assignment and assumption as presented

## **BUDGET IMPACT**

Neutral, the lease rates will remain unchanged

## **SUMMARY**

This is an administrative item. The existing leaseholder Homestead Hangars, LLC has completed the sale of their business to IC Loveland, LLC. The transfer of ownership of privately-owned buildings is frequent on the Airport and requires the approval of the Airport Commission for a lease reassignment and assumption. In this case, the buildings have not been constructed, but the lease is requested to be transferred from the current owner Homestead Hangars, LLC to IC Loveland, LLC. The new developer intends to continue with the planned building plans and intends to break ground prior to September. This project will add 23 hangar units and will help alleviate the hangar shortage at the Airport. Throughout the Front Range, the supply of hangars has not kept up with demand.



## **ATTACHMENT**

Lease Assignment and Assumption: Homestead Hangars, LLC to IC Loveland, LLC, 5232, 5240, 5250, 5260, & 5270 Stearman Street

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## **ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT**

5232, 5240, 5250, 5260, 5270 Stearman St  
Loveland, Colorado 80538

**WHEREAS**, the Cities of Fort Collins and Loveland, Colorado (the “Cities”) acting by and through the Northern Colorado Regional Airport Commission (“NCRAC”) are the Lessors under that Lease Agreement dated October 1, 2019 as amended, a copy of which is attached hereto as **Attachment 1** and incorporated herein by this reference (the “Lease Agreement”) to Homestead Hangars, LLC as Lessee (“Assignor”) concerning that property at the Northern Colorado Regional Airport described in Exhibit A to the Lease Agreement (the “Leased Premises”); and

**WHEREAS**, the Cities are parties to an Amended and Restated Intergovernmental Agreement for the Joint Operation of the Northern Colorado Regional Airport signed on January 22, 2015 and paragraph 4.A. of said Agreement delegates to the NCRAC the authority to enter into lease agreements in a form generally approved by the Cities; and

**WHEREAS**, the form of this lease agreement has been previously generally approved by the Cities; and

**WHEREAS**, Commission Bylaws adopted on October 15, 2015 authorize the Commission Chair to sign such agreements on behalf of NCRAC; and

**WHEREAS**, Assignor desires to assign all of its lease rights and obligations for the Leased Premises, as well as all improvements located thereon, to IC Lovleand, LLC, (“Assignee”); and

**WHEREAS**, Article 13 of the Lease Agreement permits this assignment under the conditions as set forth therein; and

**WHEREAS**, Assignee intends to benefit the Cities by promising to perform all terms and conditions of the Lease Agreement with respect to the Leased Premises as Lessee under the Lease Agreement.

**NOW, THEREFORE**, in consideration of the Cities’ approval, the mutual covenants and agreements expressed in the Lease Agreement, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignor, by its signature below, hereby assigns all of its right, title and interest in and to the Lease Agreement and the Leased Premises, to Assignee as of September 1, 2022 (the “Effective Date”).

2. Assignee, by its signature below, hereby assumes and agrees to be bound by all obligations, responsibilities and terms of the Lease Agreement with respect to the Leased Premises and hereby becomes the Lessee of the Leased Premises under the Lease Agreement as of the Effective Date.

3. Assignee acknowledges and agrees that the annual rent payment for the Leased Premises under the Lease Agreement is **\$51,530.08 per year**, payable in monthly installments, which rental amount shall be adjusted on May 1, 2023 and on each anniversary thereafter pursuant to Article 4 of the Lease Agreement.

4. Assignee submits to the Cities herewith, the proof of insurance as required in Articles 8 and 9 of the Lease Agreement, attached hereto as **Attachment 2** and incorporated herein by this reference.

5. Assignee submits to the Cities the following notice address pursuant to Article 23 of the Lease Agreement:

**IC Loveland, LLC.  
8082 South InterPort Boulevard, Ste 200  
Englewood, CO 80112  
Ryan@mcclurg.net**

6. The Cities designate the NCRAC and the Airport Manager as its representatives who shall make, within the scope of their authority, all necessary and proper decisions with reference to the Lease.

7. For purposes of this Agreement, there may be any number of counterparts, each of which shall be deemed as originals. Facsimile, scanned and other electronic signatures permitted by law, for purposes of this Agreement, shall be deemed as original signatures.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*[end of page 2]*



**Assignee:**  
**IC Loveland, LLC.**  
8082 South InterPort Boulevard, Ste 290  
Englewood, CO 80112

By: \_\_\_\_\_  
Ryan McClurg, Manager

State of Colorado     )  
                                  )ss  
County of Larimer     )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_, 20\_\_\_\_ by  
\_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires\_\_\_\_\_.                      SEAL

\_\_\_\_\_  
Notary Public

**Assignor:**  
**Homestead Hangars, LLC.**  
2032 Kaplan Court  
Windsor, CO 80550

By: \_\_\_\_\_  
Pete Jacobson, President

State of Colorado     )  
                                  )ss  
County of Larimer     )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_, 20\_\_\_\_ by  
\_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires\_\_\_\_\_.                      SEAL

\_\_\_\_\_  
Notary Public

The Northern Colorado Regional Airport Commission acting on behalf of the City of Loveland, Colorado and the City of Fort Collins, Colorado, hereby consents to the above-described assignment of all right, title, and interest as Lessee under the above-described Lease Agreement from Assignor to Assignee on the terms and conditions set forth above.

**Northern Colorado Regional Airport  
Commission acting on behalf of the City of  
Loveland, Colorado and the City of Fort Collins,  
Colorado**

By: \_\_\_\_\_  
Commission Chair

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Senior Assistant City Attorney

# ATTACHMENT 1

(Lease Agreement, including all prior amendments and assignments)

# ATTACHMENT 2

(Certificate of Insurance)



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 6

**MEETING DATE:** August 22, 2022

**PREPARED BY:** Aaron Ehle, Airport Planning & Development Specialist

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## **TITLE**

Lease Amendment for 5232, 5240, 5250, 5260, & 5270 Stearman Street

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion to approve the lease amendment

## **BUDGET IMPACT**

Neutral, however the new developer has made a plan to repay the unpaid 2022 balance and the COVID business assistance balance in full by December 2024.

## **SUMMARY**

This is an administrative item. As part of the lease assignment and assumption that was in the previous item for this property, the new owner IC Loveland, LLC requested an amendment to extend the existing land lease by two years as the construction has been significantly delayed by the previous owners due to COVID impacts. Staff recommends approval of the amendment provided the full unpaid balance for 2022 and unpaid COVID business assistance balance be paid in full by December 2024.



## **ATTACHMENTS**

Lease Amendment: 5232, 5240, 5250, 5260, & 5270 Stearman Street



**AMENDED AND RESTATED  
HANGAR GROUND LEASE AGREEMENT  
5232, 5240, 5250, 5260, 5270 STEARMAN STREET**

**CITIES OF LOVELAND AND FORT COLLINS, COLORADO,  
acting by and through the  
NORTHERN COLORADO REGIONAL AIRPORT COMMISSION  
AND  
IC LOVELAND, LLC**

**DATED  
AUGUST 22, 2022**

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EXHIBIT A, Description of Leased Premises

EXHIBIT B, Concept Plan

EXHIBIT C, Repayment Plan

## **LEASE AGREEMENT-**

**THIS AMENDED AND RESTATED HANGAR GROUND LEASE AGREEMENT**, made and entered into this 22<sup>nd</sup> day of August, 2022, is by and between the Cities of Fort Collins and Loveland, Colorado (the “**Cities**”) acting by and through the Northern Colorado Regional Airport Commission (the “**Commission**”) and IC Loveland, LLC, a Colorado limited liability company, hereinafter called “**Lessee**.”

### **WITNESSETH:**

**WHEREAS**, the Cities own and operate an airport known as the Northern Colorado Regional Airport located in Larimer County, Colorado, including the real property upon which the same is located, (hereinafter, the “**Airport**”); and

**WHEREAS**, the Cities and Lessee are mutually desirous of entering into this Lease Agreement (the “**Agreement**”) for the use and occupancy of certain areas at the Airport; and

**WHEREAS**, the Cities desire to accommodate, promote and enhance general aviation at the Airport and Lessee desires to be assured of the Airport's continued availability as a base for aircraft; and

**WHEREAS**, Lessee is a Colorado limited liability company, which intends to be a Declarant of a condominium declaration creating a leasehold condominium ownership pursuant to the Condominium Ownership Act, C.R.S. § 38-33-101, *et seq.* (the “**Act**”), and desires to construct leasehold hangar condominiums on the Leasehold Premises, for ownership by individual Unit Owners as defined in such Act (the “**Unit Owners**”); and

**WHEREAS**, the Cities and Lessee have reached an understanding in principle, which envisions Lessee's maintenance of an existing hangar building or buildings, without cost to the Cities; and

**WHEREAS**, the Lessee recently received assignment of and assumed the existing lease originally entered into between the Cities and Homestead Hangars, LLC on October 1, 2019 (the “**Original Lease**”). The Lessee desires to bring the Original Lease into good standing through repayment of outstanding rent in addition to complying with all other terms and conditions of the Original Lease; and

**WHEREAS**, since 2019, the Cities’ standard lease form has had minor modifications which are incorporated herein, primarily to address the Airport’s Land Use and Design Standards which were adopted after execution of the Original Lease; and

**WHEREAS**, the parties desire to enter into this Amended and Restated Hangar Ground Lease to set forth their rights and obligations herein.

**NOW, THEREFORE**, in consideration of the premises and of the rents, covenants and conditions herein contained, the Cities do hereby lease to Lessee the area(s) of the Airport described in Article 2 hereof (the “**Leased Premises**”) on to the conditions set forth below.

### **ARTICLE 1: TERM; OPTIONS; RIGHT OF FIRST REFUSAL**

**1.1** The initial term of this Agreement shall commence at 12:01 a.m. on September 1, 2022, and expire at 11:59 p.m. on August 30, 2047, a duration of twenty-five (25) years, hereinafter the “**Initial Term**,” unless sooner terminated in accordance with the provisions hereof.

**1.2** Subject to the conditions set forth herein, Lessee shall have the option to extend the term of this Agreement for three (3) additional periods of five (5) years each, hereinafter the “**Extended Term(s)**,” provided Lessee is not in default in the payment of any rent or in default in any other provisions

of this Agreement at the time of its exercise of any such option. Lessee may exercise each option by giving written notice to the Cities not more than eighteen (18) months, nor less than six (6) months prior to the expiration of the Initial Term or the then-current Extended Term, of Lessee's intent to exercise its option to extend. With the exception of rentals due, as set forth in Section 4.1, the terms and conditions applicable during the Initial Term of this Agreement shall remain applicable during any Extended Term. The rent escalation shall continue throughout the Initial Term and any Extended Term as provided in Article 4.

**1.3** If Lessee desires to continue occupying the Leased Premises after the expiration of all three (3) Extended Terms, Lessee may request in writing that the Cities grant a new lease agreement. Such a request shall be made by Lessee in writing and delivered to the Cities not later than one hundred twenty (120) days prior to the expiration of the last Extended Term. If: (i) if Lessee is not then in default under any provision of this Agreement; and (ii) the Cities in their discretion wish to offer to lease the Leased Premises to hangar tenants or an association of hangar tenants; and (iii) such a new lease would be consistent with the Airport's master plan then in effect and any and all federal rules, regulations, directives, guidelines or other obligations with respect to Airport, including but not limited to the "grant assurances" to the FAA ; then the Cities may, in their sole discretion, offer Lessee a new lease of the Leased Premises, under such terms and conditions as the Cities deem appropriate, including rental rates to include an assessment of fair market value of the property including the improvements thereon, and duration of the lease term and on the then-current lease form being offered by the Cities.

## **ARTICLE 2: LEASED PREMISES**

**2.1** The Leased Premises consist of the parcel of land described in **Exhibit "A"**. Without limiting the foregoing, the Cities acknowledge that the Hangars (as defined below) to be constructed upon the leased premises shall, during the term of this Agreement, be and remain the property of Lessee or any successor in interest.

## **ARTICLE 3: USE OF LEASED PREMISES**

**3.1** Lessee and its Unit Owners shall use and occupy the Leased Premises for the following purposes and for no other purpose whatsoever unless approved in writing by Cities:

**3.1.1** For the construction, installation, maintenance and operation of a hangar building (the "Hangars") to be used for the parking, storage, servicing, repair, maintenance, modification, and construction of aircraft owned or operated by Lessee or its Unit Owners. Lessee's construction, installation, maintenance and operation of the Hangars shall comply with and be subject to the requirements of the Airport Minimum Standards, including the Airport Land Use and Design Standards incorporated therein. Lessee's use of the Leased Premises, including use for storage of aircraft owned by Unaffiliated Entities, shall be of a non-commercial nature, unless a commercial use is approved by the Cities by a separate written License. The foregoing shall not preclude the subleasing of space within individual Hangar buildings to Unaffiliated Entities, so long as a License is obtained if required by the Airport's Minimum Standards then in effect. Any such License shall require compliance with Minimum Standards for the Provision of Commercial Aeronautical Activities at the Airport (the "Minimum Standards"), as they then exist or are thereafter adopted or amended by the Cities. Any such commercial use must also be consistent with the City of Loveland, Colorado, building, use and zoning regulations and requirements applicable to the Leased Premises. Lessee shall include in its Condominium Declaration governing use and operation of the Leased Premises, a provision that all Unit Owners shall cause such aircraft based at the Leased Premises to comply with noise standards established under Part 36 of Title 14 of the Code of Federal Regulations, ("FAR 36") as amended from time to time. The Leased Premises shall not be used for residential purposes.

**3.1.2** A copy of a Concept Plan for the development of the Hangars is attached as **Exhibit "B"** (the "Concept Plan"). The Cities make no representations, guarantees, or warranties

that the Leased Premises may be lawfully used for the purposes set forth in this Section 3.1. Lessee shall have the sole responsibility of obtaining all applicable permits or other governmental approvals necessary to construct and use the Leased Premises as intended herein. This Agreement is expressly conditioned upon Lessee obtaining all such permits and approvals, and the failure of Lessee to obtain any such permits or approvals within eighteen (18) months of the commencement date set forth in Section 1.1 or the failure of Lessee to maintain any such permits or approvals during the term of this Agreement shall result in termination of this Agreement pursuant to Article 18, generally, and to Section 18.9 specifically.

**3.1.3** During the term of this Agreement, Lessee and/or its Unit Owners must regularly house at least one airworthy aircraft or at least one aircraft that periodically may be in active stages of assembly or reassembly in each Hangar, use each Hangar for the primary purpose of aircraft storage, and each Hangar shall be used for Aeronautical Activities only, unless the prior written permission of the Cities is first obtained. The term "Aeronautical Activities" shall mean any activity or service that involves, makes possible, facilitates, is related to, assists in, or is required for the operation of aircraft, or which contributes to or is required for the safety of aircraft operations.

#### **ARTICLE 4: RENT**

**4.1** Lessee agrees to pay to the Cities during the Initial Term an annual rent of \$0.3227731 per square foot for the 159,648 square feet of the Leased Premises, including the building footprint, ramp, and area surrounding the building footprint, as set forth in Exhibit A, for a total of \$51,530.08 per year, subject to adjustment pursuant to Section 4.2. If Lessee exercises any option to extend the term of this Agreement under Section 1.2, annual rent per square foot for the first year of such Extended Term shall be the greater of (a) the rent determined under Section 4.2, as if the Initial Term had continued throughout such Extended Term, or (b) the then current market rates for hangar ground leases at comparable airports in the Front Range area, which shall be deemed to include the Denver Metro Area north through Cheyenne. Cities and Lessee agree to use their best efforts to agree on then current market rates, and execute a Lease Extension Agreement, within ninety (90) days after Lessee's written notice of election is received by the Cities. If the Cities and Lessee cannot agree upon the rental rates, the parties agree to submit to mediation before the Judicial Arbitrator Group of Denver, Colorado, or if it no longer exists a similar organization, to determine the rent to be paid by Lessee for the first year of the ensuing Extended Term; provided, however, that such rent shall never be lower than the rental which is due by application of subsection (a), above. The parties will each pay fifty percent (50%) of the mediator cost.

**4.2** Commencing on May 1<sup>st</sup> next occurring after the date of this Agreement, and on May 1<sup>st</sup> in each year thereafter during the remainder of the Initial Term, the annual rent shall be adjusted by multiplying the annual rent payable in the next preceding year by a fraction, the numerator of which shall be the C.P.I., as hereinafter defined, published for the previous month of December and the denominator of which shall be the C.P.I. published for the month of December which preceded the month used as the numerator. In no event shall the annual rent be reduced from that payable in a previous year. If this Agreement is executed after January 1<sup>st</sup>, such C.P.I. increase for the calendar year in which this Agreement is executed shall be prorated. If Lessee elects to exercise its option for any Extended Term, and accordingly, the rental for the first year of such Extended Term has been set on the basis of current market rates, then rental for any subsequent year of such Extended Term shall be adjusted in accordance with the C.P.I. formula set forth in this section above.

**4.2.1** The term "C.P.I." as used herein shall mean the Consumer Price Index for all Urban Consumers (CPI\_U), All items, for the Denver-Boulder-Greeley, CO as published by the Bureau of Labor Statistics of the United States Department of Labor, 1982-84 base = 100. In the event the base year is changed, the C.P.I. shall be converted to the equivalent of the base year 1982-84 = 100. In the event the Bureau of Labor Statistics ceases to publish the C.P.I., or this index, an equivalent or comparable economic index will be used.



**4.3** The annual rent payable hereunder may be paid in advance in annual installments, or shall be paid in equal monthly installments on the first day of each month in advance at the office of the Airport Manager or at such other office as may be directed in writing by the Cities. Payments due to the Cities under this Agreement shall be paid without offset. In addition to any other remedies provided in this Agreement, in the event that any rental, fee or charge set forth in this Agreement is not paid to the Cities within ten days of the date due, Lessee agrees to pay a late charge of \$50.00 for each such late payment, and default interest shall accrue on such payment from the date the payment was due, at a rate of twelve percent (12%) per annum. If any action is brought to collect any amounts due under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and costs incurred.

**4.4** Lessee, as additional rent, shall complete construction of Hangars and related Improvements on the Leased Premises, in accordance with plans and specifications approved by the Cities based upon the Concept Plan. The Hangars shall, collectively, be at least a total of 76,856 square feet in size and shall have a concrete or asphalt floor, with each Hangar to have at least one aircraft access door sized to accommodate an average private aircraft. Lessee shall use commercially reasonable and diligent efforts to complete construction of the Hangars and other such Improvements within the earlier of eighteen (18) months of the Cities' approval thereof or within three years from the date of this Agreement. If Lessee fails to construct the Hangars and other such Improvements in accordance with the provisions of this section, and such failure to construct is caused by force majeure or improper action of the Cities, then this Agreement may be cancelled by Lessee upon thirty (30) days notice to the Cities, in which event and as of the date of such cancellation, Lessee shall be released from any further obligations under this Agreement.

**4.5** Lessee, shall maintain a paved aircraft ramp area on the Leased Premises (the "Ramp"). The Ramp must be designed and built to specifications, and for a minimum weight bearing capacity, established by the Cities, and to connect with adjacent taxiway, ramp and/or auto parking areas, in order that a continuous and safe pavement section results. It is the responsibility of Lessee to maintain the entire Ramp area, and all other pavement areas on the Leased Premises, in a manner, which is safe and clean of debris so as not to cause danger or unsafe conditions for taxiing aircraft and Airport users. Notwithstanding the foregoing, the Cities shall be responsible for snow removal on the aircraft Ramp area excluding any parking and side lots and excluding any area within three feet (3') of any Hangar; provided, however, that priority of snow removal shall be in accordance with the Cities' Snow Removal Plan as it now exists or as it may be amended in the Cities' sole discretion. Lessee grants to users of the Airport the right to use aircraft Ramp areas on the Leased Premises from time to time for passage of aircraft on and near the adjacent taxiway.

**4.6** Subject to the provisions of Article 10, Lessee shall keep the Leased Premises, and the Hangar, Ramp and any and all structures constructed by Lessee on the Leased Premises (collectively, the "Improvements" hereinafter), free and clear of any liens and encumbrances, except as contemplated by Article 10, or unless expressly approved in writing by the Cities, and shall indemnify, hold harmless and defend the Cities from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Lessee. In the event any lien is filed, Lessee shall do all acts necessary to discharge any lien within ten (10) days of filing, or if Lessee desires to contest any lien, then Lessee shall deposit with the Cities such security as the Cities shall reasonably demand to insure the payment of the lien claim. In the event Lessee fails to pay any lien claim when due or fails to deposit the security with the Cities, then the Cities shall have the right to expend all sums necessary to discharge the lien claim, and Lessee shall pay the Cities, as additional rental when the next rental payment is due, all sums expended by the Cities in discharging any lien, including reasonable attorneys' fees and costs, and interest at twelve percent (12%) on the sums expended by the Cities from the date of expenditure to the date of payment by Lessee.

**4.7** Lessee agrees to comply with Minimum Standards adopted by the Cities for the Airport, as they now exist or as they may hereafter be adopted or amended. Fees due under such Minimum Standards or pursuant to any License issued for commercial activities conducted in whole or part on the Leased

Premises, may be collected by the Cities as additional rent under this Agreement, in addition to any other remedies available to the Cities.

**4.8** Lessee acknowledges and agrees that there is past due rent owed under the Lease from the original lessee in the amount of \$114,307.51. Lessee and the Cities agree that Lessee shall repay such past due rent in addition to the other rent owed under this Lease with a fixed interest rate of 5.5% in twenty-eight monthly installments of \$4,321.17 due on the first of each month beginning with the month this Lease commences, with the balance to be paid in full by December 1, 2024. The full repayment plan schedule is attached as "Exhibit C." Failure to make any payment as due under this Paragraph 4.8 shall be considered an event of default on the payment of rents under this Lease.

## **ARTICLE 5: ACCEPTANCE, CARE, MAINTENANCE, IMPROVEMENTS AND REPAIR**

**5.1** Lessee acknowledges that it has inspected the Leased Premises, conducted such studies and tests thereof (including environmental tests) as it deems necessary, and accepts possession of the Leased Premises "as is" in its present condition, and, subject to all limitations imposed upon the use thereof by the rules and regulations of the Federal Aviation Administration, the rules and regulations of the Airport, and by ordinances of the Cities, admits its suitability and sufficiency for the uses permitted hereunder. The Cities represent to Lessee that, to their knowledge, the Leased Premises are free of any adverse environmental conditions and no part of the Leased Premises lies in a flood hazard area or constitutes a fresh water wetland, nor is any part of the Leased Premises within one hundred feet (100') feet of a fresh water wetland. Except as may otherwise be provided for herein, the Cities shall not be required to maintain nor to make any improvements, repairs or restoration upon or to the Leased Premises or to any of the improvements presently located thereon or placed thereon by Lessee.

**5.2** Except as provided in Section 4.5, Lessee shall, throughout the term of this Agreement, assume the entire responsibility, cost and expense, for all repair and maintenance whatsoever on the Leased Premises and all Improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Additionally, Lessee, without limiting the generality hereof, shall:

**5.2.1** Keep at all times, in a clean and orderly condition and appearance, the Leased Premises, all Improvements thereon and all of Lessee's and/or its Unit Owners' fixtures, equipment and personal property which are located on any part of the Leased Premises. Lessee and its Unit Owners shall not park or leave, or allow to be parked, aircraft on the taxiways, ramps or pavement adjacent to any Hangar in a manner which unduly interferes with or obstructs access to other hangars or movement on adjacent taxiways.

**5.2.2** Provide and maintain on the Leased Premises all obstruction lights and similar devices, and safety equipment required by law.

**5.2.3** Take measures to prevent erosion, including but not limited to, the planting and replanting of grasses with respect to all portions of the Leased Premises not paved or built upon, if any, and in particular shall plant, maintain and replant any landscaped areas.

**5.2.4** Be responsible for the maintenance and repair of all utility services lines placed on the Leased Premises and used by Lessee exclusively, including, but not limited to, water lines, gas lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers.

**5.2.5** In the event Lessee discovers any hazardous material on the Leased Premises, it will promptly notify the Cities in writing.

**5.2.6** If extraordinary repairs or maintenance to the Improvements are required during the last five years of the Initial Term or any Extended Term of this Agreement, Lessee may elect

not to repair and/or maintain the Improvements, by giving the Cities written notice of its election. In such case, Cities shall have the option of requiring Lessee to either (a) clear the site, remove all debris and paving, stub up all utilities, and restore the site to its original cleared condition prior to commencement of construction; or (b) transfer title to the Improvements to the Cities, as is. Upon Lessee's election and compliance with this section, the Cities shall terminate this Agreement and relieve Lessee of all future rental obligations hereunder.

**5.3** Plans and specifications for each of the Improvements and all repairs (other than emergency repairs), construction, alterations, modifications, additions or replacements to the Improvements, including those made to any paving upon the Leased Premises, excluding non-structural repairs, construction, alterations, modifications, additions or replacements costing less than ten thousand dollars (\$10,000.00) shall be submitted to the Cities for approval, which approval shall not be unreasonably denied, providing the plans and specifications comply with the provisions of this Agreement, the Airport Land Use and Design Standards, as well as all applicable building, use and zoning regulations. Submittal of the above described Plans and Specifications shall also include a site plan, drainage plan, and building plan for the initial project development. The site plan shall show the location of all Improvements on the Leased Premises, including the Hangars, pavements, utilities and location of the Hangars on the site. The drainage plan must show how drainage will be handled and be approved by the Airport Manager prior to a building permit being issued by the City of Loveland. Lessee shall reimburse the Cities for all costs incurred for providing a legal survey and legal description of the Leased Premises and for a proportional share of any costs to bring road access and utilities to the Leased Premises, should the Cities agree to do so. Prior to the commencement of any construction of the Improvements Lessee shall have the Leased Premises staked by a certified surveying company to ensure all Improvements are placed accurately on the Leased Premises. Within ninety (90) days of the certificate of occupancy being received, Lessee shall submit to the Airport Manager a full set of as-built record drawings of the Improvements, which among other things, depicts exact locations of all Improvements, including utilities, made on and/or off of the Leased Premises.

## **ARTICLE 6: ADDITIONAL OBLIGATIONS OF LESSEE**

**6.1** Lessee shall conduct its operations hereunder and cause each of its Unit Owners to conduct their operations in an orderly and proper manner, considering the nature of such operations, so as not to unreasonably annoy, disturb, endanger or be offensive to others.

**6.2** Further, Lessee shall take all reasonable measures:

**6.2.1** To reduce to a practicable minimum vibrations tending to damage any equipment, structure, buildings or portions of buildings.

**6.2.2** Not to produce or allow to be produced on the Airport through the operation of machinery or equipment any electrical, electronic or other disturbances that interfere with the operation by the Cities or the Federal Aviation Administration of air navigational, communication or flight equipment on the Airport or on aircraft using the Airport, or with ground transportation communications.

**6.3** Lessee shall comply and shall include covenants in its Condominium Declaration that require Unit Owners to comply with all federal, state and municipal laws, ordinances, rules, regulations and requirements, the Airport Minimum Standards, Airport security rules and regulations, and other Airport rules and regulations, as they now exist or may hereafter be amended or promulgated, and the terms of this Agreement, applicable to the Leased Premises and the Improvements thereon and its operations and activities at the Airport hereunder.

**6.4** Lessee and its Unit Owners shall commit no nuisance, waste or injury on the Leased Premises, and shall not do, or permit to be done, anything that may result in the creation, commission or maintenance of such nuisance, waste or injury on the Leased Premises.

**6.5** Lessee and its Unit Owners shall not do, nor permit to be done, anything which may interfere with the effectiveness or accessibility of the drainage system, sewerage system, fire protection system, sprinkler system, alarm system and fire hydrants and hoses, if any, installed or located on the Leased Premises.

**6.6** Lessee shall take measures and shall include covenants in its Condominium Declaration that require Unit Owners to take measures to ensure security in compliance with Federal Aviation Administration Regulations and the Airport Security Plan, as they now exist or may hereafter be amended or promulgated.

**6.7** Lessee and its Unit Owners shall not do, nor permit to be done, any act or thing which will invalidate or conflict with any fire insurance policies or regulations applicable to the Leased Premises or any part thereof; or other contiguous premises at the Airport.

**6.8** Lessee and its Unit Owners shall not install, maintain, operate or permit the installation, maintenance or operation of any restaurant, kitchen, stand or other establishment of any type for the sale of food or of any vending machines or device designed to dispense or sell merchandise or services of any kind to the general public, unless all required development approvals and permits for that activity are first obtained from the Cities.

**6.9** Except for uses permitted under Article 3 to be performed by Lessee, or Unit Owners or their tenants, Lessee and its Unit Owners shall not provide or allow to be provided aircraft maintenance work, flight instruction of any sort, air taxi, aircraft charter or aircraft leasing of any sort on the Leased Premises, for commercial purposes, without all required development approvals, and a License from the Cities if and as required by the Airport's Minimum Standards then in effect.

**6.10** Lessee will conduct its operations, and shall include covenants in its Condominium Declaration that require each of its Unit Owners to conduct their operations, in such a manner as to keep the noise produced by aircraft engines and component parts thereof, and any other noise, to a minimum, by such methods as are practicable, considering the extent and type of the operations of Lessee and/or its Unit Owners, and the limitations of federal law. In addition, Lessee and its Unit Owners will employ the maximum amount of noise arresting and noise reducing devices that are available and economically practicable, considering the extent of their operations, but in no event less than those devices required by federal, state or local law. In its use of the Leased Premises, Lessee and its Unit Owners shall take all possible care, exercise caution and use commercially reasonable efforts to minimize prop or jet blast interference and prevent jet blast damage to aircraft operating on taxiways and to buildings, structures and roadways, now located on or which in the future may be located on areas adjacent to the Leased Premises. In the event the Cities determine that Lessee or any of its Unit Owners has not curbed the prop or jet blast interference and/or damage, Lessee hereby covenants and agrees to erect and maintain at its own expense or to cause the Unit Owners or Condominium Association to erect and maintain at their expense such structure or structures as may be necessary to prevent prop or jet blast interference, subject, however, to the prior written approval of the Cities as to type, manner and method of construction.

**6.11** Lessee shall not store nor permit the storage of disabled aircraft or any equipment or materials outside of the Hangars constructed on the Leased Premises, without the written approval of the Cities.

**6.12** On forms and at the frequency prescribed by the Airport Manager, and with respect to each aircraft stored on the Leased Premises, Lessee shall provide the Cities with the (a) make and model, (b) N-number, and (3) identity and address of the registered owner. This requirement shall apply to aircraft whether owned by Lessee or another party, and regardless of whether its storage is subject to the Minimum Standards.

## **ARTICLE 7: INGRESS AND EGRESS**

**7.1** Lessee and its Unit Owners shall have the right of ingress and egress between the Leased Premises and the public landing areas at the Airport by means of connecting taxiways; and between the Leased Premises and the entrance(s) to the Airport by means of connecting paved roads. Lessee and its Unit Owners shall have the right to use the public runways and public aviation aids at all times during which they are open to the public. Such rights of ingress, egress and use shall be in common with others having rights of use and passage thereon.

**7.1.1** If, at the time of entering into this Agreement, access to the Leased Premises is not available on existing taxiways and/or roadways, then such taxiways and/or roadways necessary for Lessee's use and occupancy shall be constructed at the sole expense of Lessee, in accordance with construction specifications and design criteria approved by the Cities for the uses contemplated by Lessee. The Cities shall have no obligation whatsoever for the cost of these improvements. Upon completion of construction, Lessee shall certify that the taxiways and/or roadways so constructed have been built to such specifications and criteria, and those portions of any such taxiways and/or roads located off the Leased Premises shall be conveyed and dedicated to the Cities, which shall accept them for maintenance. Upon such conveyance and dedication, Lessee shall warrant that the same shall be free of defects in materials and workmanship for a period of not less than two (2) years after the date of such conveyance and dedication. Such warranty shall be backed by a warranty bond or another form of security instrument, satisfactory to the Cities in their sole discretion, in the amount of not less than fifteen-percent (15%) of the construction cost of the improvements warranted.

**7.2** The use of any such roadways or taxiways shall be subject to the Rules and Regulations of the Airport, which are now in effect or which may hereafter be promulgated, and subject to temporary closure, provided, however, that any closure shall be only for reasonably necessary or unique circumstances, and provided that fourteen (14) days prior written notice will be given to Lessee relevant to any closure, unless such closure is necessary due to emergency. Lessee, for itself and its authorized subtenants, hereby releases and discharges the Cities, the Commission, their officers, employees and agents, and all their respective successors and assigns, of and from any and all claims, demands, or causes of action which Lessee or its authorized subtenants may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any street, roadway or other area, provided that other reasonable means of access to the Leased Premises remain available to Lessee without cost to Lessee, unless otherwise mandated by emergency safety considerations or lawful exercise of the police power. Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the Leased Premises or in any streets or roadways on the Airport.

## **ARTICLE 8: INSURANCE, DAMAGE OR DESTRUCTION**

**8.1** Lessee, at its sole cost and expense, shall procure and maintain throughout the term of this Agreement insurance protection for all risk coverage on the Improvements which are part of the Leased Premises, to the extent of one hundred percent (100%) of the actual replacement cost thereof. Such insurance shall be written by insurers acceptable to Cities. The insurance shall provide for ten (10) days' notice of cancellation or material change, certified mail, return receipt requested, to the Cities, Attention: Airport Manager.

**8.1.1** The above stated property insurance shall be for the benefit and to safeguard the interests of the Cities and Lessee.

**8.1.2** Lessee shall settle all losses with the insurance carrier. Lessee shall consult with the Cities and use its best efforts to obtain a settlement that covers the cost of repairing or rebuilding the Improvements.



**8.1.3** Lessee shall provide certificates of insurance, in a form acceptable to the Cities and marked "premium paid" evidencing existence of all insurance required to be maintained prior to occupancy of the Improvements. Upon the failure of Lessee to maintain such insurance as above provided, the Cities, at their option, may take out such insurance and charge the cost thereof to Lessee, which shall be payable on demand, or may give notice of default pursuant to Article 18.

**8.2** In the event the Improvements and any subsequent improvements, insurable or uninsurable, on the Leased Premises are damaged or destroyed to the extent that they are unusable by Lessee for the purposes for which they were used prior to such damage, or same are destroyed, Lessee shall promptly repair and reconstruct the Improvements substantially as they were immediately prior to such casualty or in a new or modified design, subject to the provisions of Article 5 hereof and applicable building codes and the Airport Land Use and Design Standards, existing at the time of repairing or rebuilding. If the aforesaid damage or destruction occurs in the last five years of the Initial term or any option term of this Agreement, Lessee may elect not to repair and reconstruct the Improvements, subject to the following terms and conditions:

**8.2.1** Lessee shall give the Cities written notice of its election not to repair and reconstruct the Improvements within ninety (90) days of the date upon which the Improvements were damaged or destroyed. In such case, the Cities shall have the option of either:

**8.2.1.1** Requiring Lessee to clear the site, remove all debris and paving, stub up all utilities, and restore the site to its original cleared condition prior to commencement of construction; in which case Lessee shall retain all insurance proceeds above those necessary to fund such site restoration; or

**8.2.1.2** Taking title to the damaged Improvements, as is, in which case Lessee shall assign to and the Cities shall retain all insurance coverage and proceeds.

**8.2.3** Upon Lessee's notice under Section 8.2.1 hereof and Lessee's compliance with the provisions of Sections 8.2.1.1 or 8.2.1.2 hereof, the Cities shall terminate this Agreement and relieve Lessee of all future rental obligations hereunder.

**8.3** All policies of insurance required herein shall name the Cities as additional insureds.

**8.4** Whenever in this Agreement, provision is made for the carrying of any insurance, it shall be deemed that such provision is complied with if such insurance otherwise complying with such provision is carried under a blanket policy or policies covering the Leased Premises as well as other properties.

**8.5** Lessee shall not violate, nor permit to be violated, any of the conditions of any of the said policies; and shall perform and satisfy, or cause to be satisfied, the requirements of the companies writing such policies.

## **ARTICLE 9: LIABILITIES AND INDEMNITIES**

**9.1** The Cities and the Commission shall not in any way be liable for any cost, liability, damage or injury including cost of suit and expenses of legal services, claimed or recovered by any person whomsoever, or occurring on the Leased Premises, or the Airport, or as a result of any operations, works, acts or omissions performed on the Leased Premises, or the Airport, by Lessee, its agents, servants, employees or authorized tenants, or their guests or invitees. Lessee, and each of its Unit Owners, shall not in any way be liable for any cost, liability, damage or injury including cost of suit and expenses of legal services, claimed or recovered by any person whomsoever, or occurring on the Leased Premises, or the Airport, or as a result of any operations, works, acts, or commission performed on the Leased Premises, or

the Airport, solely by the Cities and the Commission, their agents, servants, employees or authorized tenants, or their guests or invitees.

**9.2** Lessee and its Unit Owners agree to indemnify, save and hold harmless, the Cities and the Commission, their officers, agents, servants and employees, of and from any and all costs, liability, damage and expense, including costs of suit and reasonable expenses of legal services, claimed or recovered, justly or unjustly, falsely, fraudulently or frivolously, by any person, firm or corporation by reason of injury to, or death of, any person or persons, including Cities' personnel, and damage to, destruction or loss of use of any property, including Cities' property, directly or indirectly arising from, or resulting from, any operations, works, acts or omissions of Lessee, its agents, servants, employees, contractors, or authorized tenants. Upon the filing with the Cities by anyone of a claim for damages arising out of incidents for which Lessee herein agrees to indemnify and hold the Cities harmless, the Cities shall notify Lessee of such claim and in the event that Lessee does not settle or compromise such claim, then Lessee shall undertake the legal defense of such claim on behalf of Lessee and the Cities. It is specifically agreed, however, that the Cities at their own cost and expense, may participate in the legal defense of any such claim. Any final judgment rendered against the Cities for any cause for which Lessee is liable shall be conclusive against Lessee as to liability and amount upon the expiration of the time for appeal.

**9.3** Lessee shall procure and keep in force during the term of the Lease policies of Comprehensive General Liability insurance insuring Lessee and the Cities against any liability for personal injury, bodily injury, death, or property damage arising out of the subject of this Agreement with a combined single limit of at least one million dollars or with a limit of not less than the maximum amount that may be recovered against the Cities under the Colorado Governmental Immunity Act, whichever is greater. No such policies shall be cancelable or subject to reduction in coverage limits or other modification except after ten (10) days prior written notice to the Cities. The policies shall be for the mutual and joint benefit and protection of Lessee and the Cities and such policies shall contain a provision that the Cities, although named as an insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to it, its servants, agents, citizens, and employees by reason of negligence of Lessee. Lessee shall provide certificates of insurance, in a form acceptable to the Cities and marked "premium paid" evidencing existence of all insurance required to be maintained prior to the commencement of the Agreement.

**9.4** Lessee represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under or in any way connected with this Agreement. Lessee agrees to save and hold the Cities, their officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Lessee under or in any way connected with this Agreement.

## **ARTICLE 10: LEASEHOLD MORTGAGES**

**10.1** If Lessee shall execute a Leasehold Mortgage of its leasehold estate, or if a Unit Owner shall grant a similar interest, to an entity which is not directly or indirectly owned or controlled by, or is not under common ownership or control with Lessee or Unit owner, as the case may be, (collectively, an "Unaffiliated Entity"), and if the holder of such Leasehold Mortgage shall provide the Cities through the Commission or Airport Manager with notice in the manner described in Article 13 with notice of such Leasehold Mortgage together with a true copy of such Leasehold Mortgage and the name and address of the Mortgagee, then following receipt of such notice by the Cities, the provisions of this Article 10 shall apply in respect to such Leasehold Mortgage.

**10.2** The term "Leasehold Mortgage" as used in this Agreement shall include, but not be limited to, a mortgage, a deed of trust, a deed to secure debt, or other security instrument by which Lessee's leasehold estate is mortgaged, conveyed, assigned, or otherwise transferred, to secure a debt or other obligation, in connection with the construction contemplated by Sections 4.4 through 4.5, above.

**10.3** The Cities, upon providing Lessee any notice of default under this Agreement or termination of this Agreement, shall at the same time provide a copy of such notice to the Leasehold Mortgagee by first class U.S. mail at the address specified in the notice given pursuant to Section 10.1, above. Such Leasehold Mortgagee shall have the additional periods of time specified in Section 10.4 hereof to remedy, commence remedying, or cause to be remedied the default or acts or omissions which are specified in any such notice. The Cities shall accept such performance by or at the instigation of such Leasehold Mortgagee as if the same had been done by Lessee.

**10.4** Anything contained in this Agreement to the contrary notwithstanding, if any default shall occur which entitles the Cities to terminate this Agreement, the Cities shall have no right to terminate this Agreement unless, following the expiration of the period of time given Lessee to cure such default or the act or omission which gave rise to such default, the Leasehold Mortgagee is given an additional period of thirty (30) days to:

**10.4.1** Notify the Cities of such Leasehold Mortgagee's desire to defeat such Termination Notice; and

**10.4.2** Pay or cause to be paid all rent, additional rent, and other payments then due and in arrears as specified in the Termination Notice to such Leasehold Mortgagee and which may become due during such thirty (30) day period; and

**10.4.3** Comply with due diligence and continuity, or in good faith commence to and with diligence continue to pursue compliance with all non-monetary requirements of this Agreement then in default.

**10.5** The making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Agreement or of the leasehold estate hereby created, nor shall the Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Agreement or of the leasehold estate hereby created so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions of this Agreement. Any Leasehold Mortgagee who takes an instrument of assignment or transfer in lieu of the foreclosure of the Leasehold Mortgagee shall be deemed to be a permitted assignee or transferee, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Lessee to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of the leasehold estate. If the Leasehold Mortgagee or its designee shall become holder of the leasehold estate and if the Hangar and Improvements on the Leased Premises shall have been or become materially damaged on, before or after the date of such purchase and assignment, the Leasehold Mortgagee or its designee shall be obligated to repair, replace or reconstruct the building or other improvements.

## **ARTICLE 11: RULES AND REGULATIONS**

Lessee acknowledges that the Cities have proposed or adopted rules and regulations with respect to the occupancy and use of the Airport, and such rules and regulations may be amended, supplemented or re-enacted from time to time by the Cities provided that such rules and regulations apply generally to all similar occupants and users on the Airport. Lessee and its Unit Owners agree to observe and obey any and all such rules and regulations and all other federal, state and municipal rules, regulations and laws and to require its officers, agents, employees, subtenants, contractors, and suppliers, to observe and obey the same. In the event of a conflict between the provisions of Airport Rules and Regulations and this Agreement, the more stringent provisions shall control. This provision will include compliance with the Airport's Noise Abatement Plan as it now exists and as it may hereafter be amended or supplemented. The Cities reserve the right to deny access to the Airport and its facilities to any person, firm or corporation that fails or refuses to obey and comply with such rules, regulations or laws. Nothing in this Article 11 shall be construed to limit the rights of Lessee to file any action challenging the lawfulness of any such amendment, supplement or reenactment of any such rule or regulations, or to challenge the application of the same to Lessee.

## **ARTICLE 12: SIGNS**

Lessee shall have the right to install and maintain one or more signs on the Leased Premises identifying it and its operations, provided, however, the subject matter, type, design, number, location and elevation of such signs, and whether lighted or unlighted, shall be subject to and in accordance with the City of Loveland Sign Code, and Airport Land Use and Design Standards. No sign will be allowed that may be confusing to aircraft pilots or automobile drivers or other traffic.

## **ARTICLE 13: ASSIGNMENT AND SUBLEASE**

The prior written consent of the Cities shall be required for any sale, transfer, assignment or sublease of this Agreement and of the leasehold estate hereby created. Consent may be withheld by the Cities in the event (a) Lessee is in default of any of the terms or conditions of this Agreement, (b) the transferee or assignee does not deliver to the Cities its written agreement to be bound by all of the provisions of this Agreement in a form satisfactory to the Cities, or (c) the transferee or assignee does not submit proof of insurance as required in Articles 8 and 9 herein, or (d) the transferee or assignee does not qualify as a successor to Lessee under the Condominium Declaration recorded pursuant to Article 31. Consent shall not otherwise be unreasonably withheld. Upon the granting of written consent by the Cities and actual transfer or assignment, Lessee shall be released by the Cities from its obligations under this Agreement. Other than in the manner set forth in Article 31 below, Lessee shall not subdivide or fractionalize either its ownership of the Improvements or leasehold interest in the Leased Premises.

**13.2** Lessee shall have the right and obligation to construct and sell hangar condominiums on the Leased Premises in accordance with applicable law, without the prior consent of the Cities. By way of clarification, and not by limitation, the restrictions on sale, assignment or subleasing contained in this Article 13 shall not apply to the first transfer or conveyance by Lessee of an individual Condominium Unit to another Owner. The Condominium Declaration to be recorded by Lessee shall, among other terms, conditions and restriction, require all Unit Owners to comply with all terms and conditions of this Agreement. Lessee, the Condominium Association and any Unit Owner shall be jointly and severally responsible for compliance with the terms and conditions of this Agreement; provided, that, notwithstanding the foregoing, or any other provision of this Agreement to the contrary (including by way of example and not in limitation, the provisions of Articles 9, 18 and 21), the person first above identified as Lessee ("Initial Lessee") shall not be responsible for noncompliance of any Unit Owner other than Initial Lessee or for compliance obligations of the Condominium Association, and Initial Lessee's obligations under this Agreement shall terminate at such time that Initial Lessee (i) assigns this Agreement to the Condominium Association, or (ii) holds no ownership interest in any Condominium Unit, whichever event first occurs ("Initial Lessee Termination") and all obligations of Lessee under this Agreement shall thereupon be the responsibility of the Condominium Association and the Unit Owners, as applicable in the

context of this Agreement. Following Initial Lessee Termination, except as the context otherwise indicates, the Condominium Association shall exercise the rights and fulfill the responsibilities of Lessee hereunder as Lessee and as agent and attorney-in-fact of the Unit Owners. Upon the lease of any Condominium Unit, the Unit Owner shall provide Cities with notification of the lease and otherwise comply with Article 4, above. Upon the sale, resale or lease of any Condominium Unit, Initial Lessee if the one conveying or leasing, and if not then the Condominium Association, shall promptly provide the Cities with the name, address and other contact information for the Unit Owner, and a description of the aircraft to be regularly stored in such hangar.

**13.3** Lessee shall not have the right to subdivide or fractionalize either its ownership of the Improvements or its interest in the Leased Premises, except in accordance with the Condominium Map recorded pursuant to the Act, previously approved by the Cities, and filed with a Condominium Declaration recorded pursuant to the Act and Article 31.

#### **ARTICLE 14: CONDEMNATION**

**14.1** In the event that all or any portion of the Leased Premises is taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of appropriation, condemnation or eminent domain (or pursuant to a sale to such power or authority under the threat of condemnation or eminent domain), all rents payable with respect to that portion of the Leased Premises taken shall no longer be payable, and the proceeds, if any, from such taking or sale shall be allocated between the Cities, Lessee, and any affected Unit Owners in accordance with the applicable condemnation law, with Lessee and any affected Unit Owner being entitled to compensation for the fair market value of the leasehold interest, Improvements and personal property taken. If a portion of the Leased Premises is so taken or sold, and as a result thereof, the remaining part cannot reasonably be used to continue the authorized uses set forth in Article 3, then this Agreement shall terminate at Lessee's election, and Lessee's obligation to pay rent and perform the other conditions of the lease shall be deemed to have ceased as of the date of such taking or sale.

**14.2** The Cities expressly reserve the right to grant or take easements on rights-of-way across the Leased Premises if it is determined to be in the best interest of the Cities to do so. If the Cities grant or take an easement or right-of-way across any of the Leased Premises, Lessee shall be entitled only to compensation for damages to all Improvements owned by Lessee or its Unit Owners destroyed or physically damaged thereby, but not to damages for loss of use of the Leased Premises itself. Damages to improvements shall be determined by the reduction in fair market value of the Improvements caused by said damage or cost of repair, whichever is less.

**14.3** Lessee understands and agrees that the Cities have the right to take all or any portion of the Leased Premises, and any additions, alterations or improvements thereon, should the Cities, in their sole discretion, determine that said portion of the Leased Premises, and improvements thereon, are required for other Airport purposes, without initiating condemnation proceedings. If such action is taken, the Cities shall substitute comparable areas within the Airport, or any additions or extensions thereof, brought to the same level of improvement as the area taken. The Cities shall bear all expenses of bringing the substituted area to the same level of improvement to the area taken, 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 Cities shall replace, at their own expense, such non-relocatable improvements and other property with comparable property in the substituted area, and the Cities 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, any mortgagee, or any other third party whomsoever. It is the specific intent of this subparagraph that Lessee would be placed, to the extent possible, in the same position it would have been, had the Cities not substituted new premises for the Leased Premises; provided however, that the Cities shall not be obligated to reimburse Lessee for lost revenues or other costs due to such substitution. In the event that such substitution of area is demanded by the Cities, Lessee shall have the right and option to terminate this Agreement, prior to the Cities commencing the substitution, upon thirty (30) days prior



written notice to Cities, in which event the Cities shall pay Lessee the fair market value of all Improvements constructed on the Leased Premises pursuant to approval of the Cities. Nothing in this subparagraph shall be construed to limit the Cities' rights to condemn Lessee's leasehold rights and interests in the Leased Premises pursuant to state law.

#### **ARTICLE 15: NON-DISCRIMINATION**

**15.1** Lessee, for itself, its Unit Owners, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises, for a purpose for which a United States government program or activity is extended, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed 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.

**15.2** Lessee, for itself, its Unit Owners and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

**15.2.1** No person on the grounds of race, color, national origin, creed, religion, sex, disability, or age and without regard to the exercise of rights guaranteed by state or federal law shall be excluded from participating in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises;

**15.2.2** That in the construction of any Improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, national origin, creed, religion, sex, disability or age shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination;

**15.2.3** That Lessee shall use the Leased 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.

**15.3** In this connection, the Cities reserve the right to take whatever action they might be entitled by law to take in order to enforce this provision following the sixty (60) days prior written notice to Lessee, the Condominium Association and/or Unit Owner, as the case may be, of any alleged violation. This provision is to be considered as a covenant on the part of Lessee, a breach of which, continuing after notice by the Cities to cease and desist and after a determination that a violation exists made in accordance with the procedures and appeals provided by law, will constitute a material breach of this Agreement and will entitle the Cities, at their option, to exercise its right of termination as provided for herein, or take any action that it deems necessary to enforce.

**15.4** Lessee shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than Lessee, operates any facility at the Leased Premises providing service to the public and shall include a provision granting the Cities a right to take such action as the United States may direct to enforce such covenant.

**15.5** To the extent legally required and applicable, Lessee assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, disability or sex, be excluded from participation in any employment activities covered in 14 CFR Part 152 Subpart E. 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 will require that its covered sub organizations provide assurances to Lessee that they similarly will undertake affirmative action program and that they will require assurances from their sub organizations, to the extent required by 14 CFR Part 152, Subpart E, to the same effect.

#### **ARTICLE 16: GOVERNMENTAL REQUIREMENTS**

**16.1** Lessee and its Unit Owners shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over Lessee's operations at the Leased Premises which may be necessary for Lessee's and/or Unit Owner's operations on the Airport.

**16.2** Lessee shall pay all taxes, license, certification, permits and examination fees and excise taxes which may be assessed, levied, exacted or imposed on the Leased Premises or operation hereunder or on the gross receipts or gross income to Lessee there from, and shall make all applications, reports and returns required in connection therewith.

**16.3** Lessee shall pay all water, sewer, utility and other applicable use taxes and fees, arising from its occupancy and use of the Leased Premises and/or the Improvements.

#### **ARTICLE 17: RIGHTS OF ENTRY RESERVED**

**17.1** The Cities, by their officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Leased Premises and enter the Improvements for any and all purposes not inconsistent with this Agreement, including, without limitation, inspection and environmental testing, provided such action by the Cities, their officers, employees, agents, representatives and contractors does not unreasonably interfere with Lessee's and/or Unit Owner's use, occupancy or security requirements of the Leased Premises. Except when necessary for reasons of public safety or law enforcement, or for the protection of property, as determined by Cities, Cities shall provide seventy-two (72) hours written notice of its intent to inspect.

**17.2** Without limiting the generality of the foregoing, the Cities, by their officers, employees, agents, representatives, contractors and furnishers of utilities and other services, shall have the right, at their own cost and expense, whether for their own benefit, or for the benefit of others than Lessee at the Airport, to maintain existing and future Airport mechanical, electrical and other utility systems and to enter upon the easements in the Leased Premises to make such repairs, replacements or alterations thereto, as may, in the opinion of the Cities, be deemed necessary or advisable, and from time to time to construct or install over, in or under existing easements within the Leased Premises such systems or parts thereof and in connection with such maintenance use the Leased Premises existing easements for access to other parts of the Airport otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, repair, alteration or new construction, the Cities shall not install a utility under or through any building on the Leased Premises or unreasonably interfere with the actual use and occupancy of the Leased Premises by Lessee, all such utilities to be placed within existing easements, except as provided in Article 14. It is specifically understood and agreed that the reservation of the aforesaid right by the Cities shall not impose or be construed to impose upon the Cities any obligation to repair, replace or alter any utility service lines now or hereafter located on the Leased Premises for the purpose of providing utility services only to the Leased Premises; provided, however, that if they repair, replace or alter any utility service lines now or hereafter located on the Leased Premises for the purpose of providing utility services to others, the Cities will restore the Leased Premises to their preexisting condition in a timely manner. Lessee will provide for the installation, maintenance and repair, at its own expense, of all service lines of utilities providing services only to the Leased Premises. Cities will repair, replace and maintain all other utility lines, at Cities' expense.

**17.3** In the event that any personal property of Lessee or any Unit Owner shall obstruct the access of the Cities, their officers, employees, agents or contractors, or the utility company furnishing utility service over, along and across the existing easements to any of the existing utility, mechanical, electrical

and other systems, and thus shall interfere with the inspection, maintenance or repair of any such system pursuant to Section 17.2, Lessee shall move such property, as directed by the Cities or said utility company, upon reasonable notice by the Cities, in order that access may be had to the system or part thereof for inspection, maintenance or repair. If Lessee or any Unit Owner shall fail to so move such property after direction from the Cities or said utility company to do so, the Cities or the utility company may move it, and Lessee, on behalf of itself and its Unit Owners hereby waives any claim against the Cities for damages as a result there from, except for claims for damages arising from the Cities' negligence.

## **ARTICLE 18: TERMINATION**

**18.1** In the event of a default on the part of Lessee in the payment of rents, the Cities shall give written notice to Lessee, each Unit Owner of which it has been given notice under Section 13.2, above, and each holder of a Leasehold Mortgage, if any, of which it has been give notice under Section 10.1, of such default, and demand the cancellation of this Agreement, or the correction thereof. If, within sixty (60) days after the date the Cities give such notice, Lessee has not corrected said default and paid the delinquent amount in full, then subject to Article 10 above, the Cities may by written notice to Lessee, and each such Unit Owner and holder of a Leasehold Mortgage, terminate this Agreement.

**18.2** Subject to the provisions of Section 18.1 above, this Agreement, together with all rights and privileges granted in and to the Leased Premises, shall terminate at the option of the Cities with prompt written notice to Lessee and each such Unit Owner and holder of a Leasehold Mortgage upon the happening of any one or more of the following events:

**18.2.1** The filing by Lessee of a voluntary petition in bankruptcy, or any assignment for benefit of creditors of all or any part of Lessee's assets; or

**18.2.2** Any institution of proceedings in bankruptcy against Lessee; provided, however, that Lessee may defeat such termination if the petition is dismissed within one hundred twenty (120) days after the institution thereof; or

**18.2.3** The filing of a petition requesting a court to take jurisdiction of Lessee or its assets under the provision of any Federal reorganization act which, if it is an involuntary petition is not dismissed within one hundred twenty (120) days after its being filed; or

**18.2.4** The filing of a request for the appointment of a receiver or trustee of all, or substantially all, of Lessee's assets by a court of competent jurisdiction, which if the request if not made by Lessee is not rejected within one hundred twenty (120) days after being made, or the request for the appointment of a receiver or trustee of all, or substantially all, of Lessee's assets by a voluntary agreement with Lessee's creditors.

**18.3** Upon the default by Lessee in the performance of any covenant or condition required to be performed by Lessee and/or its Unit Owners, other than the payment of rent, and the failure of Lessee, and each such Unit Owner or holder of a Leasehold Mortgage to remedy such default for a period of sixty (60) days after mailing by the Cities of written notice to remedy the same, unless more extensive notice is otherwise provided for in this Agreement, the Cities may, by written notice of cancellation to Lessee, and each such Unit Owner and holder of a Leasehold Mortgage, terminate this Agreement and all rights and privileges granted hereby in and to the Leased Premises.

**18.4** Upon the default by Lessee, and the giving of notice of the default and cancellation by the Cities as provided for elsewhere herein, the notice of cancellation shall become final.

**18.5** Subject to the provisions of Section 18.1, upon the cancellation or termination of this Agreement for any reason, all rights of Lessee, its Unit Owners, authorized tenants and any other person in possession shall terminate, including all rights or alleged rights of creditors, trustees, assigns, and all others

similarly so situated as to the Leased Premises. Except as may be expressly provided to the contrary elsewhere herein, upon said cancellation or termination of this Agreement for any reason, the Leased Premises and all Improvements located thereon, except for Lessee's equipment, fixtures and other personal property which may be removed from said Leased Premises without damage thereto as provided elsewhere herein, shall be and become the property of the Cities, free and clear of all encumbrances and all claims of Lessee, its subtenants, creditors, trustees, assigns and all others, and the Cities shall have immediate right of possession of the Leased Premises and such Improvements. Termination of this Agreement as to any Unit Owner shall not act as a merger of this Agreement, into the Cities' ownership of the applicable Condominium Unit.

**18.6** Failure by the Cities or Lessee to take any authorized action upon default by Lessee of any of the terms, covenants or conditions required to be performed, kept and observed by Lessee shall not be construed to be, nor act as, a waiver of said default nor of any subsequent default of any of the terms, covenants and conditions contained herein to be performed, kept and observed by Lessee. Acceptance of rentals by the Cities from Lessee, or performance by the Cities under the terms hereof, for any period or periods after a default by Lessee of any of the terms, covenants and conditions herein required to be performed, kept and observed by Lessee shall not be deemed a waiver or estoppel of any right on the part of the Cities to cancel this Agreement for any subsequent failure by Lessee to so perform, keep or observe any of said terms, covenants or conditions.

**18.7** This Lease will terminate at the option of Lessee:

**18.7.1** Upon the permanent closure of the Airport, the term "permanent closure" to mean for the purposes of this Agreement, the closure of the airport for ninety (90) or more consecutive days;

**18.7.2** The loss of the ability of Lessee due to no significant fault of Lessee to fly in or out of the Airport for reasons other than inclement weather, casualty or disaster, for a period of ninety (90) consecutive days; and

**18.7.3** The default by Cities in the performance of any covenant or condition required to be performed by the Cities, and the failure of the Cities to remedy such default for a period of sixty (60) days after receipt from Lessee of written notice to remedy the same, or default in the timely payment of any money due Lessee and failure to cure such default within sixty (60) days after notice to the Cities. Notice of exercise of the option to terminate by Lessee shall be given in the manner specified in Article 23 (Notices). In the event of Termination pursuant to this subsection 18.7.3, Lessee (or its Unit Owners) shall be entitled to compensation from the Cities for the fair market value of the Improvements.

**18.8** If Lessee ceases to conduct its authorized Aeronautical Activities on the Leased Premises for a period of twelve (12) consecutive months, the Cities may terminate this Agreement by written notice to Lessee given at any time while such cessation continues, unless Lessee resumes such activities within sixty (60) days following receipt of written notice from the Cities of such intent to terminate this Agreement.

**18.9** If Lessee fails to obtain any required permit or other governmental approval for the use of the Leased Premises pursuant to Section 3.1, within eighteen (18) months of the commencement date set forth in Section 1.1, or if Lessee fails to maintain any such permits or approvals during the term of this Agreement, this Agreement shall terminate, unless cured by Lessee within sixty (60) days following receipt of written notice from the Cities specifying the nature of such failure. Upon termination of this Agreement pursuant to this Section 18.9, and upon vacating the Leased Premises, Lessee shall not be required to pay additional rents, but no refund shall be due to Lessee of payments made by Lessee pursuant to this Agreement.

**18.10** Upon termination of this Agreement prior to the expiration of the Initial Term or the Extended Term, if any, the Cities may, but are not required to, relet the Leased Premises, or any part thereof, for the whole or any part of the remainder of such Initial Term or Extended Term, or for a longer period of time. Subject to Section 21.3, any rents received by the Cities as a result of such reletting shall remain the property of the Cities and shall not be credited to or otherwise become the property of Lessee.

#### **ARTICLE 19: SURRENDER AND RIGHT OF RE-ENTRY**

**19.1** Subject to Section 8.2 above, upon the expiration, cancellation or termination of this Agreement pursuant to any terms hereof, Lessee agrees peaceably to surrender up the Leased Premises to the Cities in the condition required by Article 29, below. Upon such expiration, cancellation or termination, the Cities may re-enter and repossess the Leased Premises together with all Improvements and additions thereto, or pursue any remedy permitted by law for the enforcement of any of the provisions of this Agreement, at the Cities' election.

**19.2** In the event that Lessee remains in possession of the Leased Premises after the expiration, cancellation or termination of this Lease without written agreement with respect thereto, then Lessee shall be deemed to be occupying the Leased Premises as a tenant at-will, subject to all of the conditions, provisions and obligations of this Lease, but without any rights to extend the term of this Lease. The Cities' acceptance of rent from Lessee in such event shall not alter the status of Lessee as a tenant at will whose occupancy of the Leased Premises may be terminated by Cities at any time upon ten (10) days prior written notice.

#### **ARTICLE 20: SERVICES TO LESSEE**

**20.1** The Cities covenant and agree that during the term of this Agreement, and subject to Airport priorities then in effect, they will use reasonable efforts to (a) operate the Airport as such for the use and benefit of the public; provided, however, that the Cities may prohibit or limit any given type, kind or class of aeronautical use of the Airport if such action is necessary for the safe and/or efficient operation of the Airport or necessary to serve the civil aviation needs of the public, (b) maintain the runways and taxiways in good repair, including the removal of snow, and (c) keep in good repair hard-surfaced public roads for access to the Leased Premises and remove snow there from.

**20.1.1** Said obligations of the Cities relevant to the maintenance of public roads and taxiways shall extend to the point where in such roads, streets and taxiways reach the property line of the Leased Premises, or the Ramp area constructed by Lessee under Section 4.5.

**20.1.2** Said obligations of the Cities relevant to the snow removal from public roads and taxiways shall extend to the point where in such roads, streets and taxiways reach the property line of the Leased Premises, and shall additionally include the Ramp area constructed by Lessee under Section 4.5 subject to the snow removal limitations set forth under Article 4.5.

**20.2** Except in cases of emergency, in which case no notice shall be required, Cities will endeavor to give not less than fourteen (14) days' prior written notice to Lessee of any anticipated temporary Airport closure, for maintenance, expansion or otherwise. Notwithstanding the above, the Cities shall not be deemed to be in breach of any provision of this Article 20 in the event of a permanent closure of the Airport. Provided, however, that if such permanent closure is in connection with the construction of a new airport by the Cities, Lessee shall have the option to enter into a substitute hangar ground lease agreement with the Cities, for the use of a portion of such new airport not smaller than the Leased Premises, under financial terms which are no less favorable than those set forth herein.



## **ARTICLE 21: SURVIVAL OF THE OBLIGATIONS OF LESSEE**

**21.1** In the event that the Agreement shall have been terminated due to default by Lessee in accordance with notice of termination as provided in Article 18, all of the obligations of Lessee under this Agreement shall survive such termination, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to the Cities to the same extent, at the same time or times, and in the same manner as if no termination, re-entry, regaining or resumption of possession had taken place. The Cities may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term of this Agreement.

**21.2** The amount of damages for the period of time subsequent to termination (or re-entry, regaining or resumption of possession) on account of Lessee's rental obligations shall be the sum of the following:

**21.2.1** The amount of the total of all installments of rents, less the installments thereof payable prior to the effective date of termination; and

**21.2.2** An amount equal to all expenses incurred by the Cities and not reimbursed in connection with regaining possession, restoring the Leased Premises required by Article 19, above, acquiring a new lease for the Leased Premises, legal expenses (including, but not limited to, attorneys' fees) and putting the Leased Premises in order.

**21.3** There shall be credited to the account of Lessee against its survived obligations hereunder, the amount actually received from any lessee, licensee, permittee, or other occupier in connection with the use of the said Leased Premises or portion thereof during the balance of the term of use and occupancy as the same is originally stated in this Agreement, and the market value of the occupancy of such portion of the Leased Premises as the Cities may themselves during such period actually use and occupy. No such use and occupancy shall be, or be construed to be, an acceptance of a surrender of the Leased Premises, nor shall such use and occupancy constitute a waiver of any rights of the Cities. The Cities will use their best efforts to minimize damages to Lessee under this Article.

**21.4** The provisions of this Article 21 shall not be applicable to termination of this Agreement pursuant to Section 3.1.2 or Section 4.4, or if expressly provided to the contrary elsewhere in this Agreement.

## **ARTICLE 22: USE SUBSEQUENT TO CANCELLATION OR TERMINATION**

The Cities shall, upon termination or cancellation, or upon re-entry, regaining or resumption of possession, have the right to repair and to make structural or other changes in the Leased Premises, including changes which alter its character and the suitability thereof for the purposes of Lessee under this Agreement, without affecting, altering or diminishing the obligations of Lessee hereunder, provided that any structural changes shall not be at Lessee's expense.

## **ARTICLE 23: NOTICES**

**23.1** Any notice, consent, approval or other communication given by either party to the other relating to this Agreement shall be in writing, and shall be delivered in person, sent by U.S. mail postage prepaid, sent by reputable overnight courier, or sent by electronic means (with evidence of such transmission received) to such other party at the respective addresses set forth below (or at such other address as may be designated from time to time by written notice given in the manner provided herein). Such notice shall, if hand delivered or personally served, be effective immediately upon receipt. If sent by US mail postage prepaid, such notice shall be deemed given on the third business day following deposit in

the United States mail, postage prepaid and properly addressed; if delivered by overnight courier, notice shall be deemed effective on the first business day following deposit with such courier; and if delivered by electronic means, notice shall be deemed effective when received.

**23.2** The notice addresses of the parties are as follows:

To the Cities: Northern Colorado Regional Airport Commission  
Attn: Airport Manager  
4900 Earhart Drive  
Loveland, CO 80538  
Facsimile: (970) 962-2855  
Email address: airport@cityofloveland.org

With a copy to:

Loveland City Attorney's Office  
500 E. Third Street  
Loveland, CO 80537

and

To Lessee: IC Loveland, LLC  
Attn: Ryan McClurg  
8082 South Interport Boulevard, Ste. 200  
Englewood, CO 80112  
Email Address: ryan@mcclurg.net

**ARTICLE 24: INVALID PROVISIONS**

The invalidity of any provisions, articles, paragraphs, portions or clauses of this Agreement shall have no effect upon the validity of any other part or portion hereof, so long as the remainder shall constitute an enforceable agreement. Furthermore, in lieu of such invalid provisions, articles, paragraphs, portions or clauses, there shall be added automatically as a part of this Agreement, a provision as similar in terms to such invalid provision as may be possible and be legal, valid and enforceable.

**ARTICLE 25: MISCELLANEOUS PROVISIONS**

**25.1** Remedies to be Non-exclusive. All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of, or exclusive of, each other, or of any other remedy available to the Cities, or Lessee, at law or in equity, and the exercise of any remedy, or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy provided that the Cities' remedies in the event of default shall not exceed those set forth in this Agreement.

**25.2** Non-liability of Individuals. No director, officer, agent or employee of the Cities shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of any supplement, modification or amendment to this Agreement because of any breach thereof, or because of his or their execution or attempted execution of the same. Except to the extent expressly provided for herein, no officer, director, shareholder, manager, member, agent or employee of Lessee or of any Unit Owner shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of any supplement, modification or amendment to this Agreement because of any breach thereof, or because of his or their execution or attempted execution of the same.

**25.3** Estoppel Certificate. At the request of Lessee in connection with an assignment of its interest in this Agreement, the Cities shall execute and deliver a written statement identifying them as the Lessors under this Agreement and certifying:

**25.3.1** The documents that then comprise this Agreement,

**25.3.2** That this Agreement is in full force and effect,

**25.3.3** The then current annual amount of rent and the date through which it has been paid,

**25.3.4** The expiration date of this Agreement,

**25.3.5** That no amounts are then owed by Lessee to the Cities (or, if amounts are owed, specifying the same)

**25.3.6** To the knowledge of the Cities, there are not defaults by Lessee under this Agreement or any facts which but for the passage of time, the giving of notice or both would constitute such a default, and

**25.3.7** Remaining rights to renew the term of this lease to the extent not theretofore exercised.

The party acquiring Lessee's interest in the Agreement shall be entitled to rely conclusively upon such written statement.

**25.4** Recording of Lease. This Agreement shall be recorded by the Cities, and the costs of such recordation, and any closing costs associated with this Agreement, its execution and recordation, shall be billed to and paid by Lessee as additional rent.

**25.5** General Provisions.

**25.5.1** This Agreement and shall be construed in accordance with the laws of the State of Colorado, venue shall be in Larimer County, Colorado.

**25.5.2** This Agreement is made for the sole and exclusive benefit of the Cities and Lessee, their successors and assigns, and is not made for the benefit of any third party.

**25.5.3** In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

**25.5.4** All covenants, stipulations and agreements in this Agreement shall extend to and bind each party hereto, its legal representatives, successors and assigns.

**25.5.5** The titles of the several articles of this Agreement are for inserted herein for convenience only, and are not intended and shall not be construed to affect in any manner the terms and provisions hereof, or the interpretation or construction thereof.

**25.5.6** Nothing herein contained shall create or be construed to create, a partnership, joint venture, agency or any other relationship between the Cities and Lessee, other than that of landlord and tenant. The Cities and Lessee each expressly disclaim the existence of any such other relationship between them.

**25.5.7** Cities have and may allow certain portions of the Airport to be used by other tenants at any time and Lessee shall not interfere in any manner with said other tenants or with the facilities granted to such tenants. 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, and the Cities reserve the right to grant to others the privilege and right of conducting any one or all of the activities specified herein, or any other activities of an aeronautical nature.

**25.5.8** In the event any action or proceeding is brought to recover payments due under this Agreement or take possession of the Leased Premises and/or the improvements thereon, or to enforce compliance with this Agreement for failure to observe any of its covenants, the prevailing party shall be awarded reasonable attorneys' fees and costs as set by the court.

**25.5.9** The time within which either party hereto shall be required to perform any act under this Agreement, other than the payment of money, shall be extended by a period equal to the number of days during which performance of such act is delayed unavoidably by strikes, lockouts, acts of God, governmental restrictions, failure or inability to secure materials or labor by reason of or similar regulation or order of any governmental or regulatory body, war, enemy action, acts of terrorism, civil disturbance, fire, unavoidable casualties, or any similar occurrence.

**25.6** Availability of Government Facilities. In the event the existence, maintenance or operation of air navigation aids or other facilities supplied or operated by the United States or the State of Colorado at or in conjunction with the Airport are discontinued, the Cities shall have no obligation to furnish such facilities.

**25.7** The Cities designate the Commission and the Airport Manager as its representatives who shall make, within the scope of their authority, all necessary and proper decisions with reference to the Lease.

**25.8** The parties further acknowledge and agree that this Lease Agreement replaces and supersedes the prior lease agreements for the Leased Premises approved by the Cities on May 17, 2017 with Loren and Heidi Johnson (originally KFNL Hangars, LLC) and CO Fire Aviation Leasing (originally KFNL Hangars, LLC).

## **ARTICLE 26: SUBORDINATION CLAUSES**

**26.1** This Agreement is subject and subordinate to the following:

**26.1.1** The Cities reserve the right to develop and improve the Airport as they see fit, regardless of the desires or view of Lessee, and without interference or hindrance by or on behalf of Lessee, provided Lessee is not deprived of the use or access to the Leased Premises or any of Lessee's rights under this Agreement and unless said activities by the Cities shall result in the loss of convenient access to the Leased Premises by motor vehicles and/or aircraft owned or operated by Lessee or Lessee's assigns, subtenants, renters, agents, employees or invitees.

**26.1.2** The Cities reserve the right to take any action they consider necessary to protect the aerial approaches to the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on the Airport which would limit the usefulness of the Airport or constitute a hazard to aircraft.

**26.1.3** This Agreement is and shall be subordinate to the provision of existing and future agreements between the Cities and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the obtaining or expenditure of federal funds for the benefit of the Airport.

**26.1.4** During the time of war or national emergency, the Cities shall have the right to lease all or any part of the landing area or of the airport to the United States for military use, and if any such lease is executed, the provisions of this Agreement insofar as they may be inconsistent with the provisions of such lease to the government, shall be suspended, but such suspension shall

not extend the term of this Agreement. Abatement of rentals shall be reasonably determined by the Cities and Lessee in proportion to the degree of interference with Lessee's use of the Leased Premises.

**26.1.5** Except to the extent required for the performance of any obligations of Lessee hereunder, nothing contained in this Agreement shall grant to Lessee any rights whatsoever in the airspace above the Leased Premises other than those reasonably necessary to Lessee's enjoyment of the Leased Premises and Cities' Airport facilities and which are consistent with Federal Aviation Administration rules, regulations and orders currently or subsequently effective. Further, Lessee's rights in airspace above the Leased Premises and the Airport and the Airport facilities shall be not less than the rights therein by other users of the Airport and Airport facilities.

## **ARTICLE 27: QUIET ENJOYMENT**

Cities hereby covenant and warrant that they are the owners of the Leased Premises and that Lessee upon payment of rentals herein provided for and performance of provisions on its part to be performed shall and may peacefully possess and enjoy the Leased Premises during the term hereof and any extensions hereof without any interruption or disturbance.

## **ARTICLE 28: ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement of the parties hereto and may be changed, modified, discharged or extended by written instrument duly executed by the Cities and Lessee. The parties agree that no representations or warranties shall be binding upon the Cities or Lessee unless expressed in writing.

## **ARTICLE 29: TITLE TO IMPROVEMENTS UPON TERMINATION**

**29.1** Upon the expiration, cancellation or termination of this Agreement, Lessee may elect to remove the Improvements and all additions and appurtenances thereto at its own expense in accordance with the following:

(a) Lessee may elect to remove the Improvements upon expiration of the Initial Term or any Extended Term by giving the Cities written notice of Lessee's election not less than sixty (60) days prior to the expiration of the Initial Term or Extended Term (the "Notice Deadline"). If Lessee gives such written notice of its election on or before the Notice Deadline, Lessee shall complete removal of the Improvements and all additions and appurtenances as required by this Article 29 on or before the expiration of the Initial Term or any Extended Term. Failure of Lessee to give such written notice of its election on or before the Notice Deadline shall be deemed to be an election, by Lessee, to surrender ownership of the Improvements and all additions and appurtenances thereto to the Cities in accordance with Section 29.2 below.

(b) Lessee may elect to remove the Improvements upon cancellation or termination of this Agreement by giving the Cities written notice of its election within thirty (30) days after such cancellation or termination. Provided Lessee is not in default in the payment of rental or other financial obligations due hereunder and has given written notice of its election within such thirty (30) day period, Lessee shall have a reasonable time, not to exceed sixty (60) days after notice of such election is given to the Cities, in which to complete removal of Improvements and restoration as required by this Article 29. During any occupancy by Lessee after cancellation or termination of this Agreement for the time period prior to completion of removal of Improvements and restoration, Lessee shall be deemed to be holding over under the terms and conditions of Section 19.2 above and shall pay to the Cities rent at the then-current lease rate for such period. If Lessee (i) fails to give such written notice of its election within the thirty (30) day period set forth in this subsection (b); or (ii) is ineligible to make such election because Lessee is in default in the

payment of rental or other financial obligations due hereunder, Lessee shall be deemed to have made an election to surrender ownership of the Improvements and all additions and appurtenances thereto to the Cities in accordance with Section 29.2.

(c) Removal of Improvements and all additions and appurtenances thereto and restoration as required under this Article 29 shall include Lessee's completion of all work necessary to leave the Leased Premises in a clean, orderly, and as close to original condition as possible as approved by the Cities, and shall include as a minimum:

(i) removal of all Improvements and above ground structures and above ground foundations, including utilities and utility connections, which shall be capped or otherwise left in a safe condition; and

(ii) modification of the surface so that it is free of any holes or obstructions that would prevent normal aircraft taxi operations and graded as necessary to ensure proper drainage.

**29.2** In the event that Lessee fails to give written notice to the Cities of its election to remove Improvements within the time periods and as otherwise provided in Section 29.1 above, then Cities and Lessee agree that in consideration of Lessee's use of the Airport for construction and operation of the Improvements, the Improvements and all additions and appurtenances thereto shall become the property of and title shall automatically vest in the Cities upon expiration, cancellation or termination of this Agreement, without payment of additional consideration by the City, and free and clear of all liens and encumbrances. Lessee agrees to execute all documents and take such reasonable actions, if any, as may be necessary to confirm the transfer of title to the Improvements to the Cities.

Lessee's obligations under this Article 29 shall survive any expiration, cancellation, or termination of this Agreement

### **ARTICLE 30: RIGHT OF FIRST REFUSAL**

If at any time Lessee desires to sell, assign, or otherwise transfer its interest under this Agreement, including the Improvements existing on the Leased Premises, or if any Unit Owner desires to sell its interest in any Unit, to an Unaffiliated Entity as defined in Section 10.1 and has obtained a bona fide offer for such sale, Lessee and/or such Unit Owner must first offer to sell, assign, or otherwise transfer such interest to the Cities, at the price and on the same terms as such bona fide offer, and the Cities shall have the right to purchase Lessee's and /or such Unit Owner's interest under such terms. Such offer must be in writing and state the name of the proposed transferee and all of the terms and conditions of the proposed transfer. The Cities shall have the right for a period of sixty (60) days after receipt of the offer from Lessee or Unit Owner to elect to purchase Lessee's and/or Unit Owner's interest (such sixty (60) day period referred to as the "Election Period"). If the Cities do not desire to purchase Lessee's and/or Unit Owner's interest, Lessee and/or unit Owner may then sell, assign, or otherwise transfer its interest in this Agreement or the Unit to the person making the said offer, at the price and terms set forth in the offer, subject to the requirements of Article 13. If Lessee and/or Unit Owner fail to close such sale within sixty (60) days after the expiration of the Election Period, any proposed sale, assignment or other transfer thereafter shall again be subject to this Article. This right of the Cities shall be continuing and shall survive any sale, assignment or other transfer of Lessee's interest under this Agreement. The intent of this Article is to require all of Lessee's interests in this Agreement be sold, assigned or otherwise transferred intact, without fractionalization; except as contemplated by subletting the Lease Premises to the Condominium Declarant pursuant to Article 31. The foregoing right of first refusal shall not apply to the first sale, assignment or other transfer of an interest of any individual Hangar Condominium Unit by Lessee to the first Owner of such Unit.



## **ARTICLE 31: REQUIREMENTS FOR CONDOMINIUMIZATION**

**31.1** Prior to the sale of any Hangar Condominium Unit on the Leased Premises, Lessee shall cause a declaration to be recorded in the real property records of Larimer County, Colorado, in compliance with the Condominium Ownership Act (the “Act”), C.R.S. §38-33-105. Lessee shall not record such declaration unless it first provides the Cities’ with a copy of such declaration and establishes to the reasonable satisfaction of the Cities that the declaration contains each provision required by this Agreement. The Cities shall not sign such a declaration or otherwise subject this Agreement to the provisions of C.R.S. §38-33.3-206(1).

**31.2** At all times during the term of this Agreement, the Condominium Declaration recorded by Lessee pursuant to the Act shall provide the recording data for this Agreement; the date on which this Agreement is scheduled to expire; a legal description of the Leased Premises; a statement that the Unit Owners have no right to redeem any reversion in the Leased Premises or this Agreement; a statement that Unit Owners have no right to remove any Improvements on the Leased Premises, including at or after termination of this Agreement; and a statement that Unit Owners have no right to renew this Agreement at or after termination, other than the contingent right of Lessee to do so under Article 1.3, above.

**31.3** The Condominium Declaration recorded by Lessee hereunder shall require that with respect to Units and the Unit Owner’s use thereof, and activities of Unit Owners on the Airport, each Unit Owner shall comply with applicable terms of this Agreement, and shall take no action which is in violation of any term or condition of this Agreement. The Condominium Declaration shall provide that any act or omission of a Unit Owner which is contrary to or violates the terms of this Agreement, or of any Airport rule or regulation, shall be a violation of the terms of the Condominium Declaration, and shall contain adequate provisions for Lessee’s enforcement of such requirements. Before or at the closing of any sale or resale of a Condominium Unit, the purchaser of the Condominium Unit shall be required to sign and deliver to the Cities, on a form acceptable to the Cities, a declaration providing purchaser’s name, address and contact information, and acknowledging that such purchaser has been provided with a copy of this Agreement and the Condominium Declaration, has read this Section 31.3, and understands purchaser’s obligations to comply with the applicable terms of this Agreement.

**31.4** The Condominium Declaration required by Lessee hereunder shall require the formation of a Condominium Association (being a Colorado non-profit corporation) which, subject to the terms of this Agreement, will have broad authority over and govern the use and operation of the Leased Premises and the Hangar Units, and grant to the Condominium Association the right to enforce all of the terms, conditions and covenants of this Agreement against the Unit Owner, to assess the Unit Owners for the purpose of funding the payment of all monetary amounts due and payable pursuant to the terms of this Agreement and to serve as agent for the Unit Owners in dealing with the Cities pursuant to this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first above written.

**LESSOR:**

NORTHERN COLORADO REGIONAL AIRPORT COMMISSION  
ON BEHALF OF THE CITIES OF FORT COLLINS AND LOVELAND

\_\_\_\_\_  
Don Overcash, Chair  
Northern Colorado Regional Airport Commission

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
for Northern Colorado Regional Airport Commission

**LESSEE:**

IC Loveland, LLC

\_\_\_\_\_  
Ryan McClurg

\_\_\_\_\_  
Date



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 7

**MEETING DATE:** August 22, 2022

**PREPARED BY:** Jason R. Licon, Airport Director

Aaron Ehle, Airport Planning & Development Specialist

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## **TITLE**

US Customs Proposal from Discovery Air

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Evaluate the proposal provided by Discovery Air and provide direction to staff

## **BUDGET IMPACT**

Proposal includes a request of up to \$200,000 annually for a period of up to five (5) years to fund the salary of a Customs officer.

## **SUMMARY**

At the April 21<sup>st</sup> Airport Commission meeting, representatives from Discovery Air provided a report on their recent efforts to establish a U.S. Customs program. Airport staff was directed to investigate options for partnership with Discovery Air in support of the U.S. Customs Reimbursable Services Program (RSP). Legal staff researched how the Airport/Cities could support a Customs program in compliance with federal requirements and Airport staff drafted a letter to the Director of U.S. Customs and Border Patrol (CBP) on behalf of the Airport Commission in support of Discovery Air's RSP application.

In June, Discovery Air provided a proposal requesting an annual contribution of \$200,000 from the Airport/Cities to support the service. Under the proposal, Discovery Air would provide the administrative support and office space, including the build-out to meet CBP's requirements, and retain all revenues generated by the service. An April 2020 Airport investigation estimated the cost to build facilities for a User Fee Facility (UFF) Customs program, which has more rigorous standards than RSP, to be \$1.5-\$2.5 million (\$1-\$1.5 million to remodel an existing building). Following the proposal, Airport staff met with Discovery Air representatives to discuss the topic further and to attempt to obtain more detailed financial information.

Staff has reached out to the Cities and Larimer County Economic Development staff to discuss the potential of financial support on this item. The service as it is currently proposed would support businesses in the region that have international travel needs and may have

the potential to attract new business to the region. This discussion is in the preliminary stages of investigation, with no financial or use commitments finalized.

Details:

- The \$194,488 annual financial contribution for the salary of the Customs agent would require 12.4% of the airport's \$1.57 million operating and maintenance budget
  - Direct financial return is not known
  - This would impact the Airport's ability to fund other strategic objectives, equivalent to 60% of discretionary budget (\$322,450)
- Discovery Air would fund all other costs and retain all revenues generated by the service
- Discovery Air would provide quarterly reports on usage
- The service would be able to provide Customs clearances for private general aviation aircraft
- The Customs facility would be open to the public for:
  - Immigration Services
  - I-94 Arrival/Departure Record Verification
  - Camera and Gun Registration
  - Assistance with international phone/internet scams
  - Global Entry Registration
- Foreign Trade Zones (FTZ) are not permissible under RSP. A different program would be necessary to establish an FTZ.
- The Airport is not able to legally make any direct payments to Discovery Air
  - The Airport/Cities can pay U.S. Customs and Border Patrol (CBP) directly for services provided.

This topic was discussed at the July 20<sup>th</sup>, 2022 PDSC Meeting – a summary of the discussion can be found in the meeting minutes.

## **ATTACHMENTS**

- Discovery Air: Proposed Framework for Financial Support of USCBP Reimbursable Services
- US Customs and Border Patrol: Reimbursable Services Program Overview
- Reimbursement Agreement for Customs Expenses at The Northern Colorado Regional Airport
- US Customs Proposal from Discovery Air Presentation



5017 Lindbergh Dr, Loveland, CO 80538  
970-460-8606  
[www.discoveryairaviation.com](http://www.discoveryairaviation.com)

June 7, 2022

Northern Colorado Regional Airport

4900 Earhart Road

Loveland, CO 80538

Attn: Jason Licon and Aaron Ehle

RE: Additional Details to Proposed Framework for Financial Support of CBP RSP Program.

**The following parameters were proposed for NCRA/Cities/County support of the CBP RSP program at Discovery Air:**

- 1) Discovery Air accepts all risk for the RSP customs program including office needs, payroll support, ramp space, and other.
- 2) Discovery Air will be sole authority for pricing and fee collections for customs service and manage all logistics, billing, accounting and administration of these services.
- 3) NCRA/Cities/County will support Discovery Air with an annual customs support payment of \$200,000 per year paid as a minimum of 5-year commitment, so long as customs is open and operating.
- 4) Support payment will be eliminated if customs revenue reaches break even for discovery air expenses plus management expenses for two consecutive years.

**The following are further details and information provided in support of the CBP RSP program at Discovery Air and the support payment required:**

**Estimated Financial Plan (annual estimate based on current available information)**

**\*\*Absolute minimum investment/logistics management required by Discovery Air/The Water Valley Company shown for simplicity. Additional expenses (absorbed by Discovery Air) of annual airport land lease cost and cost to build Torrey's Peak Hangar which is providing CBP office space, not reflected below\*\***

Annual Expenses Absorbed by Discovery Air/The Water Valley Co.		One Time Expenses Absorbed by Discovery Air/The Water Valley Co.		Contributions by NCRA/Cities/County or other	
CBP Personnel Base Wages	\$180,000	Discovery Air Office Build out for CBP	\$159,000 (\$300 sq ft)	Annual Investment by NCRA/Cities/County	\$200,000
CBP Overtime/After Hour Wages Estimate	\$14,488 (\$100.61 hr, 3hrs per event, est. 4 events per month.)			<b>Solutions:</b>  <b>**Lease Reduction (Expedited Partial Solution)</b> \$46,723 for 2022 (2% annual increase assumed).  <b>**Contributions by cities/county (ARPA funds)</b>  <b>**Pay this directly to CBP for wages/benefits/overtime</b>	
Discovery Air Office 530 sq ft	\$15,370 (annual increase of 3% per year)				
Logistics, Billing, Scheduling, benefits, insurance, Accounting and Administration	\$110,000				
Facilities, equipment, grounds, custodial, consumables, tenant support	\$90,000				
TOTAL	\$409,858.00 (Total Annually)		\$159,000 (Total Year #1) <b>\$568,858)</b>		Total (Annually) <b>\$200,000</b>



\*\* Wages, overtime costs and other CBP specific details are directly from CBP provided RSP Overview 2022 Denver PDF file\*\*

- 1) What if any are the financial contributions or commitments from the users and Discovery Air to set up this service?

-Discovery Air has invested in pre-construction of the facility and offices to accommodate CBP which contributed immensely to their interest in creating a new location.

-Discovery Air is holding a large amount of office, hangar and apron space for this CBP RSP location opportunity.

-Discovery Air has offered to finish and outfit the facilities to meet CBP requirements completely at Discovery Air expense.

-Discovery Air and the CBP have invested substantial labor time, presentation time, travel expenses and logistics into this project already and will continue to accrue additional expenses.

-Critical tenants of this airport and Discovery Air have already provided letters of support (as previously presented) and have offered to be integral to the daily CBP operations in utilizing the services. All have committed to routing through KFNL instead of other airports once the CBP office opens.

-The investment to get to this point and to reach a point of “ready to open” which Discovery Air is offering, will far outweigh the requested contribution by NCRA/Cities/County.

- 2) How is the break-even determined?

-Very simple, a budget summary of expenses for maintaining a daily/yearly operational status will be provided. Once the new CBP office is covering these expenses (not to exceed 5 years) it can operate under its own income and the outside financial support can be eliminated. This cooperation creates an investment and contribution by everyone who will benefit from this new CBP office in the future with The Water Valley Co/Discovery Air taking by far the majority of the risk involved.

- 3) Can the airport funds be legally used for this purpose or will the Cities need to provide this?

-This is a question for NCRA and the Cities/County to clarify.

-Lease reduction is an excellent initial and quick solution for partial coverage to help get this moving the right direction as soon as possible.

-Direct payment to CBP for agent wages (eliminating any question on payment to a private entity) is also an excellent consideration for the annual support.

4) How do we project this will increase demand for usage outside of the current known demand and possibly outside of our airport?

-The creation of this customs office will attract more large corporate entities with aviation departments similar to Nutrien and Woodward. As presented at many of the commission meetings, a large quantity of customs events exists as surrounding airports. Bringing in these flights with a customs solution will expose our airport and the operating businesses to many new customers and opportunities.

-The increase in airport activity due to customs services will undoubtedly increase fuel sales.

-The creation of an FTZ (foreign trade zone) can be used both by clients inside and outside of the airport community. Again, bringing new business contacts and opportunities to this airport.

-We have the ultimate destination location here at FNL for anywhere along the front range in particular. It has been demonstrated clearly there is a large quantity of transient aircraft going through Casper Natrona currently who would benefit tremendously by our location, not to mention many of the airport locations to our South.

-Reference our own NCRA website for an excellent answer to this question also:

*"Located adjacent to I-25 and US Hwy 34, 50 miles north of Denver. Just minutes away from both award-winning historic downtown areas for Loveland and Fort Collins; which offer live music, delectable restaurants and a variety of tourist, retail, novelty and confectionary shops.*

*The Fort Collins – Loveland area is known for its thriving craft beer industry, eclectic arts and entertainment scene and mix of outdoor recreational activities. With 300 days of sunshine, snow-capped mountains, idyllic lakes and clear-running rivers, it's captivating year-round. Northern Colorado Regional Airport (FNL) is the nearest airport to Estes Park, base camp to the nationally acclaimed and breathtaking Rocky Mountain National Park which is home to wildlife and miles of trails .Drive times from our Airport to ski resorts like Vail, Copper Mountain, Winter Park, and Eldora Mountain are similar if not faster than what you would experience from Denver International Airport.*

5) What will the schedule be to transition from the RSP program to a full UFF program?

-There really is no hard push to transition from the RSP program to the UFF program. The NCRA community will recognize the benefits with either program. This noted, there will be a natural progression to a UFF program as demand for customs services increase. A fair estimation on this would be around 2-4 years as clients transition to NCRA being their preferred customs clearance destination. The creation of a FTZ (foreign trade zone) will also develop as this program matures which will further increase the activity and benefits to this airport.

6) What is the estimated return on investment?

-The ROI is expected to balance out at 3-5 years of time. This is when market saturation of the available service will be recognized and the number of customs events will reach a level to cover the annual costs of the office based on various fee levels applicable to the exact type of customs service provided. Some events will be more expensive than others due to the level of service required. Regardless, The Water Valley Co/Discovery Air is taking ALL the risk on this as we are limiting the requested support to a maximum of 5 years and very possibly less as the office balances with increased billable customs events.

# **U.S. Customs and Border Protection Office of Field Operations**

## **Reimbursable Services Program**

### **Program Overview**

2022



U.S. Customs and  
Border Protection

# Agenda



- Why Partnerships?
- Program Overview
- Application Guidance



U.S. Customs and  
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# Why Partnerships?

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- U.S. Customs and Border Protection (CBP) is frequently asked to provide new or additional services at ports of entry across the country; however, we are not always able to accommodate these requests.
  - Solution: CBP's three pronged Resource Optimization Strategy for Ports of Entry
    - Business Transformation
    - Workload Staffing Model
    - **Alternative Funding Sources through Public-Private Partnerships.**
  - Through Public-Private Partnerships, CBP is better able to accomplish its increasingly complex mission of ensuring border security in the face of rising volumes in travel and trade.
  - The Reimbursable Services Program (RSP) is an example of public-private partnerships between CBP and any private sector and government entities.
- 



U.S. Customs and  
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# Reimbursable Services Program Authorities

Section	Year	Description	Expiration
<b>560</b> Consolidated and Further Continuing Appropriations Act, 2013	2013	<ul style="list-style-type: none"> <li>Allowed CBP to enter into five total agreements (any mode) by December of 2013</li> </ul>	Authority expired in 2013 Agreements expire in 2018
<b>559</b> Consolidated Appropriations Act, 2014	2014	<ul style="list-style-type: none"> <li>Gave CBP five years to sign agreements of unlimited duration</li> <li>Limited CBP to ten* air agreements each calendar year for overtime services only</li> <li>Unlimited in sea and land</li> <li>Allows for reimbursement of support staff in the air environment**</li> </ul>	Authority expires in 2019 Agreements do not expire Supplanted by Sec. 481
<b>481</b> Homeland Security Act, 2002	2016	<ul style="list-style-type: none"> <li>Removes limitation on number of air agreements</li> <li>Allows for reimbursement of salaries and benefits of up to five CBPOs in airports that receive less than 100,000 international travelers per year</li> <li>Permits agreements at any facility where CBP provides or will provide services</li> </ul>	No expiration

\*Amended by Section 550 of the *Consolidated Appropriations Act, 2016* to increase airport limit to 10

\*\*Amended by Section 552 of the *DHS Appropriations Act, 2015* to allow for reimbursement of support staff



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# RSP - New Legislation Overview

The *Cross-Border Trade Enhancement Act, 2016*, signed into law on December 16, 2016, amends Title IV of the *Homeland Security Act, 2002* by adding Section 481 – Fee Agreements for Certain Services at Ports of Entry.

The legislation expands the authority provided in Section 559 of the *Consolidated Appropriations Act, 2014* by:

- Making the RSP permanent;
- Removing the annual statutory limit on the number of air agreements;
- Permitting agreements at any facility in which CBP provides services or will provide services;
- Allowing small airports (<100k international passengers per year) to compensate CBP for the salaries and expenses of up to five officers; and
- Authorizing the Commissioner to determine if advanced payment is warranted to enter into an agreement in place of cost reimbursement.



U.S. Customs and  
Border Protection

# Program Overview

- The RSP provides an alternative source of funding for overtime services beyond CBP's appropriated budget and allows our partners to target where they desire CBP to provide additional services.
- Signing a Reimbursable Services Agreement does not obligate the CBP Port of Entry to provide services beyond its staffing resource capacity and CBP Port Directors maintain control over their staff.
- Signing an agreement does not obligate stakeholders to request certain levels of reimbursable services.



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# Overview: Program and Impact


- The **Reimbursable Services Program** enables partnerships between CBP and private sector or government entities, allowing CBP to provide additional inspection services upon the request of stakeholders.
- In 2017, the RSP expanded its open season from once a year to accepting applications year-round with three evaluation periods beginning in March, July and November.
- Through the third evaluation window of 2021, CBP has expanded the RSP to 269 stakeholders covering 192 U.S. Ports of Entry.
- Since program inception, CBP has provided over 360,000 officer overtime assignments and an additional 1 million hours of services. These services accounted for the processing of over 15.7 million travelers and over 2.0 million personal and commercial vehicles at ports of entry.

269 

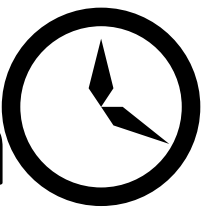
Stakeholders

192 

Ports of Entry

360k 

Assignments

1.0m 

Hours of Service

15.7m 

Travelers

2.0m

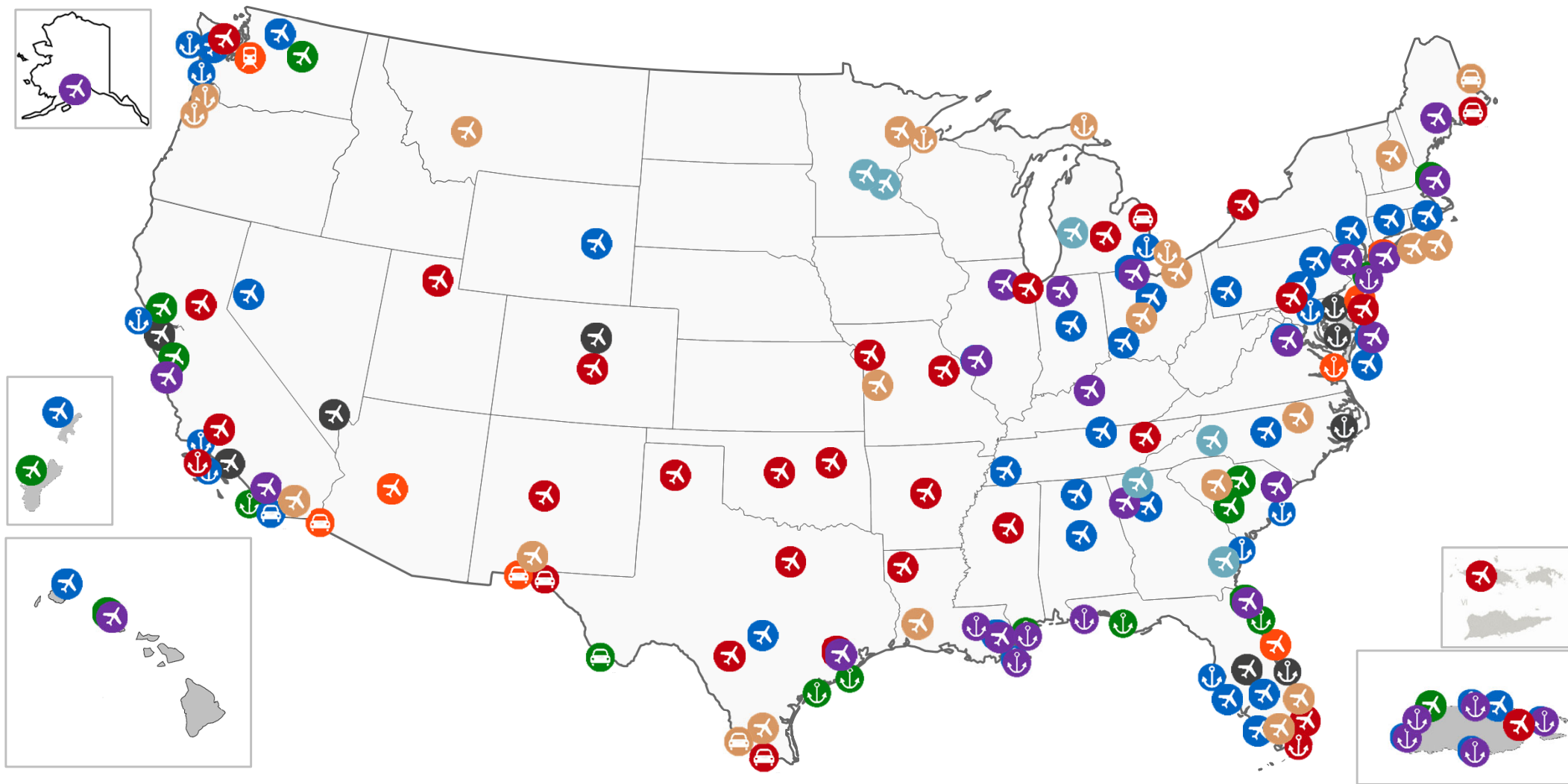
Vehicles



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# RSP Locations and Stakeholders



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# Joining the Program

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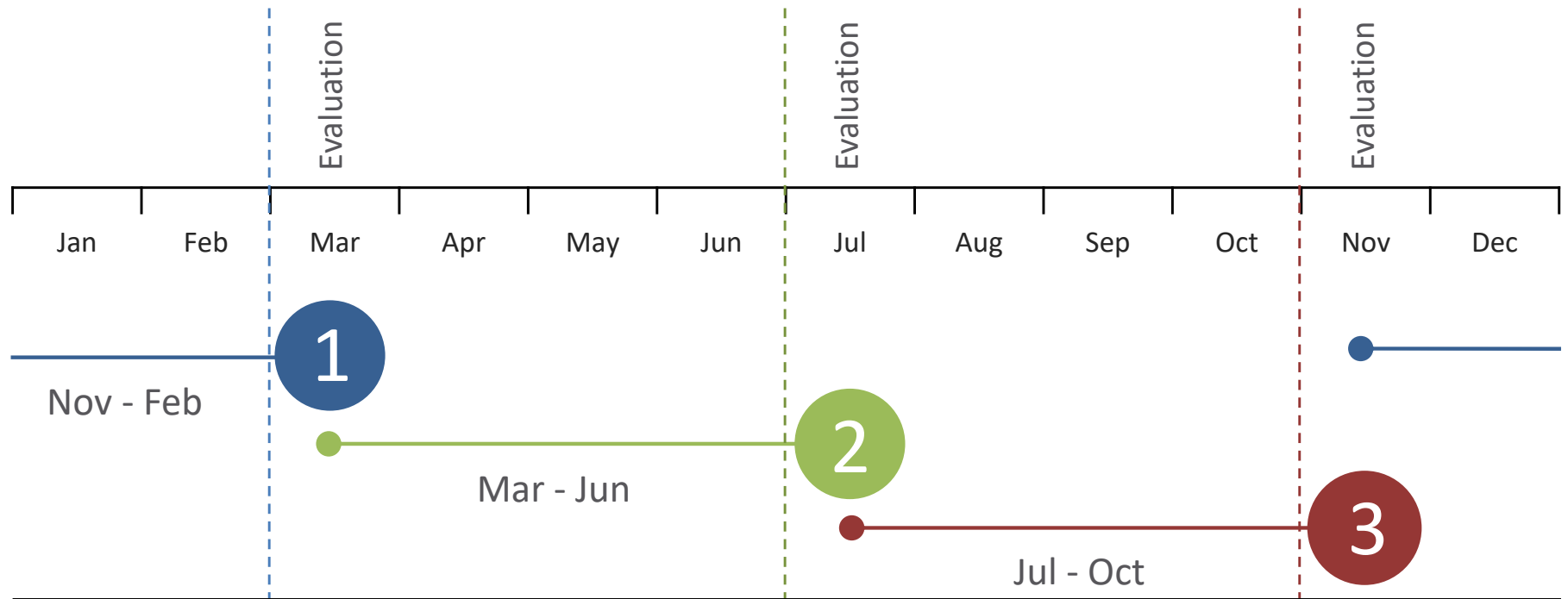
- CBP opens the application submission year-round with a triannual evaluation period, and posts detailed instructions and guidelines on [www.cbp.gov/RSP](http://www.cbp.gov/RSP).
- CBP reviews applications to select partnerships that are mutually beneficial to the requesting parties, the affected communities and CBP.
- Applications are evaluated utilizing a rigorous, multi-layered process to ensure compatibility with CBP's mission.
- Criteria include, but are not limited to:
  - Impact on current CBP operations;
  - Funding reliability;
  - Community concerns;
  - Health and safety issues;
  - Community and economic benefits; and
  - Whether the proposal can be introduced in a timely manner.
- Interested applicants are encouraged to coordinate with the affected CBP Field Office and ports of entry in developing their letters of application.



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# Triannual Evaluation



## Year-Round Open Season / Triannual Evaluation

RSP will have a year-round open season where stakeholders may apply at any time and their applications are evaluated three times per year.

1. Applications received November through February will be evaluated beginning in March
2. Applications received March through June will be evaluated beginning in July
3. Applications received July through October will be evaluated beginning in November



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# Takeaways

- Allocation of appropriated staffing not impacted by this program.
  - Legislation states that an RSA cannot unduly impact existing services.
- Enhanced services provided are above and beyond what would normally be possible.
  - Allows our partners to identify exactly where they need CBP services.
- Program selections predicated upon a rigorous evaluation process with a primary component being operational feasibility.
- Signing an RSA does not obligate stakeholders to request certain levels of services. Stakeholders will not be billed unless services have been requested.
- CBP will be continually accepting applications, with evaluations beginning every March, July, and November.



U.S. Customs and  
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# Reimbursable Services FTE/Overtime Costs and Benefit Rates

Denver, CO

2022



U.S. Customs and  
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# Agenda

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- Annual and Hourly Salary and Overtime Rates
- FTE/Overtime Benefits Contribution Rate
  - Applicable Benefits
  - Benefit Rate Range



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# Annual Salary and Overtime Ranges

## Annual Salary

Grade	7	9	11	12	13
Denver, CO	\$55,896	\$68,376	\$82,726	\$104,992	\$117,908

## Hourly Rate

Grade	7	9	11	12	13
Denver, CO	\$26.79	\$32.77	\$39.64	\$50.31	\$56.50

## Overtime Rate

Grade	7	9	11	12	13
Denver, CO	\$53.57	\$65.54	\$79.27	\$100.61	\$112.98

The tables include a variety of possible annual and hourly base salary and overtime rates to represent the range of grade levels that might perform work for the reimbursable services agreements.

Note that all grades are depicted at Step 7 in the tables.

<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2022/general-schedule/>



U.S. Customs and  
Border Protection

# Overtime Benefit Contribution Rates

CBP Officers earn overtime under the Customs Officer Pay Reform Act (COPRA). Government contributions are required for the following items for employees earning COPRA overtime:

Rate	Type	Calculation Basis
1.45%	Medicare	Applied to all COPRA overtime earnings
6.20%	FICA	Applied to all COPRA overtime earnings
1.00%	FERS One Percent	Applied to the first \$22,500 of COPRA overtime earnings
4.00%	FERS Matching*	Applied to the first \$22,500 of COPRA overtime earnings
35.8%	FERS Annuity	Applied to the first \$22,500 of COPRA overtime earnings

\*The FERS Matching contribution is up to 4% but depends on the level of retirement contribution that the employee has elected.

Note: COPRA overtime is also subject to CSRS retirement contributions, but relatively few CBP Officers receive CSRS (the majority receive FERS retirement benefits).



U.S. Customs and  
Border Protection



# Sample Annual Salary Rate

The table below reflects the average annual salary for a GS-12 Step 7 employee at the location, assuming a 48.45% government contribution rate and 15% overhead:

GS-12 Step 7	Denver, CO
<b>Base Salary</b>	<b>\$104,992.04</b>
Medicare (1.45%)	\$1,522.38
FICA (6.2%)	\$6,509.51
FERS 1 Pct (1%)	\$1,049.92
FERS Matching (4%)	\$4,199.68
FERS Annuity (35.8%)	\$37,587.15
<b>Contribution Subtotal</b>	<b>\$50,868.64</b>
Overhead (15%)	\$23,379.10
<b>Total Annual Salary</b>	<b>\$179,239.79</b>
<b>Estimated Quarterly Payment</b>	<b>\$44,809.95</b>



U.S. Customs and  
Border Protection

# Sample Hourly Rate for Overtime

The table below reflects the average hourly cost for a GS-12 Step 7 employee at the location, assuming a 48.45% government contribution rate and 15% overhead:

GS-12 Step 7	Denver, CO
<b>Overtime</b>	<b>\$100.61</b>
Medicare (1.45%)	\$1.46
FICA (6.2%)	\$6.24
FERS 1 Pct (1%)	\$1.01
FERS Matching (4%)	\$4.02
FERS Annuity (35.8%)	\$36.02
<b>Contribution Subtotal</b>	<b>\$48.75</b>
Overhead (15%)	\$22.40
<b>Total Hourly Rate</b>	<b>\$171.76</b>



U.S. Customs and  
Border Protection

# Premium Pay Regulations

19 USC 267 – Premium Pay for Customs Officers		
Law	Description	Summary
19USC267(b)(1)(A)	<b>Night Work Differential (15%)</b>	If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.
19USC267(b)(1)(B)	<b>Night Work Differential (20%)</b>	If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.
19USC267(b)(2)	<b>Sunday Differential (50%)</b>	A customs officer who performs any regularly scheduled work on a Sunday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.
19USC267(b)(3)	<b>Holiday Differential (100%)</b>	A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.



U.S. Customs and  
Border Protection

# Overtime Regulations

19 USC 267 – Overtime for Customs Officers		
Law	Description	Summary
19USC267(a)(1)	<b>Overtime Pay Rate</b>	A customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer.
19USC267(a)(2)(A)	<b>Callback</b>	Any work for which compensation is authorized and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.
19USC267(a)(2)(B)	<b>Commute</b>	<p>The customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer; but only if such work:</p> <ul style="list-style-type: none"> <li>• Begins at least 1 hour after the end of any previous regularly scheduled work assignment;</li> <li>• Commences less than 16 hours after the officer's last regularly-scheduled work assignment;</li> <li>• Commences more than 2 hours prior to the start of the officer's next regularly-scheduled work assignment; and,</li> <li>• Ends at least 1 hour before the beginning of the following regularly scheduled work assignment.</li> </ul>



U.S. Customs and  
Border Protection



# Cost Regulations

## Costs Breakdown for Customs Officers

Law	Description	Summary
26USC3101(b)(6)	<b>Rate of Tax Medicare (1.45%)</b>	There is hereby imposed on the income of every individual a tax equal to 1.45 percent of the wages received by him/her with respect to employment. <a href="https://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/html/USCODE-2011-title26-subtitleC-chap21-subchapA-sec3101.htm">https://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/html/USCODE-2011-title26-subtitleC-chap21-subchapA-sec3101.htm</a>
26USC3101(a)	<b>Rate of Tax FICA (6.2%)</b>	There is hereby imposed on the income of every individual a tax equal to 6.2 percent of the wages received by the individual with respect to employment. <a href="https://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/html/USCODE-2011-title26-subtitleC-chap21-subchapA-sec3101.htm">https://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/html/USCODE-2011-title26-subtitleC-chap21-subchapA-sec3101.htm</a>
5USC8432(c)(1)(A)	<b>FERS (Federal Employees Retirement System) 1 Pct (1%)</b>	At the time prescribed by the Executive Director, the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the basic pay of such employee or Member for such pay period. <a href="https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/html/USCODE-2011-title5-partIII-subpartG-chap84-subchapIII-sec8432.htm">https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/html/USCODE-2011-title5-partIII-subpartG-chap84-subchapIII-sec8432.htm</a>
5USC8432(c)(2)(C)(ii)	<b>FERS Matching (4%)</b>	The Government adds up to 4% of basic pay to every FERS employee's TSP (Thrift Savings Plan) account in addition to the 1% mentioned above, depending on the amount the employee chooses to contribute. Please note this is a variable rate. <a href="https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/html/USCODE-2011-title5-partIII-subpartG-chap84-subchapIII-sec8432.htm">https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/html/USCODE-2011-title5-partIII-subpartG-chap84-subchapIII-sec8432.htm</a>
5USC8334(d)(2)(A)(ii)	<b>FERS Annuity (35.8%)</b>	The Office of Personnel Management distributes the contribution rates under FERS. <a href="https://www.opm.gov/retirement-services/publications-forms/benefits-administration-letters/2020/20-304.pdf">https://www.opm.gov/retirement-services/publications-forms/benefits-administration-letters/2020/20-304.pdf</a> <a href="https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/html/USCODE-2011-title5-partIII-subpartG-chap83-subchapIII-sec8334.htm">https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/html/USCODE-2011-title5-partIII-subpartG-chap83-subchapIII-sec8334.htm</a>
19CFR24.21(a)	<b>Overhead (15%)</b>	An additional charge for administrative overhead costs shall be collected to reimburse Customs for compensation and/or expenses of Customs officers performing reimbursable and overtime services. The cost of the charge for administrative overhead shall be 15 percent of the compensation and/or expenses of the Customs officers. <a href="https://www.gpo.gov/fdsys/pkg/CFR-2012-title19-vol1/xml/CFR-2012-title19-vol1-sec24-21.xml">https://www.gpo.gov/fdsys/pkg/CFR-2012-title19-vol1/xml/CFR-2012-title19-vol1-sec24-21.xml</a>

# Additional Information on CBP Public Private Partnerships

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CBP's website, CBP.gov, includes additional information on the following link:

<http://www.cbp.gov/RSP>

## Questions?



U.S. Customs and  
Border Protection





## **REIMBURSEMENT AGREEMENT FOR CUSTOMS EXPENSES AT THE NORTHERN COLORADO REGIONAL AIRPORT**

This Reimbursement Agreement (the “Agreement”) is entered into by and between the Cities of Fort Collins and Loveland, Colorado, both municipal corporations, and Discovery Air, LLC, a Colorado limited liability company, as of the date of the last signature of the parties set forth below.

WHEREAS, Discovery Air, LLC (“Discovery Air”) plans and intends to construct a customs facility at the Northern Colorado Regional Airport (the “Airport”) to serve customers of the Airport who have a need for customs services; and

WHEREAS, Discovery Air has requested, and the Cities have agreed, that the Cities contribute to the expenses of the customs facility by directly paying the salaries and expenses of the U.S. Customs and Border Patrol (“CBP”) officers assigned to the Airport port of entry; and

WHEREAS, the Cities believe that the ability of users of the Airport to utilize customs at the Airport will benefit the Airport and the Cities; and

WHEREAS, Discovery Air has applied to CBP to participate in the Reimbursable Services Program (“RSP”) and if selected the Cities will agree to enter into such agreements with CBP as are required under the RSP, subject to annual appropriations by the Cities; and

WHEREAS, the Cities’ commitment to pay the salaries of the CBP staff shall be limited to no more than five years from the date of this Agreement, and, according to the terms and conditions of this Agreement; and

WHEREAS, the parties therefore desire to set forth specifically the terms and conditions of their agreement herein.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Term. The term of this Agreement shall be for one year beginning on the Effective Date as defined herein, and shall automatically renew for four additional one-year periods. In no case shall this Agreement extend beyond a total of five years.
2. Condition Precedent. This Agreement shall be effective only upon Discovery Air being selected by CBP for the RSP, and CBP committing to establish a port of entry at the Airport, at the Discovery Air facility. The Effective Date of this Agreement shall be the same as the effective date of the agreement(s) entered into between the Cities and CBP.
3. Cities’ Financial Obligation. The Cities’ financial obligation under this Agreement shall not exceed \$200,000 on an annual basis. Should the Cities’ reimbursement obligation under the RSP exceed \$200,000 in any given year, Discovery Air shall reimburse the

Cities the amount in excess of \$200,000 within thirty (30) days of a written request from the Cities. The Cities' obligation shall terminate at such time as Discovery Air's expenses, including management expenses, are paid for by the revenues received and retained by Discovery Air for two consecutive years.

4. Service to All Airport Customers. Discovery Air agrees to make customs services available to all users and customers of the Airport on reasonable conditions and without unjust discrimination. Discovery Air will make their defined facilities available for all services provided by US Customs and to be open and available during specific posted times. For the avoidance of doubt, Discovery Air shall not discriminate on the basis of race, color, national origin, creed, sex, age or disability in the provision of customs services, as required under existing agreements between the Cities and Discovery Air.
5. Monthly Accounting and Reporting. Discovery Air shall provide to the Airport Director on a quarterly basis an accounting of the revenues received and costs incurred by Discovery Air and the costs incurred. Such monthly accounting shall be provided by the fifteenth of the month for the prior month. In addition, Discovery Air shall provide a report with such monthly accounting of all arrivals and departures utilizing the customs office.
6. Open Accounts. Discovery Air and any of its subcontractors or sublessees shall keep a permanent, accurate set of records of all gross receipts related to the operation of the customs office, including but not limited to reports and ledgers, files, computer records, order records, invoices, copies of all tax returns filed with any governmental authority that reflect in any manner revenues generated and expenses claimed in connection with the customs office. All such records shall be retained for at least three years after the end of the calendar year to which they relate.
7. Late Payment. If Discovery Air fails to reimburse the Cities pursuant to the terms of this Agreement, the unpaid amount will be subject to a late payment charge equal to one and one-half percent (1.5%) per month (18% per annum), on balance past due over thirty (30) days. This late payment charge is intended to compensate the Cities for their additional administrative costs resulting from Discovery Air's failure, and has been agreed upon by Discovery Air and the Cities, after negotiation, to be the reasonable estimate of the additional administrative costs that will be incurred by the Airport as a result of Discovery Air's failure. The actual cost in each instance is extremely difficult, if not impossible, to determine. This late payment charge will constitute liquidated damages and will be payable to the Cities together with such unpaid amount. The payment of this late payment charge will not constitute a waiver by the Cities of any default by Discovery Air under this Agreement.
8. No Exclusive Right. Nothing in this Agreement shall be deemed to confer an exclusive right upon Discovery Air to conduct any aeronautical activity at the Airport. The Cities reserve the right to make additional arrangements for customs services at the Airport, in the Cities' sole discretion.

9. No Partnership or Joint Venture. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between the parties or constitute any party to be the agent of the other party for any purpose.
10. Termination. Any party may terminate this Agreement upon thirty (30) days' written notice if any of the following occurs:
- a. The non-payment of any amount due and owing under this Agreement;
  - b. The filing of a petition for bankruptcy or for reorganization under the Bankruptcy Act, or voluntarily takes advantage of such Act by answer or otherwise, or makes an assignment for the benefit of creditors;
  - c. If proceedings are instituted against a party under any bankruptcy or insolvency law or if a receiver or trustee is appointed for all or substantially all of the party's property, and such proceedings or receivership or trusteeship are not vacated or dismissed within thirty (30) days after such institution or appointment; or
  - d. A party fails to comply with any of the terms of this Agreement;
  - e. Termination of the Cities' agreement(s) with CBP and removal from the RSP; or
  - f. Termination of Discovery Air's Hangar Ground Lease Agreement entered into with the Cities dated January 16, 2019, as amended.
11. Appropriation. To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of the Cities, it shall be subject to annual appropriation pursuant to the City of Fort Collins Section 8(a), City of Loveland Municipal Charter Section 11-6 and Article X, Section 20 of the Colorado Constitution. The Cities shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.
12. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* and under any other applicable law.
13. Indemnification. Discovery Air agrees to indemnify and hold harmless the Cities, the Airport, its officers, employees, and insurers from and against all liability, claims, and demands on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss, or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with Discovery Air's operation of the customs office, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Discovery Air, any subcontractor of Discovery Air, or any officer, director, shareholder, member, employee, representative, or agent of Discovery Air, or which arise out of any workers' compensation claim of any employee of Discovery Air or of any employee of any subcontractor of Discovery Air. Discovery Air agrees to investigate, respond to, and provide defense for and defend against any such liability, claims, or demands at the sole

expense of Discovery Air and agrees to bear all other costs and expenses related thereto, including court costs and attorneys' fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

14. Notices. Written notices shall be directed as follows and shall be deemed received when hand-delivered or emailed, or three days after being sent by certified mail, return receipt requested:
15. Legal Constraints. The parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and of the United States, and imposed upon Loveland and Fort Collins by their respective charters and municipal codes, and, subject to such constraints, the parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall any party exercise any power or take any action which shall be prohibited by applicable law.
16. Subordination. This Agreement is and shall be subordinate to the provision of existing and future agreements between the Cities and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the obtaining or expenditure of federal funds for the benefit of the Airport.
17. Miscellaneous. This Agreement contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. In the event a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.
18. Counterparts. This Agreement may be executed in separate counterparts, and the counterparts taken together shall constitute the whole of this Agreement. Facsimile, scanned and other electronic signatures permitted by law, for purposes of this Agreement, shall be deemed as original signatures.
19. Electronic Signature. This Agreement may be executed by electronic signature in accordance with C.R.S 24-71.3-101 *et seq.*

THE CITY OF FORT COLLINS, COLORADO  
A municipal corporation

---

By: Kelly DiMartino, City Manager

ATTEST:

---

City Clerk

APPROVED AS TO FORM:

---

Senior Assistant City Attorney

THE CITY OF LOVELAND, COLORADO  
A municipal corporation

---

By: Stephen C. Adams, City Manager

ATTEST:

---

City Clerk

APPROVED AS TO FORM:

---

Senior Assistant City Attorney

DISCOVERY AIR, LLC

\_\_\_\_\_  
By: Martin Lind

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_ by \_\_\_\_\_.

S E A L

\_\_\_\_\_  
Notary's official signature

\_\_\_\_\_  
Commission expiration date



# U.S. Customs Proposal



CO  
NO

# Introduction

- ➔ Several Airport-based users have expressed interest in customs at FNL
- ➔ Airport has investigated establishing a user fee customs facility since 2014
- ➔ Discovery Air has submitted an application to the US Customs Service to create a Reimbursable Services Program at FNL through their facilities
  - Application was submitted in June and US Customs started evaluating in July and is expected to release results no later than November 1, 2022
- ➔ Discovery Air has requested a five-year financial support commitment of \$200,000 annually

CO  
NO  
N

# Reimbursable Services Program (RSP)

- ➔ Authorizes reimbursement for customs, immigration, agricultural processing, border security, and support services
- ➔ Airports with <100,000 international passenger arrivals annually may reimburse CBP for up to 5 full-time CBP Officers and for overtime services
- ➔ Agreements have no term limits
- ➔ Local CBP (Denver) must concur with acceptance into the RSP

CO  
NO  
N

# RSP Capabilities and Limitations

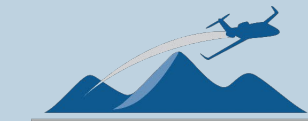
## → Capabilities

- General Aviation international flight arrival clearances
- Immigration Services
- I-94 Arrival/Departure record verification
- Camera and gun registration
- Assistance with international phone/internet scams
- Global Entry registration

## → Limitations

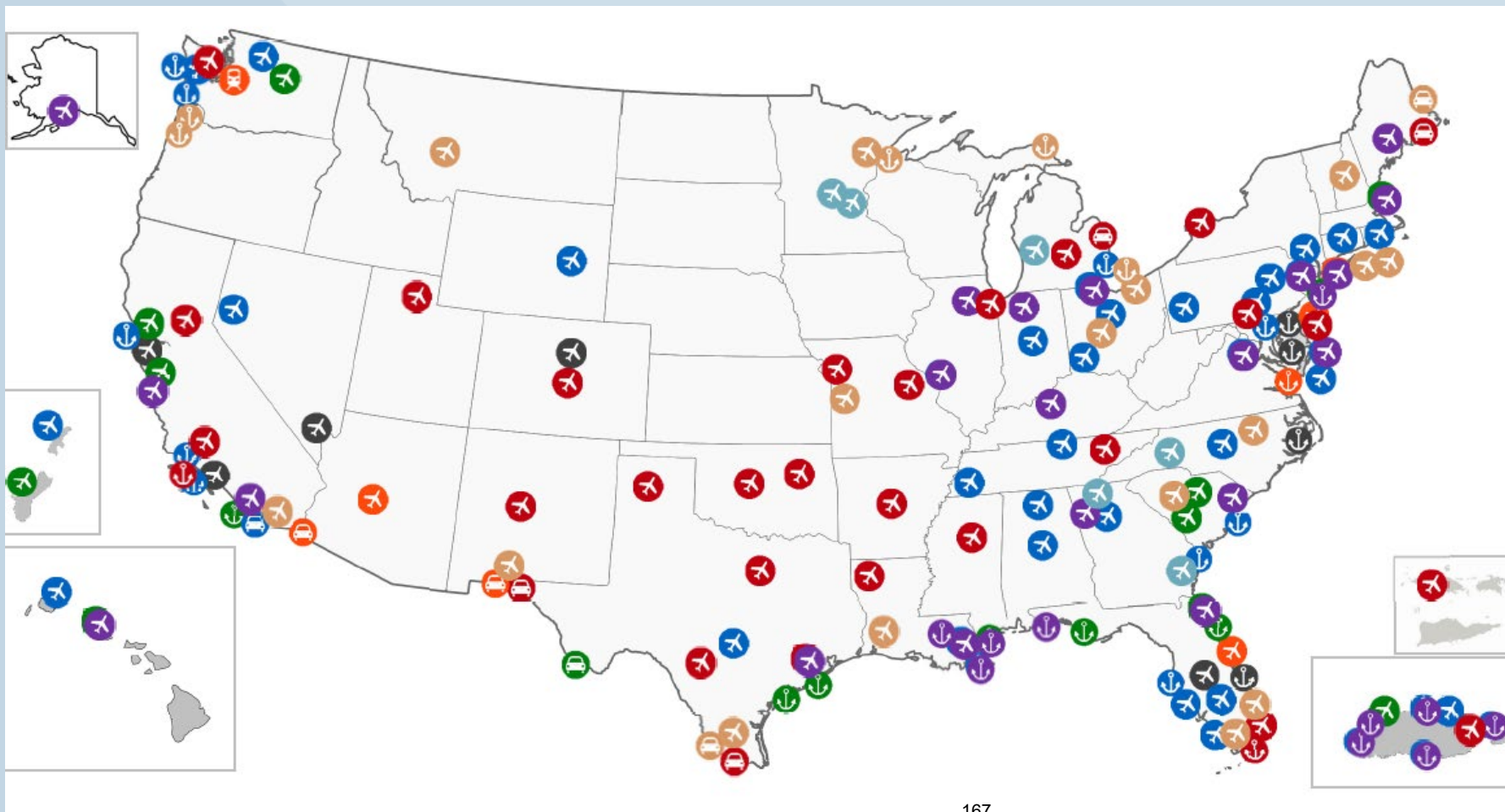
- Foreign Trade Zones
  - These economic development tools are not permissible under this program
- Commercial Airlines
  - The program as requested would not be able to support international airline activities

CO  
NO  
N



Northern Colorado  
Regional Airport

# RSP Location and Stakeholder Map



NORCO

# Regional Customs Demand 2014-2021

Airport	Location	*Mid-Size Business Jet Customs Fee	International Arrivals (Yearly Average 2014-2021)	International Departures (Yearly Average 2014-2021)	Customs Fees (Estimate based on mid-size jet fee)
Casper/Natrona County International	Casper, WY	\$0	357	94	\$0
Centennial	Englewood, CO	\$310	713	647	\$221,030
Cheyenne Regional Airport	Cheyenne, WY	No Customs	0	18	\$0
Greeley-Weld County	Greeley, CO	No Customs	0	14	\$0
Northern Colorado Regional	Loveland, CO	No Customs	0	69	\$0
Rocky Mountain Metropolitan	Broomfield, CO	\$515	260	195	\$133,900

	User Fee Facility	*Mid Sized Business Jet is 15,000 - 25,000 lbs
	International Port of Entry	
	No Customs	

\*All information derived from FAA sources for arrivals and departures, and from the individual airports on rates and fees.

CO  
NO



# Costs

## → Facility Construction

- Discovery Air will be providing for the facilities
  - One time expenses \$159,000 for office build out
  - Annual expenses of \$15,370 for office lease cost

## → Additional Expenses

- Discovery Air will be providing an estimated additional \$200,000 annual costs
  - Logistics, billing, scheduling, benefits, insurance, accounting, administration, facilities, equipment, grounds, custodial, consumables, tenant support

## → Customs Officer Expenses

- Airport/ Cities will be providing \$194,488 per year as estimated by USCBP and Discovery Air which includes \$14,488 estimated overtime

CO  
NO  
N

# Benefits

## → Users

- Time and cost savings (engine cycles, fuel)

## → Airport

- Potential increase in fuel sales
- Businesses or individuals with international travel needs could choose to utilize the new service
- Attract international users to base aircraft at FNL from other airports without the service

## → Cities and Region

- Will make it more convenient and cost-effective for local companies to conduct international business that operate their own aircraft
- Can be marketed as competitive economic development advantage to companies with international travel needs that are interested in establishing a local presence
- US Customs office will be open and available for the public for other services outside of international aircraft arrival clearances

# Negotiated Drafted Agreement

- ➔ **Airport/Cities provide the funding directly to the USCPB for the US Customs agent**
  - Estimated by US Customs and Discovery Air at \$194,488 annually (a difference of \$5,512 from the request)
  - Providing a direct payment to Discovery Air directly could be viewed as a subsidy or general economic development
    - Airport revenues may be used only for the capital and operating costs of the Airport
      - Subsidies are not allowed under FAA airport revenue use rules
      - General economic development is also not allowed
- ➔ **Discovery Air provides for all other costs and support**
  - Services are available to the public
  - Discovery Air sets all rates and fees and retains all revenues

CO  
NO  
N

# Options to Fund

## → Cities Supported

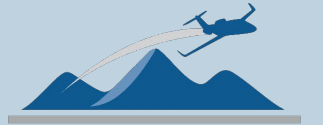
- Economic Development cost centers

## → Larimer County

- Potential cost share partner

## → Airport Supported

- Would impact airport budget by 12.4% if completely supported by Airport or 60% of discretionary budget
  - Airport budget 2022: \$1.57 million
    - Personal Services: \$827,312
    - Supplies: \$100,000
    - Purchased Services necessary for operations and maintenance: \$323,527
    - Purchases Services used for discretionary needs incl: strategic planning, engineering, consulting, marketing, professional development, air service development, memberships, etc: \$322,450



Northern Colorado  
Regional Airport

Comments/Questions?

NO  
NO  
NO



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 8

**MEETING DATE:** August 22, 2022

**PREPARED BY:** Jason R. Licon, Airport Director

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## **TITLE**

United Airlines / Landline Incentive Extension

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion to recommend the City Mangers sign an amended agreement with Landline for the purpose of a six-month fee waiver extension to bring them to a total of 12 months, which has been provided to other airline operators and consistent with airport policy

## **BUDGET IMPACT**

Positive, the service has and will bring future revenues to the airport that exceed any temporary fee waivers for the long term

## **SUMMARY**

Airport staff negotiated terms with Landline and United Airlines with their “wingless flight” connectivity to Denver International Airport. The original terms included fee waivers for the first six months of service. This extension as requested would bring their agreement into alignment with the assistance provided to Avelo Airlines which was for a total of twelve months. This extension would put the original fee waiver request in line with previous air carrier agreements dating back more than ten years.

Since the service started in April of 2020 the company has been challenged to obtain the necessary approvals to begin serving area residents with the goal of a secure-to-secure seamless transportation option with partner United Airlines. A great amount of collaborative work has been happening behind the scenes with partners from TSA, Denver International Airport, United Airlines, Landline, and FNL Airport Staff. The company currently provides five time daily connectivity to the Denver Airport from FNL.

Recently Landline secured an additional airline partner, American Airlines, with service between Philadelphia and Allentown and Atlantic City. This new partner is also pursuing a similar secure to secure transportation option, and is working in parallel to



obtain this approval. The Landline Company also operates transportation services for Sun Country Airlines in Minneapolis/St Paul. They are a Fort Collins based company with headquarters located in Old Town Fort Collins.

### **ATTACHMENT**

- Existing contract with Landline (to be amended)

## **AIR SERVICE AGREEMENT**

THIS AGREEMENT, made and entered into as of the date of the last party's signature *nunc pro tunc* April 1, 2021 by and between the Cities of Fort Collins and Loveland, Colorado (the "Cities") acting by and through the Northern Colorado Regional Airport Commission (the "Commission") and The Landline Company, a Delaware corporation and an operator under United Airlines hereinafter called "Carrier."

### **WITNESSETH:**

WHEREAS, the Cities jointly own and manage certain real property in Larimer County that is the site of the Northern Colorado Regional Airport (the "Airport"); and

WHEREAS, the Cities have been approached by the Carrier to start scheduled service into and out of the Airport; and

WHEREAS, the Cities acknowledge that certain benefits to the Airport and the communities will result from such service; and

WHEREAS, the proposed scheduled service is consistent with the Airport's current Master Plan which forecasted continued commercial service from the early 1990s and well into the future; and

WHEREAS, the Cities and Carrier desire to enter into a formal agreement setting forth the terms and conditions previously addressed in the parties' Letter of Intent and Terms, dated November 9, 2020, included in this agreement as Attachment A.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the parties hereto agree as follows:

1. Commencement of Scheduled Air Service. Starting no later than April 1, 2021, Carrier will begin providing no less than 28 scheduled flight segments per week of commercial passenger service ("Service") from the Airport using a fleet of luxury coaches in lieu of aircraft. Once the Service from the Airport has begun, Carrier may discontinue such Service at any time. A reduction in scheduled flights per week from the above minimum or a discontinuance of Service shall, at the Cities' option, permit immediate termination and relieve the Cities of their obligations under this Agreement. If the Cities exercise such option, the Cities shall provide written notice of the same to the Carrier and this Agreement shall immediately terminate.

2. Term. Unless earlier terminated pursuant to this provisions of this Agreement, the term of this Agreement shall be for one (1) year commencing from the Effective Date and shall automatically renew on a yearly basis for additional one (1) year periods.

3. Law Enforcement Costs. Carrier shall reimburse the Cities for all direct costs the Cities incur for law enforcement and security personnel required, now and in the future, by the Transportation Safety Agency ("TSA") to provide security screening for Carrier's Service, law enforcement officers in and around the terminal building, and security required on the aircraft ramp

area and parking lots including random vehicle inspections, except to the extent that any such costs are reimbursed to the Cities by TSA. Payments shall be made to the Cities by Carrier within thirty (30) days of receipt of invoices submitted by the Cities, which invoices shall be submitted to Carrier not more frequently than monthly and which shall identify the specific law enforcement and security costs for which reimbursement is requested.

4. Airport Fees. Carrier shall pay all applicable airport fees as they currently exist and as they may hereafter be increased or decreased by the Cities pursuant to the rates, charges and fees adopted by the Cities' councils on an annual basis. The Parties acknowledge that these adopted fees do not address this specific service offering, and therefore the Parties have negotiated alternative fees that are reasonably similar to traditional fees. The negotiated alternative fees shall be a fee of \$25 per departure in lieu of traditional aircraft landing fees, and a fee of \$4.50 per outbound passenger after the first six months of Carrier's operation at the Airport.

5. Compliance with applicable laws. At all times during its operations in and out of the Airport Carrier shall comply with all applicable federal, state and local laws.

6. Indemnification. The Carrier agrees to indemnify and hold harmless the Cities, their respective officers, employees, and agents from and against all liability, claims, and demands on account of any injury, loss, or damage arising out of or connected with the Carrier's operations at the Airport, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Carrier or any subcontractor of the Carrier, or any officer, employee, or agent of the Carrier or any subcontractor, or any other person for whom the Carrier is responsible. The Carrier shall investigate, handle, respond to, and defend against any such liability, claims, and demands, and shall bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Carrier shall notify the Cities and provide a copy of any and all written claims or demands within two business days of receipt. The Carrier's indemnification obligation shall not be construed to extend to any injury, loss, or damage to the extent caused by the act, omission, or other fault of the Cities. This paragraph shall survive the termination or expiration of this Agreement.

7. Dispute Resolution and Default. Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party fails to perform according to the terms of this Agreement, such party may be declared in default. The party declared in default shall have thirty (30) days to cure such default. The parties agree to meet to attempt to resolve any disputes, including a declared default, prior to resorting to litigation. If the Carrier refuses to meet to resolve a dispute and the Cities are required to litigate such dispute, the Cities shall be entitled to recover their reasonable attorneys' fees and costs. In the event that a court of competent jurisdiction finds that a party has breached its obligations under this Agreement, the injured party shall be entitled to monetary damages, equitable relief, including specific performance, and such other remedies at law or in equity as may be available under applicable law.

8. Termination by the Cities. Except as otherwise expressly provided in this Agreement, the Cities may terminate this Agreement by providing written notice to the Carrier no less than one hundred eighty (180) days prior to the end of the term of this Agreement, including any renewal terms. The Agreement shall terminate on the day following the date of the last passenger ticket sold.

9. No Waiver. Notwithstanding anything to the contrary, no term or covenant herein

shall be construed or interpreted as a waiver, either express or implied, of any of the immunities, rights, benefits or protection provided to either of the Cities under the Colorado Governmental Immunity Act, including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted.

10. No Multiple-Fiscal Year Debt. The Cities intend that this Agreement comply with the provisions of Article X, Section 20 of the Constitution of the State of Colorado, and acknowledge that neither of them will have any obligation to fund the financial obligations under this Agreement other than for the current fiscal year. No provision of this Agreement shall be construed as creating indebtedness or any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever by the parties within the meaning of any constitutional or statutory debt limitation.

11. Assignment of Benefit. Carrier may not assign this Agreement to any person without the express written consent of the Cities.

12. Severability. If any provision in this Agreement or the application of such provision to any person or circumstance shall be invalid, illegal, or unenforceable, the remainder of this Agreement of the application of such provision to persons or circumstances other than those to which it is invalid, illegal, or unenforceable shall not be affected thereby.

13. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and venue for any legal action arising under this Agreement shall be in the County of Larimer, State of Colorado.

14. Governmental Immunity. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* and under any other applicable law.

15. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the subject matter hereof. The Cities shall not be obligated to pay any costs not identified in this Agreement. Any unforeseen costs required to provide Carrier's flight operations from the Airport shall be paid for by Carrier. Except as provided herein, the Agreement may not be modified or amended except by written agreement of the parties.

16. Headings. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

17. Notices. All correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

To the Cities:

City of Fort Collins  
City Manager  
City of Fort Collins  
City Hall West  
300 Laporte Ave.

Fort Collins, CO 80522

City Manager  
City of Loveland  
500 E. Third Street, Suite 300  
Loveland, CO 80537

With a copy to:

Fort Collins City Attorney's Office  
City Hall West  
300 Laporte Ave.  
Fort Collins, CO 80522

Loveland City Attorney's Office  
500 E. Third Street, Suite 330  
Loveland, CO 80537

To Carrier:

The Landline Company  
Name: David Sunde  
Title: President  
Address: 113 South College Avenue  
Fort Collins, CO 80524  
E-Mail: david@landlineco.com

19. Subordination. This Agreement shall be subordinate to the provisions of any existing or future agreement between the Cities and the United States, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. In the event that the Airport Director reasonably determines that this Agreement or any provision contained herein causes or may cause a violation of any agreement between the Cities and the United States, the Cities shall have the unilateral right to modify or terminate this Agreement to ensure the Cities' compliance with all such agreements with the United States.

20. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year following their signatures.


CITY OF FORT COLLINS, COLORADO  
A municipal corporation

By: Kelly DiMartino

Title: Acting City Manager

Date: May 4, 2022

ATTEST:

  
Melissa N Hollingshead (May 4, 2022 10:21 MDT)

City Clerk

APPROVED AS TO FORM:

**Judith Yost Sc**

Senior Assistant City Attorney

CITY OF LOVELAND, COLORADO  
A municipal corporation,

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

Title: City Manager

Date: May 5, 2022

ATTEST:

  
Attest: Laurie A. Sc  
Assistant City Clerk



City Clerk

APPROVED AS TO FORM:



Senior Assistant City Attorney



The Landline Company  
113 South College Avenue  
Fort Collins, Colorado 80524

By: [Signature]

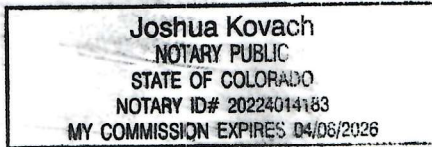
Title: Ben Munson, President

Date: 4/20/22

STATE OF Colorado )  
 ) ss.  
COUNTY OF LaRimer )

The foregoing instrument was signed by Ben Munson on behalf of  
the Carrier and acknowledged before me this 20<sup>th</sup> day of April, 2022.

SEAL



[Signature]  
Notary's official signature

4/8/26  
Commission expiration date

Notary Public

Signature: Judith Yost Schmidt  
Judith Yost Schmidt (Apr 26, 2022 17:01 MDT)

Email: jschmidt@fcgov.com

Signature: Kelly DiMartino  
Kelly DiMartino (May 4, 2022 10:19 MDT)

Email: kdimartino@fcgov.com












# AGR\_Airline Service - Landline

Final Audit Report

2022-05-05

Created:	2022-04-26
By:	Shawn Battmer (shawn.battmer@cityofloveland.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAES710-RaUXOXVculr1B5lpnlS4tdCY0L

## "AGR\_Airline Service - Landline" History

-  Document created by Shawn Battmer (shawn.battmer@cityofloveland.org)  
2022-04-26 - 9:43:14 PM GMT- IP address: 129.19.3.7
-  Document emailed to Judith Yost Schmidt (jschmidt@fcgov.com) for signature  
2022-04-26 - 9:46:06 PM GMT
-  Email viewed by Judith Yost Schmidt (jschmidt@fcgov.com)  
2022-04-26 - 9:58:39 PM GMT- IP address: 198.59.47.100
-  Document e-signed by Judith Yost Schmidt (jschmidt@fcgov.com)  
Signature Date: 2022-04-26 - 11:01:24 PM GMT - Time Source: server- IP address: 198.59.47.100
-  Document emailed to Kelly DiMartino (kdimartino@fcgov.com) for signature  
2022-04-26 - 11:01:26 PM GMT
-  Email viewed by Kelly DiMartino (kdimartino@fcgov.com)  
2022-04-27 - 5:51:00 AM GMT- IP address: 104.28.50.150
-  Email viewed by Kelly DiMartino (kdimartino@fcgov.com)  
2022-05-02 - 9:52:03 PM GMT- IP address: 198.59.47.100
-  New document URL requested by Kelly DiMartino (kdimartino@fcgov.com)  
2022-05-04 - 4:18:18 PM GMT- IP address: 198.59.47.100
-  Email viewed by Kelly DiMartino (kdimartino@fcgov.com)  
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-  Document emailed to Anissa N Hollingshead (cityclerk@fcgov.com) for signature  
2022-05-04 - 4:19:18 PM GMT

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2022-05-04 - 4:19:39 PM GMT- IP address: 198.59.47.100

 Document e-signed by Anissa N Hollingshead (cityclerk@fcgov.com)

Signature Date: 2022-05-04 - 4:21:14 PM GMT - Time Source: server- IP address: 198.59.47.100

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2022-05-04 - 4:21:16 PM GMT

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2022-05-04 - 4:26:02 PM GMT- IP address: 104.28.48.137

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Signature Date: 2022-05-04 - 4:48:18 PM GMT - Time Source: server- IP address: 129.19.3.7

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2022-05-05 - 4:52:39 PM GMT- IP address: 129.19.3.7

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Signature Date: 2022-05-05 - 5:27:33 PM GMT - Time Source: server- IP address: 129.19.3.7

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 Document e-signed by Adriana Hernandez, Assistant City Clerk (clerk@cityofloveland.org)

Signature Date: 2022-05-05 - 11:01:38 PM GMT - Time Source: server- IP address: 129.19.3.7

 Agreement completed.

2022-05-05 - 11:01:38 PM GMT



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 9

**MEETING DATE:** August 22, 2022

**PREPARED BY:** Jason R. Licon, Airport Director

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## **TITLE**

Terminal Design Update: Financial & Design Options

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Action: Make a motion to direct staff to focus on a more budget friendly design alternative that will keep the total project within available funding budget.

## **BUDGET IMPACT**

Negative

## **SUMMARY**

As a result of funding received through federal Covid-19 assistance grants, the Airport with assistance from the Cities began a qualification-based procurement process to select a team of professionals to begin design for the future airport terminal building. As a result, the Airport contracted with the most qualified team that consisted of Denver based engineering firm Dibble Engineering and Fort Collins based VFLA Architects to begin work on the design of the Airport Terminal project.

Since this time the project team have conducted four Charrette exercises obtaining feedback from airport stakeholders at every critical design step, with the goal of creating a sustainable iconic new facility that will serve as a new gateway for Northern Colorado air travelers. Input and direction were provided by the Airport Commission at every step of the design process starting with the design charrettes and continuing through the 15% and 30% design milestones. Early this year the Commission was briefed on the status of the project and approved completion of the design and entering into a preconstruction contract for the Construction Manager at Risk (CMaR) with firm Hensel Phelps. The CMaR contractor was recommended by staff after a thorough qualifications-based procurement process aligned with federal procurement regulations.

The design has reached another milestone this past month, reaching the 60% design level, and cost estimates continue to indicate construction price trends still have not lessened. Due to the costs increases and an expanding funding gap, a decision by the

Airport Commission is needed to either continue to move forward with the current design and hope that funding can be still be found or reduce the scope to create a facility that better aligns with available financial resources.

**ATTACHMENT**

Terminal Design Update: Financial & Design Options Presentation

# Terminal Design Update

Financial & Design Options

August 22, 2022



# Project Goals

- Create a new terminal facility
  - “Once in a lifetime” CARES Act funding
  - Replace the inadequate, temporary facilities used for airline activities
  - Improve transportation access and connectivity for the region
- Utilize funding most effectively and create positive impacts for the region
  - Counteract negative economic impacts created by the pandemic
  - Creates jobs, economic opportunity, and sustainability
  - Enables more of the community to directly benefit from the airport
- Demand for air service is known, proven, and is growing
  - 3,500 people travel daily to and from the region to DEN, which continues to increase with population growth

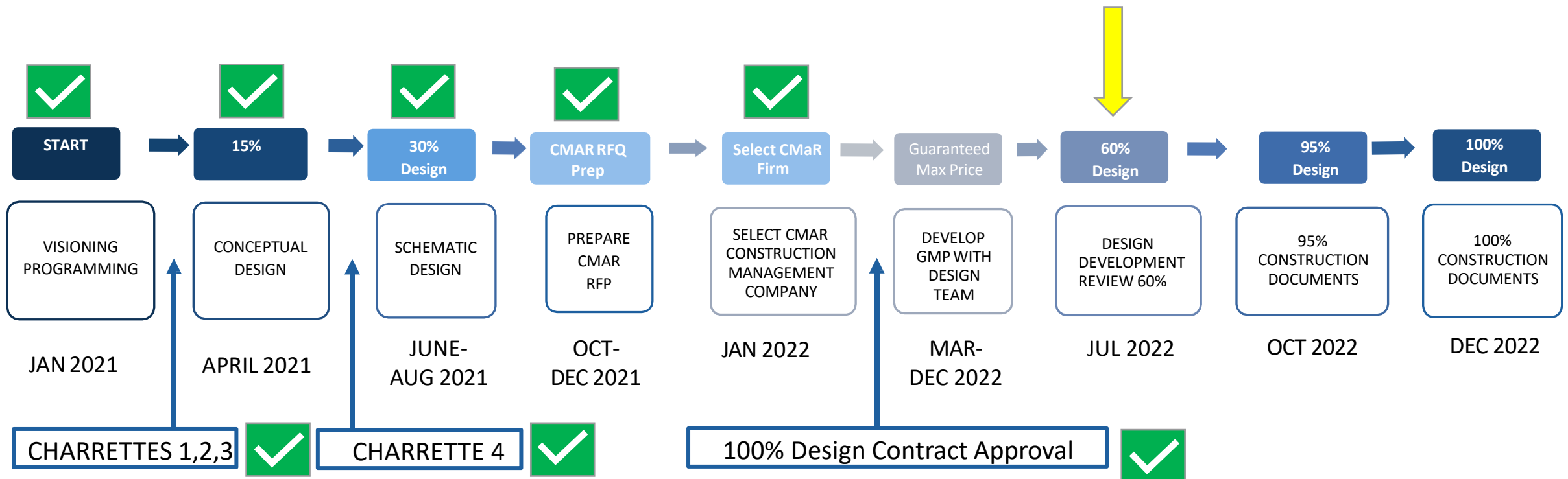
# Today's Goals

- Provide understanding of where we are in the process
- Consider updated design options
  - Provided to help adjust to recent cost escalations
  - Selecting one avoids designing two facilities that will add more in soft costs
  - Ensures spending deadlines are met for use of available funding
- Staff recommendation
  - Select the reduced scope version of the design
    - Continue forward as close to the current available budget as possible
    - Utilize any future additional funding to build adequate landside infrastructure
      - This includes parking lots, entry roads, landscaping enhancements, & facility additions

# Design Schedule

NORTHERN COLORADO  
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WE ARE HERE



Still on track to utilize CARES Act funding by July 2024 deadline

- Design Development phase complete: 60%
  - Design is based on the Airport Commission selected option chosen during schematic design charrettes and reaffirmed at the 30% design milestone
- CMAR contractor Hensel Phelps is providing cost analysis and trends for material costs and value engineering options
- Further progression requires direction as funding gap remains at an estimated \$14 million
  - Redesign costs will increase exponentially past this point if we continue with current design

# Funding Review

- Cares Act: \$16.3 million for project, with \$500k used for aircraft parking apron (phase 1)
- Philanthropic/ Donative Giving
  - Study concluded that this project is not a good candidate
- Bipartisan Infrastructure Law – Airport Terminal Project Grant
  - Not approved for round 1 of 5 funding requests
  - Applying again this fall for second round
- ARPA:
  - Still in consideration, however timeline is pushing into 1Q 2023
  - LCBoC provided a \$1.5 million commitment toward the project
- Debt Financing:
  - Options available, but debt issuance requires payback and new revenue streams
- Cities/Airport Contributions
  - Possible \$1.59 million FAA grant, \$2 million Airport Commission Reserve, Cities TBD

# Funding: Debt Financing

- Consultant hired to guide us through the options for debt issuance or loan options
- The Colorado Taxpayer Bill of Rights (TABOR) creates a significant challenge to debt financing for the current governance structure
  - TABOR requires a vote to incur debt unless the governmental entity is qualified as an “enterprise fund”
    - Technically the Airport should be an enterprise under either City or as a standalone entity, however due to the joint ownership it requires significant changes to accomplish (i.e. creation of an Airport Authority or a transfer of ownership to one City)
    - It satisfies the less than 10% threshold as a government owned business, since the airport generates all of the revenue it requires for operations
- Recommendation was to use “certificates of participation” debt financing tool, which would satisfy TABOR



# Funding: Debt Financing

- Recommend avoiding debt
  - With no current air service, FNL needs to be as financially attractive as possible
    - Low cost operating structure is key to air service attractiveness and sustainability
    - Airlines are avoiding higher cost airports
  - Revenue streams to repay debt will be challenging
  - Phasing the project to allow for future growth is not ideal, but is necessary
  - Available funding will build a facility far better than what exists today

# Funding: Grants

- ARPA
  - Application process has not been developed and shared
  - Request includes \$15 million for terminal, which would get us to full funding for original option
  - If we receive the full amount requested, suggest we can pivot at that time
- BIL – ATP
  - Application for 2023 funding will be conducted 4Q this year
  - Could receive some funding, however still not likely
  - Potential to receive lower amounts, which could be applied to parking lot and road infrastructure needs
- FAA
  - Would require a significant local match 50% or more to bring to the table
  - Takes three years to program, so not an option at this point

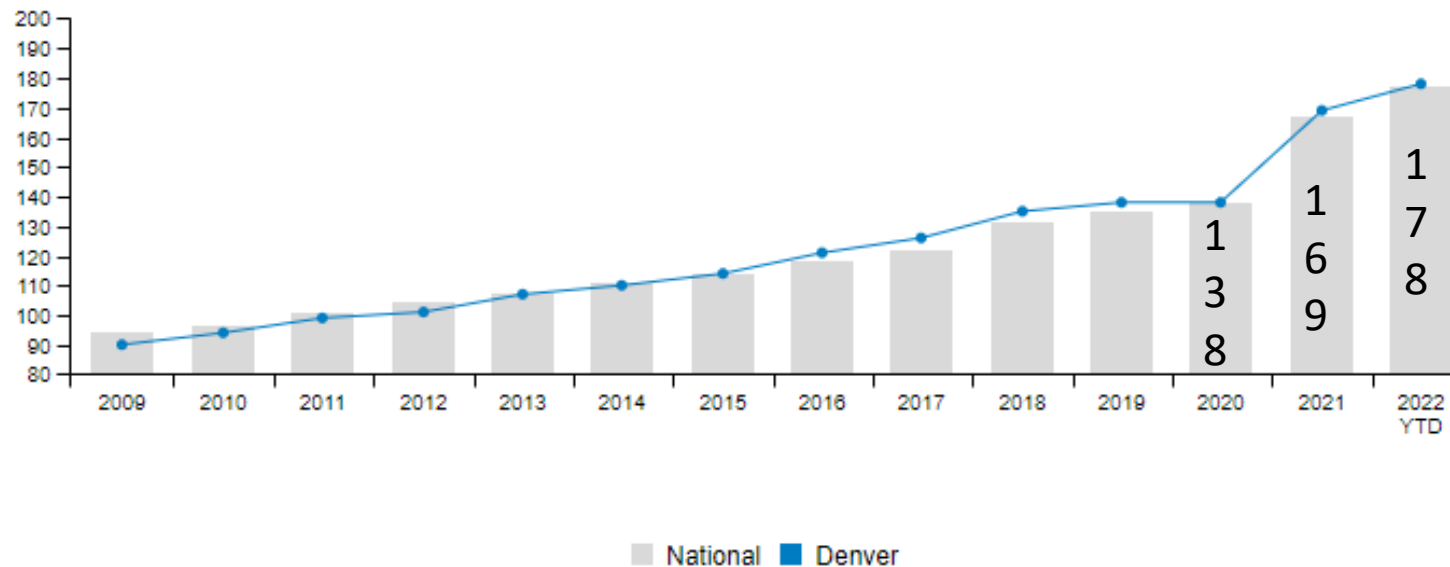
# Cost Estimates

- 30% Design (Oct. 2021)
  - Cost estimate: \$23.5 million
  - Gap: \$7 million
- 50% Design (Apr. 2022)
  - Cost estimate: \$33 million
  - Gap: \$16 million
- 60% Design (June 2022)
  - Cost estimate: \$31 million
  - Gap: \$14 million
  - Majority of decrease attributed to cost cutting measures as construction costs continue to increase



## CONSTRUCTION COST INDEX

(JANUARY 2009 = 100)



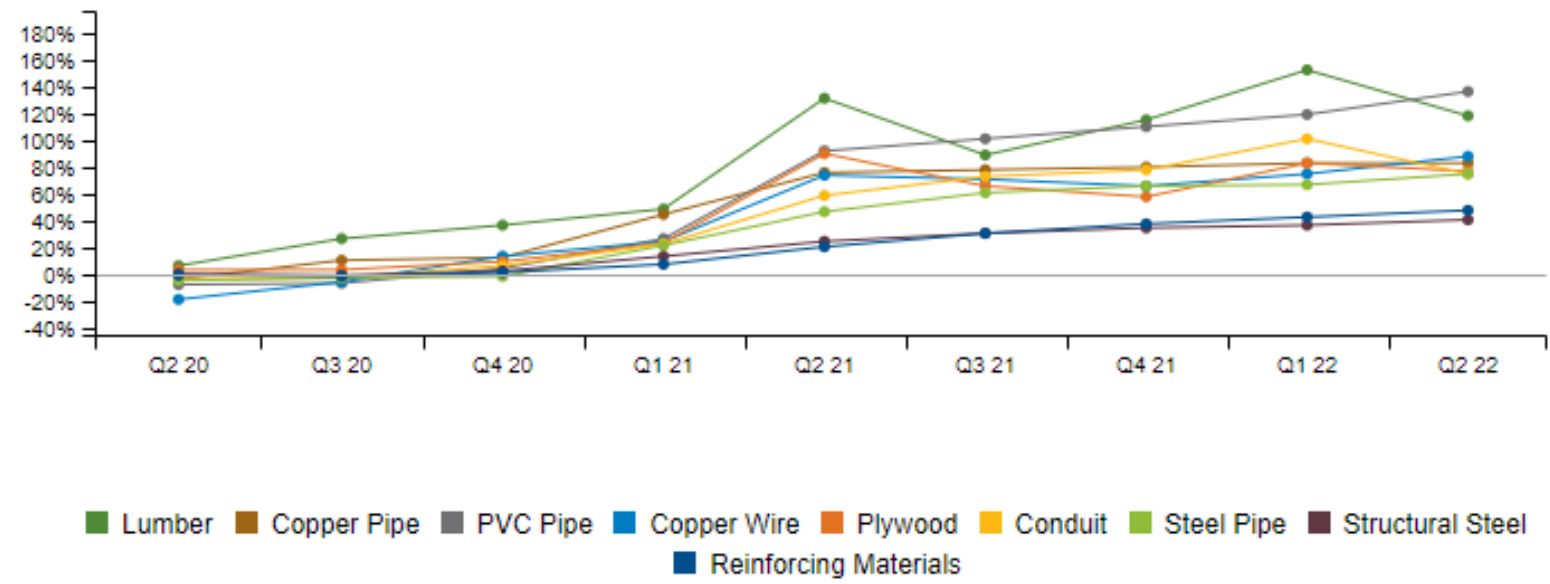
The *Mortenson Cost Index* is showing a single quarter increase of 3.3% nationally and 2.2% in Denver. Over the last twelve months, costs increased 11.8% nationally and 13.1% in Denver.



# Construction Cost Trends

## MATERIAL PRICING CHANGES

(Cumulative Q2 2020 to Q2 2022)



Costs for building materials remain escalated due to continued increases in shipping costs, fuel surcharges, product lead times, and material shortages.

Q2 22	
PVC Pipe	136%
Lumber	118%
Copper Wire	88%
Copper Pipe	83%
Plywood	77%
Conduit	75%
Steel Pipe	75%
Reinforcing Materials	48%
Structural Steel	41%



- Design team created design options in an effort to find a solution that would reduce cost
- Original (Level 1)
  - Design choice as directed by Airport Commission
- VE Level 2: Is the original design with aesthetic and form reductions (smaller patio, removal of outdoor canopies, etc.)
  - This is the path we are pursuing today
- VE Level 3: Reduced building size and complexity yet still preserves vision
- VE Level 4: Functional design aligned with budget



# Original Option: Level 1



- Selected as desired option by Airport Commission
- Cost: \$33M – Funding Gap: \$16M – Facility Size: 26,600 SF
  - \$8 million increase due to recent construction cost escalations

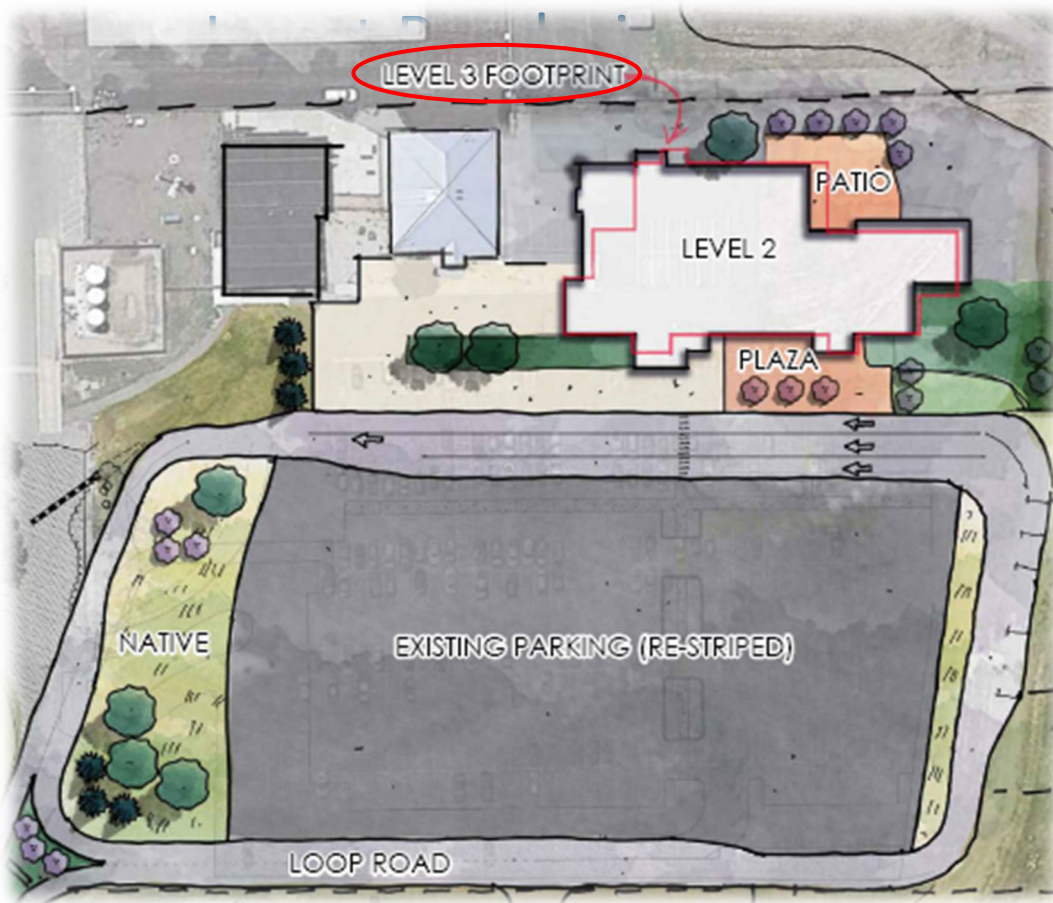
# Level 2 Design (Current Design)

- Cost: \$30.9M – Funding Gap: \$14M – Facility Size: 26,600 SF
- Areas where plan was reduced through value engineering and cost cutting
  - Maintains vision of the facility
  - Building size remains the same
    - Incorporated alternative lower cost materials, amended specifications for roofing, ceilings, etc.
  - Outdoor spaces downsized and canopies removed
  - Only \$2.1M savings



# Level 3 Design Option

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# Level 3 Design Option

- Cost: \$28.3M – Funding Gap: \$11.9M – Facility Size 21,400 SF
- Maintains vision and moves office space functions into existing terminal, which will require remodeling / repurposing
- Key areas of scope reduction
  - Building square footage (5,200 SF)
  - Simplified design features
  - Parking lot improvements removed
  - Smaller loop road



# Level 4 Design Option

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# Level 4 Design Option

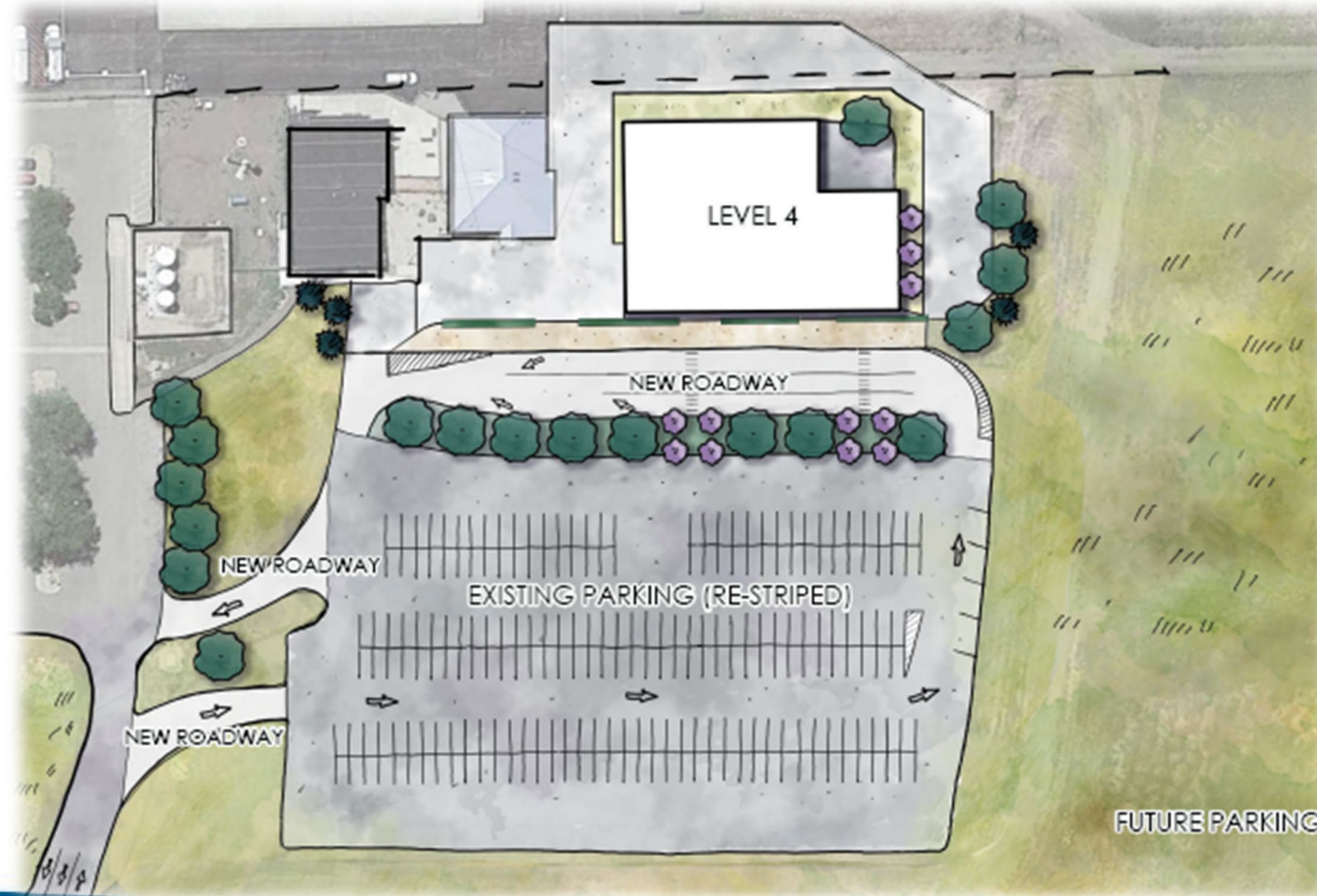
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# Level 4 Design Option



# Level 4 Design Option

- Cost: \$20.9M – Funding Gap: \$4.5M – Facility Size 19,400 SF
- Scope reduction areas
  - Functional facility, does not maintain vision of original plan, but still is a sleek modern new facility that will serve the airport well
  - Minimal site work included in design – keeping existing parking lot
  - Designed to maximize building functionality with funds that are available
- Additional Information
  - Compressing schedule considerably
  - Additional costs will be required for the new building for redesign work
    - Savings gained from larger more complex building design could level soft costs

# Level 4 Design Option

- Cost Areas:

Schematic Design	\$ 616,225
Remaining Design	\$ 1,728,774
Level 4 Redesign	\$ 275,000
Construction management – estimated	\$ 750,000
Terminal building & FFE – estimated	\$ 14,600,000
Permitting - water tap – development fees	\$ 450,000
Utilities, roads, parking	\$ 2,500,000
Total	\$ 20,919,999



# Design Options Summary

- Level 1
  - Cost: \$33M – Funding Gap: \$16M – Facility Size: 26,600 SF
- Level 2
  - Cost: \$30.9M – Funding Gap: \$14M – Facility Size: 26,600 SF
  - No major scope or size adjustments or significant deviation from the vision received from the stakeholders (still a dramatic, welcoming building)
  - LEED Gold Certification
- Level 3
  - Cost: \$28.3M – Funding Gap: \$11.9M – Facility Size 21,400 SF
  - Still maintains most of the original vision
  - LEED Silver Certification
- Level 4
  - Cost: \$20.8M – Funding Gap: \$4.5M – Facility Size 19,400 SF
  - Functional only, tied to available funding
  - Office spaces moved to existing terminal building
  - No LEED certification

- Put project on shelf and apply funding to other needs
  - Likelihood low that this amount of funding will ever be available in the future
- Design Levels 2 & 4, wait for ARPA funding decision
  - High level of risk and uncertainty on the award of funding
  - This option has the most soft costs
- Move forward with option 4
  - Modify design to fit budget as necessary
  - If additional funding is realized it can be applied toward site improvements and potential future expansion
  - Could require advancement of funding for contracting purposes if targeting future FAA entitlement funds (FY2024)



# Funding Sources

- Cities split funding gap
- Airport fund
  - Airport unrestricted fund balance as of July 2022: \$3.7 million
  - Recommended reserve: 12 months operating expenses or \$1.7 million
  - Reserve available for use: \$2 million
- Reserve available for use is the same as the Airport Commission budgeted special projects fund per the 2022 adopted budget: \$2 million
- FAA Bipartisan Infrastructure Law funds:
  - \$1.59 million for 2022, 2023, & anticipated for 2024
  - Is a 90% grant requiring match of \$175K, and may have to be temporarily cash flowed through the Cities and be repaid by reimbursable agreements
- Debt service using certificates of participation
  - Requires approval from both City Councils and collateral
  - Debt service would require new revenue streams to support

- Select the Level 4 design and construction option
  - Bridge \$4.5 million gap through potential contributions from the Cities, through Airport reserves, and/or future anticipated grant funding
    - Cities: \$4 million (\$2 million from each)
    - Airport: up to \$2 million available (using this reduces ability to fund future capital project needs)
    - FAA AIP BIL: up to \$1.59 million available (90% requires 10% match or \$175K)
      - This funding was not part of the 2022 adopted Capital Improvement Plan
  - Defer landside project scope that includes parking, landscaping, and loop roadways ~\$3.5 million cost savings
- Continue to seek resources to apply toward deferred facility & landside needs
  - Parking lot: \$2 million - loop road: \$1.5 million - remodel existing terminal for office support space: \$300,000

# Recommended Path

1. Airport Commission will have to approve another amendment to the current design contract, increasing the approved amount for design (estimated at an additional \$250-\$300K)
  - Will require City of Loveland only City Council Approval (within current approved budget)
  - Cost savings from reducing the scale of the building for remaining contract and for other soft costs such as construction management will likely bring the total to what was anticipated for Level 1 design (estimated reduction of \$250K)
2. Negotiate a guaranteed maximum price with Hensel Phelps 4Q 2022
3. Begin construction 1Q 2023
4. Spend CARES Act funding by July 2024 deadline
5. Continue to apply for grant resources to supplement needs on landside, or pivot to original design if able to obtain \$10+ million
  - American Rescue Plan Act (ARPA) through the State and County
  - FAA Bipartisan Infrastructure Law Terminal Funding

# Questions?

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