



NORTHERN COLORADO REGIONAL AIRPORT COMMISSION

4900 EARHART ROAD • LOVELAND, CO 80538

SPECIAL MEETING AGENDA

WEDNESDAY JULY 10, 2024

12:00 PM – 2:00 PM

CALL TO ORDER

ROLL CALL

CONSENT AGENDA

1. LEASE ASSIGNMENT AND ASSUMPTION FOR 5247 NORTHRUP – P. 2
2. LEASE ASSIGNMENT AND ASSUMPTION FOR 5261 GULFSTREAM – P. 52

PULLED CONSENT AGENDA ITEMS

REGULAR AGENDA

3. TRIAD TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT
REVIEW WITH POSSIBLE EXECUTIVE SESSION AS AUTHORIZED BY
COLORADO REVISED STATUTES §§ 24-6-402 (4)(B) AND (E)(I). - P. 91

ADJOURN



NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

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

ITEM NUMBER: 1

MEETING DATE: July 10, 2024

PREPARED BY: Kate Morgan, Airport Executive Assistant

TITLE

Land Lease Assignment and Assumption for 5247 Northrop 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 transfer of ownership of privately owned buildings is frequent on the Airport and requires the approval of the Airport Commission for a lease assignment and assumption. In this case, the existing leaseholder, Red Willow Aviation & Spraying Inc., has agreed to sell their interest in the existing lease to YIPPEE KI-IY-AY Trust. Staff have reviewed the request and found the associated account to be in good standing.



ATTACHMENT

5247 Northrop Street Lease Assignment and Assumption

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

5247 Northrop Street
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 September 1, 1993, a copy of which is attached hereto as **Attachment 1** and incorporated herein by this reference (the “Lease Agreement”) to Red Willow Aviation & Spraying Inc. 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 THE YIPPEE KI-IY-AY TRUST, (“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 January 10, 2024 (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 \$712.43 per year, payable in monthly installments, which rental amount shall be adjusted on September 1, 2028 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:

THE YIPPEE KI-IY-AY TRUST
Alexandra Seigel
2724 N. Overland Trail
Unit #278
Laporte, CO 80535
602-549-5531

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]

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)

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

5247 Northrop Street
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 September 1, 1993, a copy of which is attached hereto as **Attachment 1** and incorporated herein by this reference (the "Lease Agreement") to Griff H. Malleck 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 Red Willow Aviation & Spraying Inc., ("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 December 21, 2023 (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 \$712.43 per year, payable in monthly installments, which rental amount shall be adjusted on September 1, 2028 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:

**Red Willow Aviation & Spraying Inc.
308 Airport Road
P.O. Box 444
McCook, NE 69001
308-345-3635**

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 18th day of January, 2024.

[end of page 2]

Assignee:
Red Willow Aviation & Spraying Inc.
308 Airport Road
P.O. Box 444
McCook, NE 69001

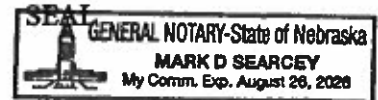
By: [Signature]
Cleo Spencer, CEO

State of Colorado)
)ss
County of Larimer)

Subscribed and sworn to before me this 4 day of Jan, 202024 by
Cleo Spencer, as CEO of RW Aviation.

My commission expires August 26, 2026.

[Signature]
Notary Public

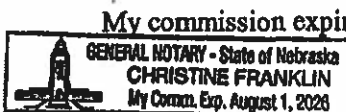


Assignor:
Griff H. Malleck
1309 West 2nd Street
McCook, Nebraska 69001

By: [Signature]
Griff H. Malleck, Member

Nebraska
State of ~~Colorado~~)
)ss
Douglas
County of ~~Larimer~~)

Subscribed and sworn to before me this 28th day of December, 2023 by
Griff Malleck, as _____ of _____



My commission expires August 1, 2026.

SEAL

[Signature]
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)

ASSUMPTION OF LEASE AGREEMENT
5247 Northrop Street

Whereas, Keith Griffith is the Lessee and the Cities of Fort Collins and Loveland, Colorado are the Lessors pursuant to the provisions of that Lease Agreement dated September 1st, 1993 ("Lease Agreement"), concerning that property at the Fort Collins-Loveland Municipal Airport described in the attached Exhibit A, incorporated herein by this reference ("Leased Premises"); and

Whereas, Keith Griffith desires to assign all of his lease rights and obligations for the Leased Premises described in the attached Exhibit "A" Lot 10 and now also known as 5247 Northrop Street, as well as all improvements located thereon, to Griff H. Malleck; and

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

Whereas, Griff H. Malleck intends to benefit the Cities by promising to perform all terms and conditions of the Lease Agreement.

Now, therefore, in consideration of the Cities' approval and other mutual covenants and agreements expressed in the Lease Agreement, Griff H. Malleck does hereby covenant and agree to assume all obligations, responsibilities and terms of the Lease Agreement and hereby becomes the Lessee under the Lease Agreement for Lot 10 of the Leased Premises.

Further, Griff H. Malleck acknowledges and agrees that the annual rent payment as set forth in Article 4 of the Lease Agreement shall be in the amount of \$437.16, which amount shall be adjusted on September 1 of 2008, and on each fifth anniversary thereafter pursuant to section 4.2 of the Lease Agreement.

Further, Griff H. Malleck submits to the Cities herewith, the proof of insurance as required in Articles 8 and 9 of the Lease Agreement.

Further, Griff H. Malleck submits to the Cities the following notice address pursuant to Article 23 of the Lease Agreement:

Griff H. Malleck
1309 West 2nd Street
McCook, Nebraska 69001

Dated this 15th day of November, 2006.

Griff H Malleck

Griff H. Malleck, LESSEE

State of Colorado)

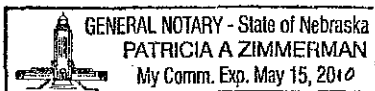
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County of Larimer)

Subscribed and sworn to before me this 15 day of NOVEMBER, 2006 by Griff H. Malleck.

My commission expires MAY 15, 2010.

SEAL



Patricia A Zimmerman Notary Public

Keith Griffith, the current Lessee, hereby requests the assignment of the above described Lease from himself to Griff H. Malleck, with respect to Lot 10 of the Leased Premises, pursuant to the provisions of Article 13 of the Lease Agreement.

Dated this 3rd day of NOVEMBER, 2006.

Keith Griffith
Keith Griffith

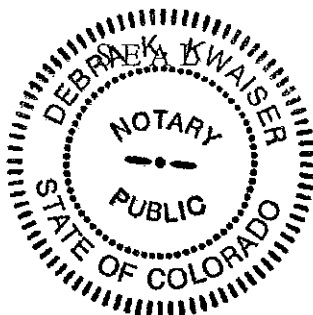
State of Colorado)

)ss

County of Larimer)

Subscribed and sworn to before me this 3rd day of November, 2006 by Keith Griffith.

My commission expires 3/1/09



Debra Kwaizer Notary Public

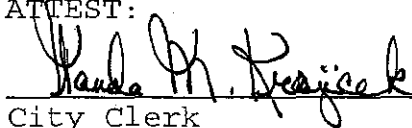
The Cities of Fort Collins and Loveland, Colorado, hereby consent to the above described assignment from Keith Griffith to Griff H. Malleck, of the Lease of Lot 10 of the Leased Premises.

CITY OF FORT COLLINS, COLORADO


City Manager

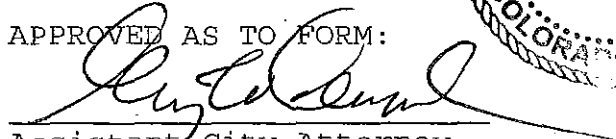
11/30/06
Date

ATTEST:


City Clerk



APPROVED AS TO FORM:


Assistant City Attorney




CITY OF LOVELAND, COLORADO


City Manager

11-30-06
Date

ATTEST:


City Clerk

APPROVED AS TO FORM:


Assistant City Attorney

Exhibit A

6-3-93

LEASE AGREEMENT

**CITIES OF LOVELAND AND FORT COLLINS,
COLORADO, AND KEITH GRIFFITH**

DATED September 1, 1993

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LEASE AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of September, 1993, by and between the CITY OF LOVELAND, COLORADO, a municipal corporation and the CITY OF FORT COLLINS, COLORADO, a municipal corporation, hereinafter called "Cities," and Keith Griffith, hereinafter called "Lessee."

WITNESSETH:

WHEREAS, the Cities own and operate an airport known as the Fort Collins-Loveland Municipal Airport located in Larimer County, Colorado, hereinafter called the "Airport"; and

WHEREAS, the Cities and the Lessee are mutually desirous of entering into a Lease Agreement (hereinafter, 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 the Lessee desires to be assured of the Airport's continued availability as a base for aircraft.

WHEREAS, The Cities and the Lessee have reached an understanding in principle, which envisions the Lessee's construction of a personal use hangar, without cost to the Cities.

NOW, THEREFORE, in consideration of the premises and of the rents, covenants and conditions herein contained, the Cities do hereby lease to the Lessee the area of the Airport described in Article 2 hereof, hereinafter referred to as the "Leased Premises," during the term hereof pursuant to the conditions hereinafter set forth.

ARTICLE 1

TERM

1.1 The term of this Agreement shall commence on September 1, 1993, and expire on September 1, 2018, unless sooner terminated in accordance with the provisions hereof. KTG

1.2 The Lessee shall have the option to extend the term of this Agreement for three additional periods of five (5) years each, hereinafter the "Extended Term," 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 such option. In the event Lessee exercises an option, it shall do so not later than three (3) months prior to the expiration of the Initial Term or the then current Extended Term. The terms and conditions during the Extended Term shall be the same. The rent escalation shall continue throughout the Initial Term and Extended Terms as provided in Article 4 hereof.

ARTICLE 2

LEASED PREMISES

2.1 The Leased Premises consist of the parcel of land described ~~XXXXXXXXXXXX~~ in Exhibit "A" attached hereto and made a part hereof. KTG 10/12/93

ARTICLE 3

USE OF LEASED PREMISES

3.1 The Lessee 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 to be used for the parking, storage, servicing, repair, maintenance, modification, and construction of aircraft owned or operated by the Lessee, its subsidiaries or subtenants, providing such uses are of a non-commercial nature, and providing such uses are consistent with the City of Loveland, Colorado building, use and zoning regulations and requirements applicable to the Leased Premises. Lessee warrants that all such aircraft based at the Leased Premises shall 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.

3.1.2 For any purpose for which Cities grant a commercial use permit for the leased premises.

ARTICLE 4

RENT

10/12/93 126
4.1 The Lessee agrees to pay to the Cities during the term hereof an annual rent of Four Thousand Seven Hundred Five Dollars and 20/100 (\$ 4,705.20), subject to adjustment pursuant to Section 4.2 below.

4.2 Commencing five years from the beginning of the term hereof, and on each fifth anniversary thereafter during the remainder of the term of this Agreement, 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 last month for which the C.P.I. is available and the denominator of which shall be the C.P.I. published for the 60th month prior thereto. In no event shall the annual rent be reduced.

4.2.1 The term "C.P.I." as used herein shall mean the Consumer Price Index for all Urban Consumers, all items, Selected Large Cities, for the Denver/Boulder Area 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 use the C.P.I., an equivalent or comparable economic index will be used.

4.3 The annual rent payable hereunder 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.

4.4 The Lessee, as additional rent, shall pay to Cities a fuel flowage fee for all fuel delivered into aircraft of Lessee, other than fuel sold by an existing FBO or other approved vendor who pays a fuel flowage fee to the Cities. The amount of such fee shall be the highest rate paid by any FBO or other approved vendor, including any percentage paid as a percentage of gross revenues, plus three percentage points, or ten percent (10%) of the wholesale cost of the fuel delivered to the airport, whichever is greater. Such fee shall be paid with the monthly rent for the prior month's fueling. For example, if the wholesale cost of the fuel delivered

to the Airport is \$1.00, the amount of such fee, based on the wholesale cost, would be an additional .10 or a total cost of \$1.10. If the highest rate paid by any FBO is \$1.06, Lessee would pay an additional .03 for a total cost of \$1.09. In this example, the cost to the Lessee would be the greater of the two: \$1.10.

4.5 The Lessee, as an additional rent, shall pay to Cities one percent (1%) of the gross revenues derived from any sub-lessee. Such fee shall be paid with the monthly rent for the prior month's revenues. Said additional rent shall not be subject to escalation as otherwise specified in paragraph 4.2.

4.6 The Lessee, as additional rent, shall construct one hangar on the Leased Premises as approved by the Cities. The hangar shall be at least 1,764 square feet in size and shall have a concrete floor, at least one man door, and at least one aircraft access door sized to accommodate an average private aircraft. Lessee shall use its best efforts and all due diligence to complete construction of such improvements within eighteen (18) months of the Cities' approval thereof or within two years from the date of this agreement. Failure of the Lessee to construct such improvements in accordance with the provisions of this section shall be deemed a default under this Agreement except if the failure to construct is caused by force majeure or action of the Cities. Title to these improvements shall vest in the Cities at the expiration or earlier termination of this Agreement.

4.7 The Lessee, as additional rent, shall construct and maintain a paved aircraft ramp area extending out from the hangar as specified and depicted in Exhibit A. This area shall be constructed pursuant to specifications established by the Cities and shall be built so as to connect onto any adjacent ramp in order that a continuous and safe pavement section results. It is the responsibility of the Lessee to maintain the entire ramp area 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. The Lessee shall be responsible for snow removal on the ramp area. Lessee grants to users of the Airport the right to use this aircraft ramp area from time to time for passage of aircraft on the adjacent taxiway moving through this area of the airport. The construction time and default provisions of subsection 4.6 shall be applicable to the improvements set forth in this subsection. Title to these improvements shall vest in the Cities at the expiration or earlier termination of this Agreement.

4.8 At the option of the Lessee and notwithstanding the last sentence of paragraphs 4.6 and 4.7, Lessee may transfer title and ownership to the improvements set forth in paragraphs 4.6 and 4.7 to the Cities prior to expiration or termination of this Agreement, subject to acceptance by the Airport Manager. Such transfer of title and ownership shall not relieve the Lessee of any obligation of this Agreement, including the obligations of insurance, rent payment, care and maintenance of the improvements.

4.9 Prior to occupancy of the Leased Premises, Lessee shall construct to the Cities' specifications and dedicate to the Cities a New Public Taxiway and Emergency Access Road as depicted and specified on Exhibit A. Upon acceptance of the dedication, the Cities shall be responsible for maintenance of said Taxiway and Road.

ARTICLE 5

ACCEPTANCE, CARE, MAINTENANCE, IMPROVEMENTS AND REPAIR

5.1 In reliance upon the representations of the Cities set forth in this Section 5.1, Lessee warrants it has inspected the Leased Premises 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 Fort Collins-Loveland Municipal Airport, as set forth in Exhibit B attached hereto, and by ordinances of the Cities, admits its suitability and sufficiency for the uses permitted hereunder. The Cities represent to the Lessee that, to their knowledge, the Leased Premises are free of any adverse environmental conditions and no part of the Leased Premises lie in a flood hazard area or constitutes a fresh water wetland, nor is any part of the Leased Premises within 100 feet of a fresh water wetland. The Cities represent to the Lessee that, to their knowledge, the Leased Premises can be used for the purposes set forth in Article 3, above. 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.

5.1.1 In the event the representations made in Section 5.1 above are not accurate or hazardous material is found on or under the Leased Premises, such hazardous material existed at the date hereof, and such material renders the site unusable for its intended purpose, the Cities will, at their expense, perform or cause to be performed, any and all testing, clean-up efforts and monitoring required by all applicable Federal, State and local laws, rules or regulations.

5.1.2 Alternatively, the Cities may offer to Lessee an alternate comparable site for the facilities, if one is available.

5.1.3 In the event the Cities elect to not perform the necessary clean-up efforts, or if an alternative site is not agreeable to Lessee, then this Agreement shall be terminable upon written notice by either party to the other. In the event of such termination, Cities will compensate Lessee forthwith for all expenses incurred by Lessee in placing approved improvements upon the Leased Premises. If termination pursuant to this Section 5.1.3 occurs prior to the construction of the improvements, then the Cities shall refund those rental payments made by Lessee to the date of said termination.

5.1.4 The Lessee's obligation to construct the improvements under this Agreement is contingent upon Lessee's ability to obtain all necessary permits and approvals for the improvements to be used for the purposes authorized in Article 3, provided that Lessee pursues the obtaining of said permits and approvals with all due diligence. In the event Lessee is unsuccessful in acquiring said permits and approvals for all authorized improvements, then and in that event, this Lease shall terminate.

5.2 The 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, the 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 the Lessee's fixtures, equipment and personal property which are located on any part of the Leased Premises. Lessee shall not park or leave, or allow to be parked or left, aircraft on the taxiways, ramps or pavement adjacent to the hangar in a manner which unduly interferes with or obstructs access to other hangars.

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, 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 the 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. Lessee acknowledges that a discharge or spill of a hazardous substance caused by its employees, agents, licensee, invitees, or guests shall be the responsibility of the Lessee. The Cities acknowledge that a discharge or spill of a hazardous substance caused by its employees, agents, licensees, invitees, or guests shall be the responsibility of the Cities.

5.3 Plans and specifications for all hangars and all repairs (other than emergency repairs), construction, alterations, modifications, additions or replacements, hereinafter referred to as "Improvements" to be constructed or placed by the Lessee on the Leased Premises shall be submitted to the Cities for approval, which approval shall not be denied providing the plans and specifications comply with the provisions of this agreement, as well as all applicable building, use and zoning regulations.

5.4 The Lessee expressly agrees in making all Improvements that, except with the prior written consent of the Cities, it will not allow, give nor grant, nor purport to give or grant any lien upon the Leased Premises or upon any Improvements thereon, and the Lessee will within sixty (60) days after notice of filing thereof either discharge the lien or contest the validity of the lien and provide a bond securing its payment until it is discharged, subject however, to the provisions of Article 10 hereunder.

ARTICLE 6

ADDITIONAL OBLIGATIONS OF LESSEE

6.1 The Lessee shall conduct its operations hereunder and cause subtenants to conduct their operations hereunder 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, the 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 The Lessee shall comply and require subtenants to comply with all federal, state and municipal laws, ordinances, rules, regulations and requirements, and the terms of this agreement, applicable to the Leased Premises and the improvements thereon and its operations at the Airport hereunder.

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

6.5 The Lessee 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 The Lessee shall take measures to insure security in compliance with Federal Aviation Administration Regulations and the Airport Security Plan.

6.7 The Lessee 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 The Lessee 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 a commercial use permit for that activity is obtained from the Cities.

6.9 Except for uses permitted under Article 3 hereof to be performed by the Lessee, the Lessee 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 a valid Commercial Operating Permit from the Cities.

6.10 The Lessee will conduct its operations in such a manner and require subtenants 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 the Lessee. In addition, the Lessee and its subtenants will employ the maximum amount of noise arresting and noise reducing devices that are available and economically practicable, considering the extent of the operations of the Lessee, but in no event less than those devices required by

federal, state or local law. In its use of the Leased Premises, the Lessee and its subtenants shall take all possible care, exercise caution and use its best efforts to minimize prop or jet blast interference 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 the Lessee or any of its subtenants has not curbed the prop or jet blast interference, the Lessee hereby covenants and agrees to erect and maintain at its own 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.

ARTICLE 7 **INGRESS AND EGRESS**

7.1 The Lessee 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 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 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, improvements deemed necessary by Lessee shall be made at the sole expense of Lessee, in accordance with construction specifications and design criteria established for all of the properties by the Airport Engineer. There shall be no consideration made on the part of the Cities for the cost of these improvements.

7.2 The use of any such roadway or taxiway 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. The Lessee hereby releases and discharges the Cities, 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 the Lessee or its 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 as to those closed remain available to Lessee without cost to Lessee, unless otherwise mandated by emergency safety considerations or lawful exercise of the police power. The 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 To safeguard the interest and property of the Cities, the 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 thirty (30) days notice of cancellation or material change, by registered mail, to the Cities, Attention: Airport Manager.

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

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

8.1.3 The 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 structure. Upon the failure of the Lessee to maintain such insurance as above provided, the Cities, at their option, may take out such insurance and charge the cost thereof to the Lessee, which shall be payable on demand, or may give notice of default hereunder pursuant to Article 18 hereof.

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 the Lessee for the purposes for which they were used prior to such damage, or same are destroyed, the 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 existing at the time of repairing or rebuilding. If the aforesaid damage or destruction occurs in the last five years of the term of this Agreement, the Lessee may elect not to repair and reconstruct the Improvements, subject to the following terms and conditions:

8.2.1 The 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.

8.2.2 The Lessee shall 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.

8.2.3 The Cities shall retain all insurance coverage and proceeds as described in Section 8.1, hereof.

8.2.4 Upon Lessee's notice under Section 8.2.1 hereof and Lessee's compliance with the provisions of Sections 8.2.2 and 8.2.3 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, or permit to be violated, any of the conditions of any of the said policies; the Lessee 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 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 the Lessee, its agents, servants and employees and its sublessees or tenants, or their guests or invitees.

9.2 The Lessee agrees to indemnify, save and hold harmless, the Cities, 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, sublessees or tenants. Upon the filing with the Cities by anyone of a claim for damages arising out of incidents for which the Lessee herein agrees to indemnify and hold the Cities harmless, the Cities shall notify the Lessee of such claim and in the event that the Lessee does not settle or compromise such claim, then the Lessee shall undertake the legal defense of such claim on behalf of both the 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 the Lessee is liable hereunder shall be conclusive against the Lessee as to liability and amount upon the expiration of the time for appeal.

9.3 The Lessee shall procure and keep in force during the term of the Lease policies of Comprehensive General Liability insurance insuring the Lessee and the Cities against any liability for personal injury, bodily injury, death, or property damage arising out of the subject of this Lease 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 thirty days prior written notice to the Cities. The policies shall be for the mutual and joint benefit and protection of the 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 the Lessee. The 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 The 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 anyway connected with this Agreement. The 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 the Lessee under or in anyway connected with this Agreement.

ARTICLE 10 LEASEHOLD MORTGAGES

10.1 (a) If Lessee shall, on one or more occasions, mortgage Lessee's leasehold estate to an Institutional Investor, and if the holder of such Leasehold Mortgage or any sub-assignee shall provide the Cities with notice of such Leasehold Mortgage together with a true copy of such Leasehold Mortgage and the name and address of the Mortgagee, the Cities and Lessee agree that, following receipt of such notice by the Cities, the provisions of this Article 10 shall apply in respect to each such Leasehold Mortgage; provided that the provisions of this Article shall not be binding on the Cities, unless and until such notice shall have been given and such copy delivered to the Cities, notwithstanding any other form of notice, actual or constructive.

(b) The Cities shall, upon receipt of notice provided for by Section 10.1, promptly acknowledge the receipt of such communication, as constituting the notice provided for by Section 10.1 or in the alternative, notify the Lessee and Leasehold Mortgagee of the rejection of such communication as not conforming with the provisions of Section 10.1(a) and specify the specific basis of such rejection.

10.2 (a) The terms "Institutional Investor" and "Institution" as used in this Agreement shall refer to a savings bank, savings and loan association, commercial bank or trust company (whether for its own account or as fiduciary), credit union, a pension fund, welfare or retirement fund, an eleemosynary institution, or any combination of the foregoing.

(b) The term "Leasehold Mortgage" as used in this Agreement shall include 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.

10.3 The Cities, upon providing Lessee any notice of

(a) default under this Agreement; or
(b) a termination of this Agreement; or
(c) a matter on which the Cities may predicate or claim a default, shall at the same time provide a copy of such notice to every Leasehold Mortgagee. No such notice by Cities to Lessee

shall be deemed to have been duly given unless and until copy thereof has been so provided to every Leasehold Mortgagee by certified mail at the address specified in the notice given pursuant to Section 10.1. From and after the date such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have the additional periods of time specified in Sections 10.5 and 10.6 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 (a) 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 Cities shall notify every Leasehold Mortgagee of the Cities' intent to so terminate ("Termination Notice") at least thirty (30) days in advance of the proposed effective date of such termination if such default is capable of being cured by the payment of money, and at least forty-five (45) days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of Section 10.6 below shall apply if, during such thirty (30) or forty-five (45) day Termination Notice period, any Leasehold Mortgagee shall:

(i) notify the Cities of such Leasehold Mortgagee's desire to defeat such Termination Notice, and

(ii) 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

(iii) comply with due diligence and continuity, or in good faith commence to comply with all non-monetary requirements of this Agreement then in default.

(b) If the Cities shall elect to terminate this Agreement by reason of any default of Lessee, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 10.4, the specified date for termination of this Agreement as fixed by the Cities in its Termination Notice shall be deemed extended and this Agreement shall not be terminated without the consent of such Leasehold Mortgagee provided that such Leasehold Mortgagee shall, during such extended period:

(i) pay or cause to be paid the rent, additional rent, and other monetary obligations of Lessee under this Agreement as the same become due, and continue with due diligence to perform all of Lessee's other obligations under this Agreement, which Leasehold Mortgagee can perform without having first obtained possession of the Lessee's interest in this Agreement; and

(ii) within three (3) months from receipt of the Termination Notice, take steps to acquire or sell Lessee's interest in this Agreement by foreclosure of the Leasehold Mortgagee or other appropriate means and prosecute the same to completion with due diligence; provided, however, that if the Leasehold Mortgagee is otherwise complying with this Section 10.4 and is enjoined or

stayed from taking steps to acquire or sell Lessee's interest in this Agreement, this Agreement shall not terminate and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and, thereafter, for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Lessee's interest in this Agreement by foreclosure of the Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. If the default shall be cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Agreement shall continue in full force and effect as if Lessee had not defaulted under this Agreement.

(c) If the Leasehold Mortgagee is complying with Section 10.4(a)(i) and is enjoined or stayed from taking steps to acquire or sell Lessee's interest in this Agreement, this Agreement shall not then terminate and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Lessee's interest in this Agreement by foreclosure of the Leasehold Mortgagee or by other appropriate means with due diligence and continuity.

(d) Nothing in this Section 10.4 shall be construed to extend this Agreement beyond the original term hereof as set forth in Article 1, nor to require a Leasehold Mortgagee to continue such foreclosure proceedings after the default has been cured. If the default shall be cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Agreement shall continue in full force and effect as if Lessee had not defaulted under this Agreement.

(e) If a Leasehold Mortgagee is complying with Section 10.4(a)(i), upon the acquisition of Lessee's estate herein by such Leasehold Mortgagee or its designee or any other purchaser at a foreclosure sale or otherwise and the discharge by foreclosure or otherwise of any lien, charge or encumbrance against the Lessee's interest in this Agreement or the Leased Premises which is junior in priority to the lien of the Leasehold Mortgagee held by such Leasehold Mortgagee and which Lessee is obligated to satisfy and discharge by the terms of this Agreement, this Agreement shall continue in full force and effect as if Lessee had not defaulted under this Agreement.

(f) 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 any 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 on the part of this Agreement of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignee or transferee of this Agreement and of the leasehold estate hereby created under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgagee shall be deemed to be a permitted assignee or transferee, subject to the provisions of Section 10.11, and shall be deemed to have

agreed to perform all of the terms, covenants and conditions on the part of the 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 buildings 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.

(g) Any Leasehold Mortgagee or other acquirer of the leasehold estate of Lessee pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon acquiring Lessee's leasehold estate, without further consent of the Cities, sell and assign the leasehold estate on such terms and to such person and organizations as are acceptable to such Mortgagee or acquirer and thereafter be relieved of all obligations under this Agreement; provided that such assignee has delivered to the Cities its written agreement to be bound thereafter by all of the provisions of this Agreement.

(h) Notwithstanding any other provisions of this Agreement, any sale of this Agreement and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignment or transfer of this Agreement and of the leasehold estate hereby created in lieu of the foreclosure of any Leasehold Mortgage shall be deemed to be a permitted sale, transfer or assignment of this Agreement and of the leasehold estate hereby created.

10.5 In the event of the termination of this Agreement as a result of Lessee's default, the Cities shall, in addition to providing the notices of default and termination as required by Sections 10.1 and 10.3, provide each Leasehold Mortgagee with written notice that the Agreement has been terminated, together with a statement of all sums which would at that time be due under this Agreement but for such termination, and for all other defaults, if any, then known to the Cities ("the Cities' Notice of Termination"). The Cities agree to enter into a new Agreement ("New Agreement") of the Leased Premises with the first Leasehold Mortgagee or its designee for the remainder of the term of this Agreement, effective as of the date of termination, at the rent and additional rent, and upon the terms, covenants, and conditions (including all options to renew but excluding requirements which are not applicable or which have already been fulfilled) of this Agreement provided:

(a) Such Leasehold Mortgagee shall make written request to the Cities for such New Agreement within forty-five (45) days after the date such Leasehold Mortgagee receives the Cities' Notice of Termination of this Agreement given pursuant to this Section 10.5; and

(b) Such Leasehold Mortgagee or its designee shall pay or cause to be paid to the Cities at the time of execution and delivery of such New Agreement, any and all sums which would at the time of execution and delivery thereof be due pursuant to this Agreement but for such termination and, in addition thereto, all reasonable expenses, including reasonable attorney's fees, which

the Cities shall have incurred by reason of such termination and the execution and delivery of the New Agreement and which have not otherwise been received by the Cities from Lessee or other party in interest under Lessee. In the event of a controversy as to the amount to be paid to the Cities pursuant to this Section 10.5(b), the payment obligation shall be satisfied if the Cities shall be paid the amount not in controversy, and the Leasehold Mortgagee or its designee shall agree to pay any additional sum ultimately determined to be due plus interest at the existing prime rate as established by Bank One-Loveland, N.A., or its successor, and if none, a major Fort Collins-Loveland Metropolitan Area lending institution, plus two (2) percentage points; and

(c) Such Leasehold Mortgagee or its designee shall agree to remedy any of Lessee's actual defaults of which said Leasehold Mortgagee was notified by the Cities' Notice of Termination.

(d) Any new Agreement made pursuant to this Section 10.5 shall be prior in lien to any mortgage or other lien, charge, or encumbrance on the fee of the Leased Premises and the Lessee under such New Agreement shall have the same right, title and interest in and to the Leased Premises and the building and improvements thereon as Lessee had under this Agreement.

10.6 If more than one Leasehold Mortgagee shall request a New Agreement pursuant to Section 10.5, the Cities shall enter into such New Agreement with the Leasehold Mortgagee whose mortgage is prior in lien, or with the designee of such Leasehold Mortgagee, and thereupon the requests for a New Agreement of each holder of a Leasehold Mortgage junior in lien shall be and be deemed to be void and of no force or effect. The Cities, without liability to Lessee or any Leasehold Mortgagee with an adverse claim, may rely upon a mortgage title insurance policy issued by a title insurance company licensed to do business within the State of Colorado and selected by the Cities as a basis for determining the appropriate Leasehold Mortgagee who is entitled to such New Agreement.

10.7 (a) Nothing herein contained shall require any Leasehold Mortgagee or its designee as a condition to its exercise of right hereunder to cure any default of Lessee not reasonably susceptible of being cured by such Leasehold Mortgagee or its designee, in order to comply with the provisions of Section 10.4 and 10.5, or as a condition of entering into the New Agreement provided for by Section 10.5.

(b) If the Cities shall elect to terminate this Agreement by reason of any default of Lessee not reasonably susceptible of being cured by a Leasehold Mortgagee, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 10.4(a), the specified date for the termination of this Agreement as fixed by the Cities in its termination notice shall be extended as provided for in Section 10.5, provided that such Leasehold Mortgagee shall proceed in the manner provided for in Section 10.6.

10.8 The Cities shall give each Leasehold Mortgagee prompt written notice of any legal proceedings between the Cities and Lessee involving obligations under this Agreement. Each Leasehold Mortgagee shall have the right to intervene in any such proceedings and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention. In the event that any

Leasehold Mortgagee shall not elect to intervene or become a party to any such proceedings, the Cities shall give the Leasehold Mortgagee notice of, and a copy of any award of decision made in any such proceedings, which shall be binding upon all Leasehold Mortgagees not intervening after receipt of notice thereof.

10.9 In the event, on any occasion hereafter, Lessee seeks to mortgage its leasehold estate under this Agreement or any portion hereof under any subsequent individual lease, the Cities agree to amend this Agreement from time to time to the extent reasonably requested by a Leasehold Mortgagee proposing to make Lessee a loan secured by a first lien upon Lessee's leasehold estate, provided that such proposed amendments do not materially and adversely affect the rights of the Cities or their interest in the Leased Premises. All reasonable expenses incurred by the Cities in connection with any such amendment shall be paid by Lessee.

10.10 The Cities shall, without charge, at any time and from time to time hereafter, but not more frequently than twice in any one year period (or more frequently if such request is made in connection with any sale or mortgaging of Lessee's leasehold interest or permitted subletting by Lessee), within thirty (30) days after written request of Lessee to do so, certify by written instrument duly executed and acknowledged to any Leasehold Mortgagee or purchaser, or proposed Leasehold Mortgagee or proposed purchaser, or any other person, firm or corporation specified in such request:

(a) As to whether this Agreement has been supplemented or amended and, if so, the substance and manner of such supplement or amendment;

(b) As to the validity and force and effect of this Agreement, in accordance with its tenor;

(c) As to the existence of any default hereunder;

(d) As to the existence of any offsets, counterclaims, or defenses hereto on the part of the Lessee;

(e) As to the commencement and expiration dates of the term of this Agreement; and

(f) As to any other matters as may be reasonably so requested. Any such certificate may be relied upon by the Lessee and any other person, firm or corporation to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the Cities.

ARTICLE 11

RULES AND REGULATIONS

11.1 Cities may enforce rules and regulations with respect to the occupancy and use of the Airport, as such rules and regulations exist on the date of this Lease Agreement and as set forth in Exhibit B, attached hereto. The Lessee agrees 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 Exhibit B (Airport Rules and Regulations) and this Lease, the provisions of this Lease shall control. This provision will include compliance with the Airport's Noise Abatement Plan as promulgated. 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.

ARTICLE 12

SIGNS

12.1 The 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. No sign will be allowed that may be confusing to aircraft pilots or automobile drivers or other traffic.

ARTICLE 13

ASSIGNMENT AND SUBLEASE

13.1 The prior written consent of the Cities shall be required for any sale, transfer or assignment of this Agreement and of the leasehold estate hereby created. Consent may be withheld by the Cities in the event the Lessee is in default of any of the terms or conditions of this Agreement, in the event the transferee or assignee does not deliver to the Cities its written agreement to be bound by all of the provisions of this Agreement, or in the event the proposed transferee or assignee does not submit proof of insurance as required at Articles 8 and 9, herein. Consent shall not be otherwise unreasonably withheld. Upon the granting of written consent by the Cities and actual transfer or assignment, the Lessee shall be released by the Cities from its obligations under this Lease.

13.2 Lessee does have the right and option to sublease part or parts of the Leased Premises without the prior consent of the Cities, providing that any subtenant shall be required to comply with all terms and conditions of this Agreement. In the event of sublease, both the Lessee and the subtenant shall be jointly and severally responsible for compliance with the terms and conditions of this Agreement. Upon sublease, Lessee shall provide Cities with a complete copy of the sublease agreement fully identifying the parties and terms.

13.3 Lessee does not have the right to subdivide the Leased Premises.

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), the proceeds, if any, from such taking or sale shall be allocated between the Cities and Lessee in accordance with the applicable condemnation law. 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 hereof, then this Lease shall terminate

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 Lessee owned improvements 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 improvement 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. 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 upon thirty (30) days prior written notice to 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 The Lessee, for it, its heirs, personal representatives, 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, the 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 The Lessee, for itself, its personal representatives, 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:

(1) no person on the grounds of race, color, disability or national origin shall be excluded from participating in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises;

(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, disability or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination,

(3) that the 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 of any alleged violation. This provision is to be considered as a covenant on the part of the 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 compliance herewith.

15.4 The Lessee shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than the Lessee, operates any facility at the Leased Premises providing service to the public and shall include thereon 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, the Lessee assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to insure 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. The 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. The Lessee assures that it will require that its covered suborganizations provide assurances to the Lessee that they similarly will undertake affirmative action program and that they will require assurances

from their suborganizations, to the extent required by 14 CFR Part 152, Subpart E, to the same effect.

ARTICLE 16

GOVERNMENTAL REQUIREMENTS

16.1 The Lessee shall attempt to procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Lessee's operations at the Leased Premises which may be necessary for the Lessee's operations thereat.

16.2 The 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 the Lessee therefrom, and shall make all applications, reports and returns required in connection therewith.

16.3 Lessee shall pay all water, sewer and other use taxes and fees, together with any Payment in Lieu of Taxes if found to be applicable.

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 for any and all purposes not inconsistent with this Agreement, provided such action by the Cities, their officers, employees, agents, representatives and contractors does not unreasonably interfere with the Lessee'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 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 the 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 the Lessee, all such utilities to be placed within existing easements, except as provided in Article 14, hereof. 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 repair 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 the Lessee 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, the 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 the Lessee 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 the Lessee hereby waives any claim against the Cities for damages as a result therefrom, 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 the Lessee in the payment of rents, the Cities shall give written notice to the Lessee of such default, and demand the cancellation of this Agreement, or the correction thereof. If, within thirty (30) days after the date the Cities give such notice, the Lessee has not corrected said default and paid the delinquent amount in full, the Cities may by written notice to the Lessee terminate this Agreement and all rights and privileges granted hereby in and to the Leased Premises.

18.2 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 the Lessee upon the happening of any one or more of the following events:

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

18.2.2 Any institution of proceedings in bankruptcy against the Lessee; provided, however, that the 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 the 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 the Lessee's assets by a court of competent jurisdiction, which if the request is not made by the 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 the Lessee's assets by a voluntary agreement with the Lessee's creditors.

18.2.5 Notwithstanding sections 18.2.1 through 18.2.4, the Cities shall not have the right to terminate this Lease because of the commencement or maintenance by Lessee of a proceeding for reorganization or arrangement under Chapters X or XI of the Federal Bankruptcy Act (or any equivalent or comparable proceeding under federal bankruptcy law, as it may be amended from time to time), provided that Lessee continues to comply with all other provisions of this Lease.

18.3 Upon the default by the Lessee in the performance of any covenant or conditions required to be performed by the Lessee, and the failure of the Lessee to remedy such default for a period of forty-five (45) days after mailing by the Cities of written notice to remedy the same, unless more extensive notice is otherwise provided for in this agreement, except default in the timely payment of any money due the Cities, in which case, within thirty (30) days after expiration of notice, the Cities shall have the right to cancel this Agreement for such cause by notice to the Lessee.

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 Upon the cancellation or termination of this Agreement for any reason, all rights of the Lessee, 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. Upon said cancellation or termination of this Agreement for any reason, the Leased Premises, except for Lessee's equipment, fixtures and other personal property which may be removed from said Leased Premises as provided elsewhere herein, shall be free and clear of all encumbrances and all claims of the Lessee, its tenants, creditors, trustees, assigns and all others and the Cities shall have immediate right of possession to the Leased Premises.

18.6 Failure by the Cities or Lessee to take any authorized action upon default by the Lessee of any of the terms, covenants or conditions required to be performed, kept and observed by the 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 the Lessee. Acceptance of rentals by the Cities from the Lessee, or performance by the Cities under the terms hereof, for any period or periods after a default by the Lessee of any of the terms, covenants and conditions herein required to be performed, kept and observed by the 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 the Lessee to so

perform, keep or observe any of said terms, covenants or conditions.

18.7 Cities will endeavor to give not less than fourteen (14) days' prior written notice to Lessee of any anticipated temporary Airport closure.

18.8 This lease will terminate at the option of Lessee

(i) 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 90 or more consecutive days;

(ii) 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 90 consecutive days; and

(iii) 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 the Lessee of written notice to remedy the same, or default in the timely payment of any money due the Lessee and failure to cure such default within thirty (30) 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).

18.9 If the Lessee ceases to conduct its authorized Airport activities at the Airport for a period of twelve (12) consecutive months, the Cities may terminate this Agreement by written notice to the Lessee given at any time while such cessation continues.

ARTICLE 19

SURRENDER AND RIGHT OF RE-ENTRY

19.1 Upon the expiration, cancellation or termination of this Agreement pursuant to any terms hereof, the Lessee agrees peaceably to surrender up the Leased Premises to the Cities in the same condition as they are at the time of the commencement of the term hereof, and as they may hereafter be repaired and improved by the Lessee; save and except

(a) such normal wear and tear thereof as could not have been prevented by ordinary and usual repairs and maintenance,

(b) obsolescence in spite of repair, and

(c) damage to or destruction of the leasehold improvements for which insurance proceeds are received by the Cities.

Upon such 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. Furthermore, upon such cancellation or termination, and for a reasonable time thereafter, not exceeding sixty (60) days after such cancellation or termination, and for which period the Lessee will pay to the cities current lease rental, or during the term of this Agreement, if the Lessee is not in default in rentals or any other charges or financial obligations due the Cities, the Lessee shall have the right to remove its personal property, fixtures and trade equipment which it may have on the Leased Premises, provided that the Lessee repairs all damages that might be occasioned to the remaining Leased Premises

by such removal, and restore the remaining Leased Premises to the condition above required.

ARTICLE 20
SERVICES TO LESSEE

20.1 The Cities covenant and agree that during the term of this Agreement it will 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 operation of the Airport or necessary to serve the civil aviation needs of the public. The Cities further agree to use their best efforts to maintain the runways and taxiways in good repair, including the removal of snow. The cities agree to keep in good repair hard-surfaced public roads for access to the Leased Premises and remove snow therefrom. Said obligations of the cities relevant to the maintenance and snow removal of and from public roads and taxi-ways shall extend to the point wherein such roads, streets and taxi-ways reach the property line of the Leased Premises.

ARTICLE 21
SURVIVAL OF THE OBLIGATIONS OF THE 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 hereof, all of the obligations of the 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 the 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 paragraph 19.1 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 the 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 hereunder. The Cities will use their best efforts to minimize damages to Lessee under this Article.

ARTICLE 22

USE SUBSEQUENT TO CANCELLATION OR TERMINATION

22.1 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 the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder, provided that any structural changes shall not be at Lessee's expense.

ARTICLE 23

NOTICES

23.1 All notices, consents and approvals required or desired to be given by the parties hereto shall be sent in writing, and shall be deemed given when received at the recipient's notice address except that notice that must be given by a certain time to be effective and is sent registered or certified mail, postage prepaid, return receipt requested, addressed to the recipient's address shall be deemed given when posted. Notice that starts the running of a time period and is delivered on a non-business day shall be deemed delivered on the next business day, if left at the notice address, or the next business day on which it is redelivered if it is not left at the notice address.

23.2 The notice addresses of the parties are as follows:

To the Cities: Airport Manager
 Loveland-Fort Collins Airport
 4900 Earhart Drive
 Loveland, CO 80538

and

 City Manager
 City of Loveland
 500 E. Third St.
 Loveland, CO 80537

and

 City Manager
 City of Fort Collins
 300 LaPorte Ave.
 Fort Collins, CO 80521

To the Lessee: Keith Griffith
 The Hangar Gang
 7796 Nikau Drive
 Longmont, Co. 80503

Such addresses shall be subject to change from time to time to such other addresses as may have been specified in written notice given by the intended recipient to the sender.

ARTICLE 24 **INVALID PROVISIONS**

24.1 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 and provided that the invalidity of any provision, article, paragraph, portions or clauses of this Agreement shall not result in substantial detriment to a party hereto.

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 the 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-Waiver of Rights. The failure by either party to exercise any right, or rights accruing to it by virtue of the breach of any covenant, condition or agreement herein by the other party shall not operate as a waiver of the exercise of such right or rights in the event of any subsequent breach by such other party, nor shall such other party be relieved thereby from its obligations under the terms hereof.

25.3 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.

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

- (i) the documents that then comprise this Agreement,
- (ii) that this Agreement is in full force and effect,
- (iii) the then current annual amount of rent and the date through which it has been paid,
- (iv) the expiration date of this Agreement,
- (v) that no amounts are then owed by the Lessee to the Cities (or, if amounts are owed, specifying the same)
- (vi) to the knowledge of the Cities, there are not defaults by the 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
- (vii) remaining rights to renew the term of this lease to the extent not theretofore exercised.

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

25.5 Short Form of Lease. This Agreement shall not be recorded, but at the request of either party, the other shall execute a memorandum or short form of lease for recording.

25.6 General Provisions.

25.6.1 This Agreement shall be performable and enforceable in Larimer County, Colorado, and shall be construed in accordance with the laws of the State of Colorado.

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

25.6.3 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.

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

25.6.5 The titles of the several articles of this Agreement are 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.

25.6.6 Nothing herein contained shall create, or be construed to create, a co-partnership between the Cities and the Lessee or to constitute the Lessee an agent of the Cities or vice versa. The Cities and the Lessee each expressly disclaim the existence of such a relationship between them.

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 the Lessee, and without interference or hindrance by or on behalf of the Lessee, provided the 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. In the event the said access shall terminate or the quality of said access shall be impaired as aforesaid, and in the event of failure to relocate the Lessee to a different leased premises at least as acceptable to Lessee as the Leased Premises at no resulting cost or expense to Lessee, Lessee shall have the right and option to terminate this Lease upon thirty (30) days prior written notice to Cities according to Article 23.

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 the Lessee's use of the Leased Premises.

26.1.5 Except to the extent required for the performance of any obligations of the Lessee hereunder, nothing contained in this Agreement shall grant to the 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

27.1 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.

27.2 Cities will not impose limitations or otherwise exercise the governmental powers, rights and privileges in a manner of greater detriment or burden to Lessee than would have occurred had governmental entities not been the landlord. The performance of the terms and conditions of this agreement shall be performed on an "arms-length" basis with Lessee as though governmental entities were not landlords. In the event Lessee establishes through final judicial determination or other final arbitration or proceeding, that the Cities failed to make such determinations based on an "arms length" relationship, Lessee shall be granted damages and all costs and legal expenses incurred by the Lessee in the premises. In the event the Lessee's allegation of a breach of this subsection is not established in such proceeding, Cities shall be granted damages and all costs and legal expenses incurred by the Cities in the premises.

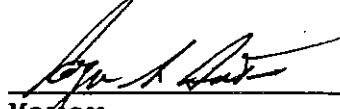
ARTICLE 28

ENTIRE AGREEMENT

28.1 This Agreement constitutes the entire agreement of the parties hereto and may not be changed, modified, discharged or extended except by written instrument duly executed by the Cities and the Lessee. The parties agree that no representations or warranties shall be binding upon the Cities or the Lessee unless expressed in writing in this Agreement of Lease.

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

CITY OF LOVELAND, COLORADO




Mayor

ATTEST:



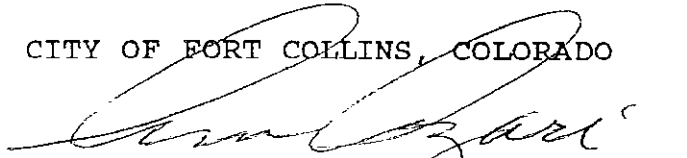
City Clerk

APPROVED AS TO FORM:




City Attorney, Deputy

CITY OF FORT COLLINS, COLORADO




Mayor

ATTEST:

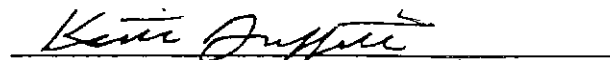


City Clerk

APPROVED AS TO FORM:

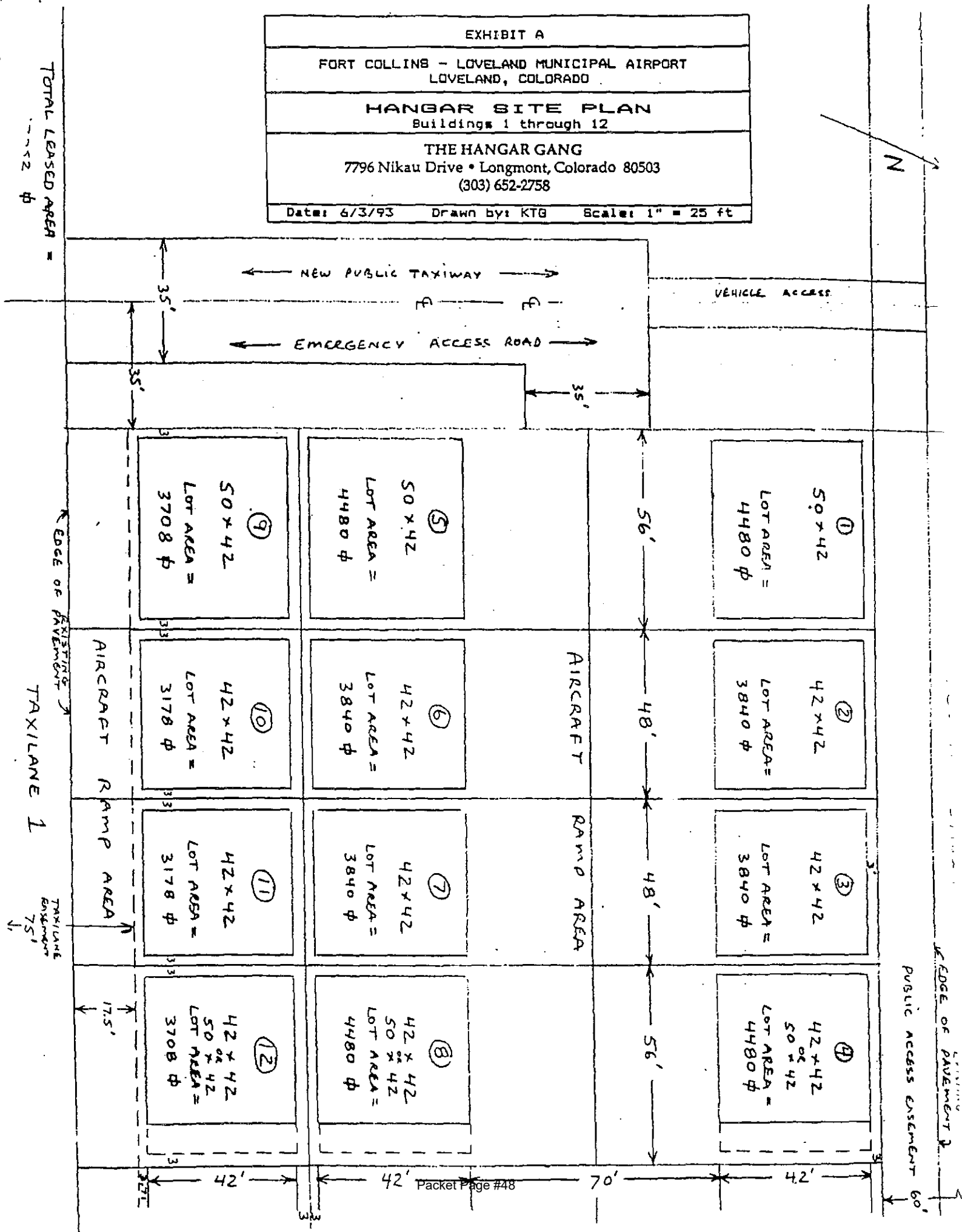


City Attorney



Keith Griffith, LESSEE

EXHIBIT A		
FORT COLLINS - LOVELAND MUNICIPAL AIRPORT LOVELAND, COLORADO		
HANGAR SITE PLAN Buildings 1 through 12		
THE HANGAR GANG 7796 Nikau Drive • Longmont, Colorado 80503 (303) 652-2758		
Date: 6/3/93	Drawn by: KTG	Scale: 1" = 25 ft



ATTACHMENT 2

(Certificate of Insurance)



CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
07/24/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

If this certificate is being prepared for a party who has an insurable interest in the property, do not use this form. Use ACORD 27 or ACORD 28.

PRODUCER National Hangar Insurance Program 1300 S. Main Street Tulsa, OK 74119	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED Red Willow Aviation, Inc P.O. Box 444, Airport Road McCook, NE 69001	E-MAIL ADDRESS:	
	PRODUCER CUSTOMER ID:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Travelers Indemnity Company (IND)	
	INSURER B:	
	INSURER C:	
INSURER D:		
INSURER E:		
INSURER F:		
NAIC #		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

(1/1) Fort Collins-Loveland Municipal Airport, 5247 Northrop Street, Loveland, CO 80538

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
<input checked="" type="checkbox"/>	PROPERTY CAUSES OF LOSS DEDUCTIBLES BASIC BROAD SPECIAL EARTHQUAKE WIND FLOOD	5660C641	09/26/2023	09/26/2024	<input checked="" type="checkbox"/> BUILDING	\$ 112,896
					<input type="checkbox"/> PERSONAL PROPERTY	\$
					<input type="checkbox"/> BUSINESS INCOME	\$
					<input type="checkbox"/> EXTRA EXPENSE	\$
					<input type="checkbox"/> RENTAL VALUE	\$
					<input type="checkbox"/> BLANKET BUILDING	\$
					<input type="checkbox"/> BLANKET PERS PROP	\$
					<input type="checkbox"/> BLANKET BLDG & PP	\$
	INLAND MARINE CAUSES OF LOSS NAMED PERILS	TYPE OF POLICY				\$
		POLICY NUMBER				\$
	CRIME TYPE OF POLICY					\$
	BOILER & MACHINERY / EQUIPMENT BREAKDOWN					\$
						\$
						\$
						\$
						\$

SPECIAL CONDITIONS / OTHER COVERAGES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Additional Insured, DX T3 71 11 12.

Certificate Holder is added as LP as evidence by the form listed above.

CERTIFICATE HOLDER Cities of Fort Collins & Loveland 4900 Earhart Road Loveland, CO 80534 Additional Insured	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Hal Hunt</i>
---	---

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Named Insured:

Red Willow Aviation Spraying, Inc.
308 Airport Rd, Po Box 444
Mccook, NE 69001-9747

is at this date insured with National Union Fire Ins. Co. of Pittsburgh, PA through AIG Aerospace Insurance Services Inc for the Limits of Coverage stated below:

Policy Number(s):

AP 038257816-05

Effective Dates:

03/10/2023 thru 03/10/2024

With respect only to:

AIRPORT LIABILITY:

COVERAGE	LIMIT	DEDUCTIBLES
General Liability	\$1,000,000 Per Occurrence	

Certificate Holder:

City of Fort Collins City of Loveland
4900 Earhart Rd
Loveland, CO 80538

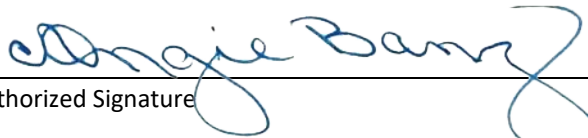
This certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage and/or limits afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document, with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all terms, exclusions and conditions of such policies.

In the event of cancellation of any policy described above, the insurer will attempt to mail 30 days written notice to the certificate holder prior to the effective date of cancellation. However, failure to do so will not impose duty or liability upon the insurer, its agents or representatives, nor will it delay cancellation.

Issued by:

AssuredPartners Aerospace
9860 E 21 N
Wichita, KS 67212

Date Issued: November 20, 2023


Authorized Signature



NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

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

ITEM NUMBER: 2

MEETING DATE: July 10, 2024

PREPARED BY: Aaron Ehle, Business Development Specialist

TITLE

Land Lease Assignment and Assumption for 5261 Gulfstream

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, Latched Kowell, LLC has agreed to sell their interest in the existing lease to JK AV8, LLC. The transfer of ownership of leases is frequent at the Airport and requires the approval of the Airport Commission. In this case, the building has not yet been constructed. The lease agreement, which was executed in November of 2021 contained a 2-year deadline for construction of the building. The current lessee was unable to meet this deadline, but has invested considerable time and funding in rent, design, engineering, soil sampling, surveying, and apron construction.

Since the lease was executed, the lessee has paid \$44,742.08 in rent and the account is in good standing.

The new developer is planning to construct a hangar building that is nearly very similar to the one approved with the original lease, but slightly larger. The 4-unit building will be 180' X 122' compared to the original dimensions of 160' X 120'. Construction is expected to begin as soon as the necessary permits can be obtained.

This lease transfer is similar to the 2022 Aero FNL lease transfer. In that instance, the original lessee was unable to meet the deadline for construction and the lease was transferred to a new developer who took over the project.



ATTACHMENT

Lease Assignment and Assumption: 5261 Gulfstream Ct

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

5261 Gulfstream Ct.
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 November 10, 2021, a copy of which is attached hereto as **Attachment 1** and incorporated herein by this reference (the “Lease Agreement”) to Latched Kowell, 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 JK AV8 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 July 10, 2024 (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 \$19,620.93 per year, payable in monthly installments, which rental amount shall be adjusted on May 1, 2025 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:

**JK AV8 LLC
Jeramiah Larsen
4691 Concorde Avenue
Unit 1A
Johnstown, CO 80534
970-980-6501
jeramiahlarsen@gmail.com**

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]

**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)

**HANGAR GROUND LEASE AGREEMENT
5261 GULFSTREAM COURT**

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

**DATED
NOVEMBER 10, 2021**

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EXHIBIT A, Description of Leased Premises

EXHIBIT B, Concept Plan and Building Elevations

LEASE AGREEMENT

THIS HANGAR GROUND LEASE AGREEMENT, made and entered into this 10th day of November, 2021, 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 Latched Kowell, LLC, 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 ("**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, the Cities and Lessee have reached an understanding in principle, which envisions Lessee's construction of a hangar building or buildings, without cost to the Cities.

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 the terms and conditions hereinafter set forth.

ARTICLE 1: TERM; OPTIONS; RIGHT OF FIRST REFUSAL

1.1 The initial term of this Agreement shall commence at 12:01 a.m. on December 1, 2021, and expire at 11:59 p.m. on November 30, 2046, 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 acknowledges 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 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 or buildings (the "Hangars") to be used for the parking, storage, servicing, repair, maintenance, modification, and construction of aircraft owned or operated by Lessee. 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 warrants that all aircraft based at the Leased Premises shall 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 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, herein, 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 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 \$0.439 per square foot for the 37,985 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 \$16,675 per year, subject to adjustment pursuant to Section 4.2. Notwithstanding the foregoing, and in recognition of the fact that it may take Lessee a period of time to construct the Hangars described in Paragraph 4.4, Lessee's rent payment for the first three months of the first year of this Agreement and excluding any Extended Term shall be waived. 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 would be due by application of subsection (a), above. The parties will each pay fifty percent (50%) of the mediator cost.

4.2 Commencing on May 1st next occurring after the date of this Agreement, and on May 1st 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 1st, 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 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.

The Hangars shall, collectively, be at least a total of 19,000 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 two 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, as additional rent, shall construct and 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, built to the full width of the Leased Premises, and to connect with adjacent taxiway, ramp and/or auto parking areas, in order that a continuous and safe pavement section results. If access to the Leased Premises is not available on existing taxiways and/or roadways, then Lessee may also be required to construct the same pursuant to Section 7.1.1. 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. The construction time and default provisions of subsection 4.4 shall be applicable to the Ramp described in this subsection.

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.

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 fixtures, equipment and personal property which are located on any part of the Leased Premises. Lessee 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 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 with all federal, state and municipal laws, ordinances, rules, regulations and requirements, the Airport's 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 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 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 to insure 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 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 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, Lessee 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 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 the limitations of federal law. In addition, Lessee 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 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 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 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 Following the completion of construction of the Hangars, 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 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 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, by 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 Lease Premises, or the Airport, or as a result of any operations, works, acts, or commission performed on the Lease 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 to an entity which is not directly or indirectly owned or controlled by, or is not under common ownership or control with Lessee (collectively, an "Unaffiliated Entity" hereafter), 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 23 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 Sections 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 agrees 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 the 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 at Sections 8 and 9, herein. 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.

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 and Lessee in accordance with the applicable condemnation law, with Lessee 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 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 heirs, personal representatives, 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 personal representatives, 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:

15.2.1 No person on the grounds of race, color, disability or national origin 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, disability or national origin 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 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 insure 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 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 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 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 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 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 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 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 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 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 other than the payment of rent, and the failure of Lessee, and each 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 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, 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.

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 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 Section 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 Director
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: Latched Kowell, LLC
Attn: John Howell
3803 Oak Shadow Way
Fort Collins, CO 80528
Email Address: jawhowell@gmail.com

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 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 shall construed in accordance with the State of Colorado and 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 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 others 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 reserved 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.

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, to an Unaffiliated Entity as defined in Section 10.1, above, and has obtained a bona fide offer for such sale, Lessee 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 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) after receipt of the offer from Lessee to elect to purchase Lessee's interest (such sixty (60) day period referred to as the "Election Period"). If the Cities do not desire to purchase Lessee's interest, Lessee may then sell, assign, or otherwise transfer its interest in this Agreement 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 fails 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.

ARTICLE 31: REQUIREMENTS FOR CONDOMINIUMIZATION

This Agreement does not authorize Lessee to create either a common interest community or hangar condominiums on the Leased Premises. If Lessee desires to create a common interest community or hangar condominiums on the Leased Premises, a written amendment to this Agreement shall be required, containing such additional terms as the Cities may reasonably require, including but not necessarily limited to terms necessary for compliance with the Colorado state law.

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



Northern Colorado Regional Airport Commission


11-10-21
Date

ATTEST:



Secretary

APPROVED AS TO FORM:



Assistant City Attorney
for Northern Colorado Regional Airport Commission

LESSEE:

LATCHED KOWELL, LLC



John Howell, Managing Member

11/5/21
Date

EXHIBIT A

PROPERTY DESCRIPTION

A parcel of land being part of Lot 1, Block 1 of Amended Plat of Lots 1 Through 15, Barnstorm Second Addition recorded June 28, 2004 as Reception No. 20040062364 of the Records of Larimer County, located in the Northeast Quarter (NE1/4) of Section Thirty-three (33), Township Six North (T.6N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), City of Loveland, County of Larimer, State of Colorado and being more particularly described as follows:

COMMENCING at the Northeast corner of said Section 33 and assuming the East line of said NE1/4 as bearing South 00°24'38" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2599.42 feet with all other bearings contained herein relative thereto;

THENCE South 00°24'38" East along the East line of said NE1/4 a distance of 1641.06 feet;
THENCE South 89°35'22" West a distance of 631.79 feet to the Southerly line of said Lot 1 and to the Northerly Right of Way line of Gulfstream Court and to the **POINT OF BEGINNING**;

THENCE North 19°51'54" West a distance of 208.71 feet to the Northerly line of said Lot 1 and to the Southerly Right of Way line of Northrop Street;

THENCE North 70°08'06" East along the South Right of Way line of said Northrop Street a distance of 182.00 feet to a line parallel with and 40.00 feet Southwesterly of, as measured at a right angle to the South line of Gulfstream Hangers #3 Condominiums;

THENCE South 19°51'54" East along said parallel line a distance of 208.71 feet to the Southerly line of said Lot 1 and to Northerly Right of Way line of Gulfstream Court;

THENCE South 70°08'06" West along the North Right of Way line of said Gulfstream Court a distance of 182.00 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 37,985 Square Feet or 0.872 Acre, more or less (±), and is subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

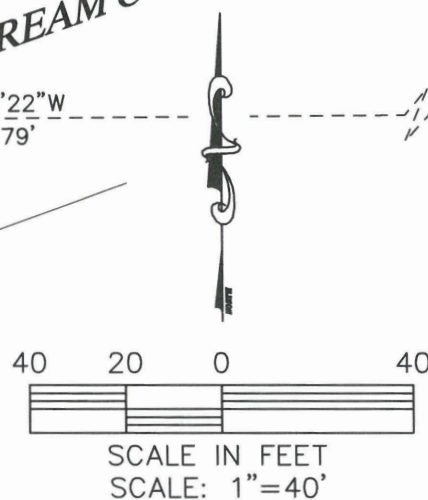
SURVEYORS STATEMENT

I, Christopher A. DePaulis, a Colorado Licensed Professional Land Surveyor do hereby state that this Parcel Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.



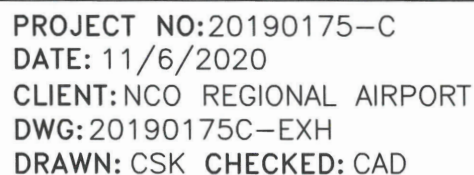
Christopher A. DePaulis- On Behalf Of King Surveyors
Colorado Licensed Professional
Land Surveyor #38105

KING SURVEYORS
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011



EAST QUARTER CORNER
SECTION 33, T.6N., R.68W.
FOUND #6 REBAR WITH
2" ALUMINUM CAP LS 11989

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon. (13-80-105 C.R.S. 2012)



Approver

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a: 512 5th St.
BERTHOUD CO. 80513
p: 970-532-9970
w. AsherArch.com
e: David@AsherArch.com

PROJECT INFORMATION:
21-R01
DOCUMENT DATE:
9/16/2021 12:11:04 PM
DOCUMENT PHASE:
PRELIMINARY DESIGN

[illegible]

A1.0

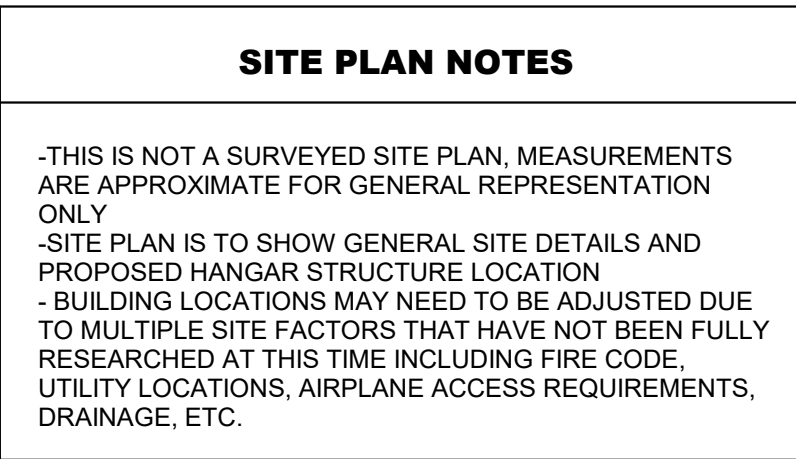
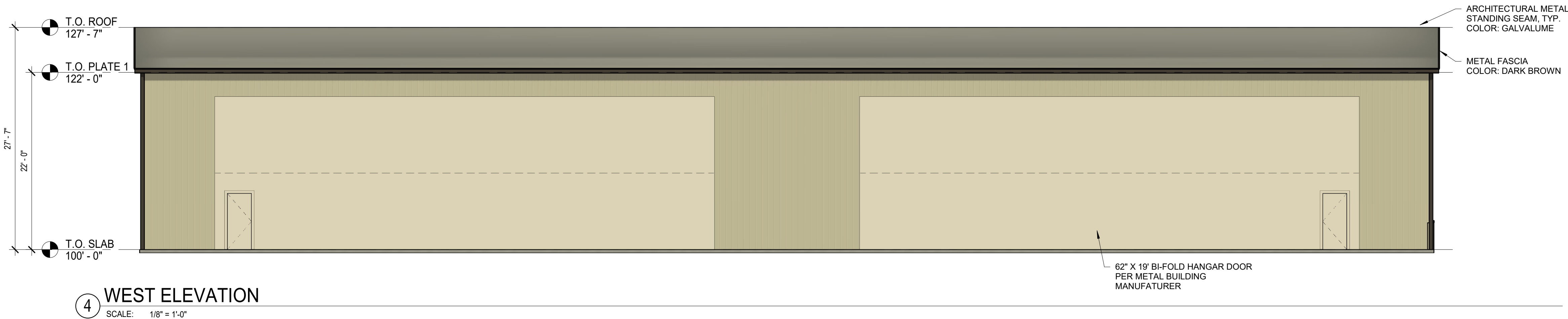
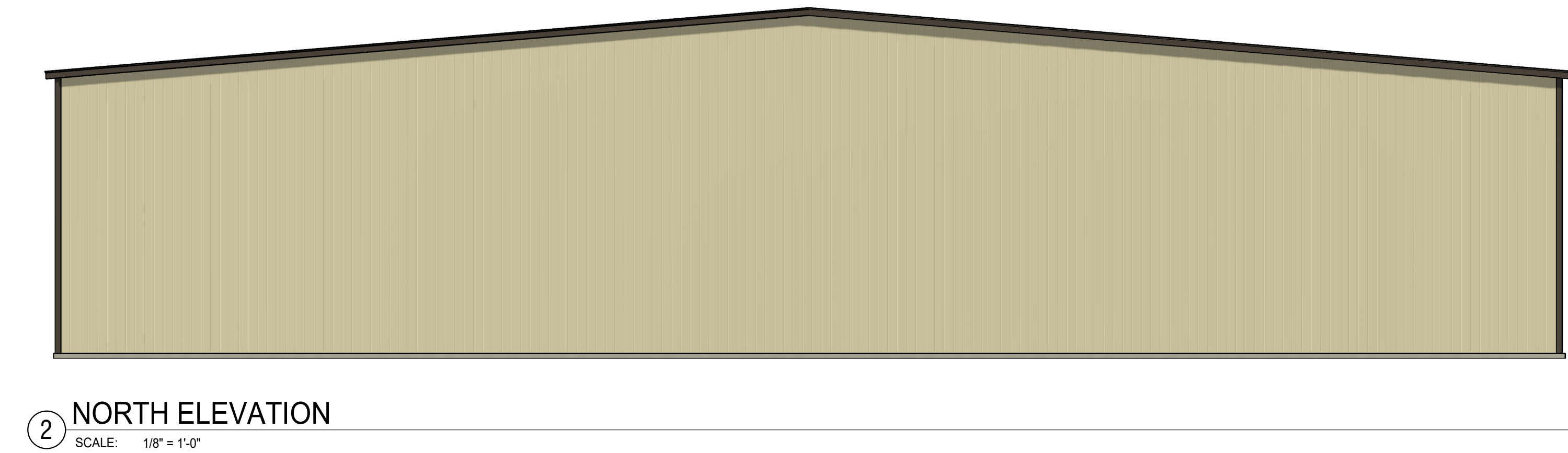
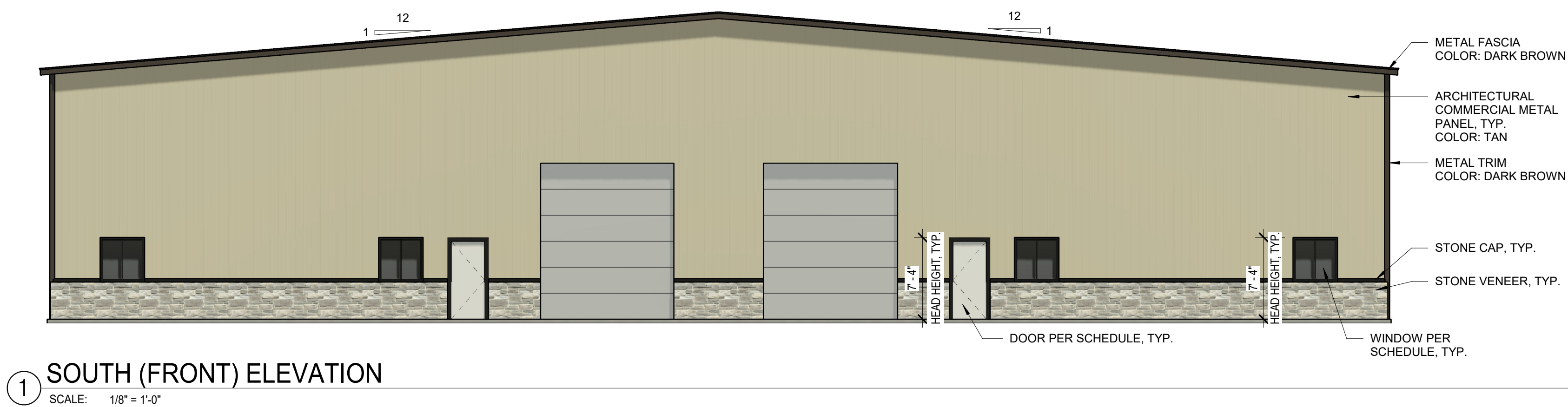


Exhibit B



REVIEW SET
NOT FOR
CONSTRUCTION

Approver
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JOHN HOWELL HANGAR
TBD GULFSTREAM CT, NORTHERN
COLORADO REGIONAL AIRPORT
LOVELAND, CO 80538

PROJECT INFORMATION:
21-R01
DOCUMENT DATE:
9/16/2021 12:11:30 PM
DOCUMENT PHASE:
PRELIMINARY DESIGN

DRAWN BY:	DATE	CHECKED BY:	DATE	REV.#	COMMENTS
GOV/ANNA	06/16/21	DAVID	07/14/21		

ELEVATIONS

A2.0

ITEM NUMBER: 3
MEETING DATE: July 10, 2024
PREPARED BY: Francis Robbins, Acting Airport Director

TITLE

Centrepont ("Triad") Through-the-Fence Agreement

RECOMMENDED AIRPORT COMMISSION ACTION

This is an informational item.

BUDGET IMPACT

Neutral

SUMMARY

At the May 16th meeting a request was made to provide the commission members with background information on Northern Colorado Regional Airport's (FNL) Through-the-Fence (TTF) agreement with Triad, a commercial zoned development of approximately 112 acres adjoining the East boundary of FNL between Rockwell Avenue and Earhart Road. Airport staff intend to request that the Commission recess into an executive session to receive legal advice and discuss matters subject to negotiations as authorized by Colorado revised statutes §§ 24-6-402 (4)(b) and (e)(i).

HISTORY

The Triad agreement was executed and amended in between 1982 and 1986. It allows aircraft stored off airport access to the airport landing and movement surfaces by an easement encompassing Runway 6-24 and the taxiway known now as Foxtrot (F). Key documents in the agreement history are herein listed.

- Taxiway Improvement and Easement Agreement – 5/4/1982 – Original Agreement establishing the Triad Through-The-Fence Development.
- Amended Taxiway Improvement and Easement Agreement – 5/4/1984 – Gave additional time for Triad to construct the Taxiway/Runway.
- Second Amended Taxiway Improvement and Easement Agreement – 10/8/1986 – Increased the fuel flowage fees for private fuel tanks on the Triad Development.

- Amended and Restated Declaration of Covenants and Restrictions for Loveland—Fort Collins Industrial Airpark—8/11/1986 – Established by the Triad Development Corporation and provided guidelines for what could be developed.

ATTACHMENTS Presentation Slides
Triad Through-The-Fence Documents

5-Triad Agreement

Informational Item- 55 min

Presenter - Francis Robbins Acting Airport Director

Possible Executive Session

TRIAD Documents



➤ Key Documents

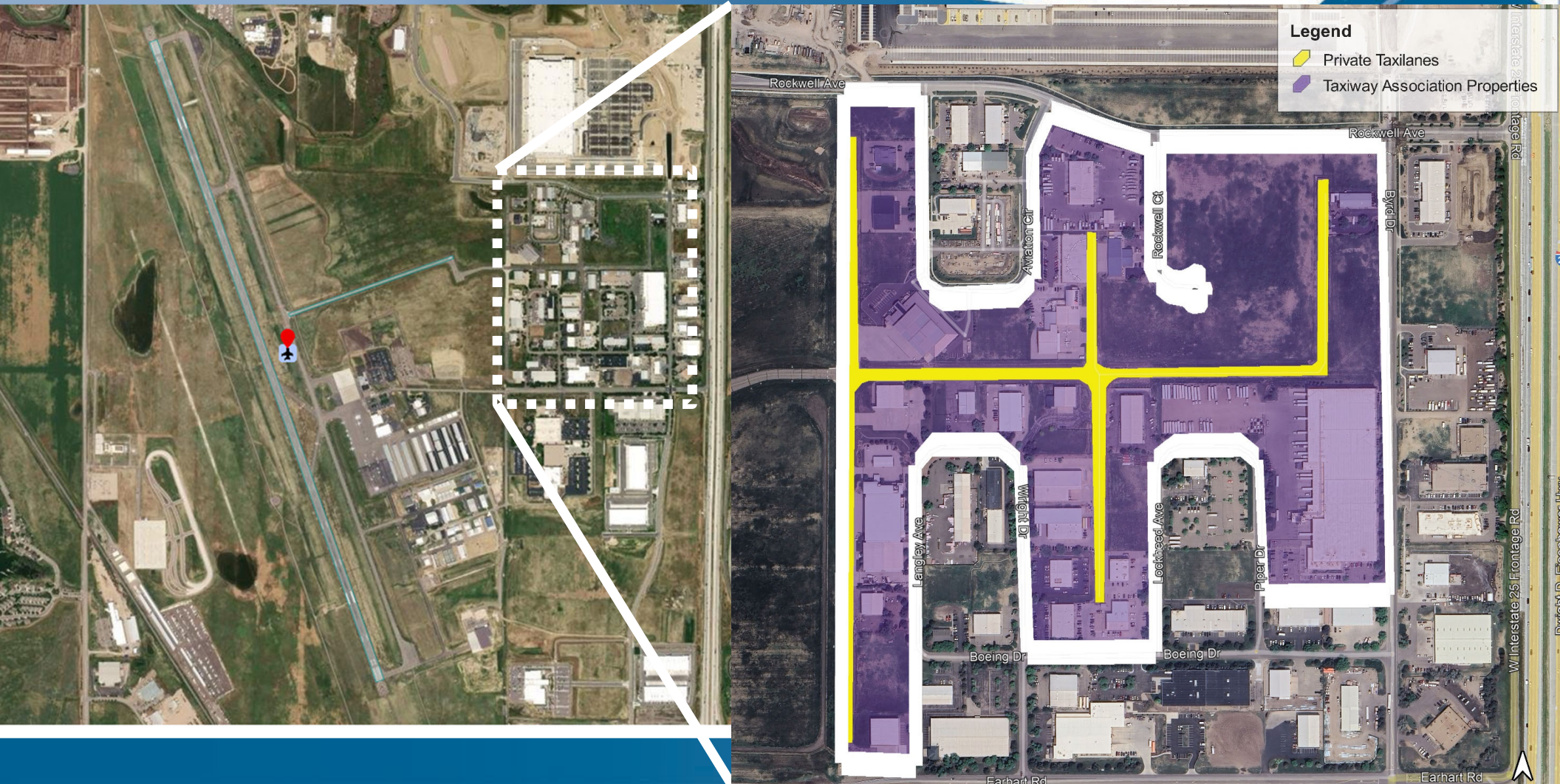
- Taxiway Improvement and Easement Agreement – 5/4/1982 – Original Agreement establishing the Triad Through-The-Fence Development.
- Amended Taxiway Improvement and Easement Agreement – 5/4/1984 – Gave additional time for Triad to construct the Taxiway/Runway.
- Second Amended Taxiway Improvement and Easement Agreement – 10/8/1986 – Increased the fuel flowage fees for private fuel tanks on the Triad Development.
- Amended and Restated Declaration of Covenants and Restrictions for Loveland—Fort Collins Industrial Airpark – 8/11/1986 – Established by the Triad Development Corporation and provided guidelines for what could be developed.

What are Through-The-Fence Operations?



Through-The-Fence (TTF) operations occur when an airport sponsor grants an entity ground access by an aircraft across the airport's property boundary to the airport's airside infrastructure (e.g., runways and taxiways) and permission to engage in associated activities from property adjacent to the airport.

Where is it?



Executive Session

AS AUTHORIZED BY COLORADO REVISED STATUTES §§ 24-6-402 (4)(B) AND (E)(I).

TRIAD THROUGH-THE-FENCE DOCUMENTS

Table of Contents

Pages 1 - 7 Second Amended Taxiway Improvement and Easement Agreement - 10/8/86

Pages 8 - 30 Amended Taxiway Improvement and Easement Agreement - 5/4/84

Pages 31 - 46 Taxiway Improvement and Easement Agreement - 5/4/82

SECOND AMENDED TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT

This Second Amended Agreement, made and entered into effective October 8, 1986, is by and between TRIAD DEVELOPMENT CORPORATION, INC., an Arizona Corporation (hereinafter referred to as "Triad"); the CITY OF FORT COLLINS, COLORADO, a Municipal Corporation, and the CITY OF LOVELAND, COLORADO, a Municipal Corporation; and the FORT COLLINS - LOVELAND AIRPORT AUTHORITY, a Public Airport Authority (hereinafter referred to as "Owner"), which now operates the Fort Collins, - Loveland Municipal Airport (hereinafter "Airport"), pursuant to the terms of an Agreement dated December 20, 1983 with the Cities of Loveland, Colorado, and Fort Collins, Colorado, who shall be deemed the "Owner" in the event the Fort Collins - Loveland Airport Authority ceases to operate the airport.

WITNESSETH:

In consideration of the premises and covenants herein contained and payments to be made hereunder, the parties agrees as follows:

1. Triad and the Cities have previously entered into a Taxiway Improvement and Easement Agreement dated May 4, 1982 which is recorded at Book 2172, Page 1459, Records of Larimer County Clerk and Recorder, hereinafter referred to as "Taxiway Agreement". The parties entered into an "Amended Taxiway Improvement and Easement Agreement" dated May 4, 1984 which superseded and supplanted the said "Taxiway Agreement". This "Second Amended Taxiway Improvement and Easement Agreement" supersedes and modifies Exhibit "5" of the Agreement.

2. The following shall be adopted as the full text of Exhibit "5" of the "Amended Taxiway Improvement and Easement Agreement" dated May 4, 1984:

EXHIBIT "5" TO AMENDED TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT

FUEL FLOWAGE FEES AND REQUIREMENTS
FOR SELF-FUELING IN TAXIWAY ACCESS AREA

1. Fuel storage tanks shall have a minimum capacity of 10,000 gallons and shall comply with all applicable Federal Aviation Administration, National Fire Protection Association, and building and zoning standards and requirements.

2. Fuel from such storage tanks shall be restricted to use solely by the owners and occupants of real property in the taxiway access area, and no resale of the fuel to any other person or entity shall be permitted without the express written consent by the governing body of the Fort Collins - Loveland Municipal Airport or its designated representative or agent.

3. All persons performing the handling of fueling operations shall be adequately trained and qualified to perform such functions with skill and safety.

4. Except as may otherwise be provided in the Amended Taxiway Improvement and Easement Agreement to which this Exhibit "5" is attached, there shall be paid to the Owner the following fees:

4.1. A sum equivalent to ten percent (10%) of the actual cost, or eight cents (\$0.08) per gallon, whichever is greater, of the fuel delivered each month to the storage facility. This charge shall hereafter be referred to as the "base fuelage fee".

4.2. In addition to the base fuelage fee set forth above, a "surcharge fuelage fee" calculated upon the differential between the actual cost of fuel delivered, and the "retail price of fuel". For purposes of calculation of this surcharge fuelage fee, "retail price" shall be defined as the mean retail price of fuel at Arapahoe County and Jeffco Airports during the thirty (30) days immediately preceeding delivery of the fuel to the storage facility; and "fuel cost differential" shall be defined as the "retail price" minus the actual cost of the fuel delivered to the self-fueling storage facility. The Owner's good faith determination of such surcharge fuelage fee shall be binding on the parties. The surcharge fuelage fee shall be as follows: a) for the period commencing with the first day of the first month in which delivery of fuel is made to the storage facility, and through and including the last day of the next succeeding eleven (11) months, the fee shall be equivalent to a sum calculated by multiplying 0.48 times the fuel cost differential. In the event evidence is presented by a property owner to the Owner conclusively showing that the property owner's actual fuel purchases from the FBO(s) on the Airport for the twelve month period prior to commencement of self fueling are less than 10% of the fuel sale revenue for the fuel class used by the property owner, then the Owner may, in its sole discretion, waive the surcharge fuelage fee for such property owner. No prior waiver or modification of the surcharge fuelage fee shall be construed as a policy, rule

or regulation of the Owner with respect to other requests for waiver or modification of the surcharge fuelage fee.

5. The base fuelage fee and surcharge fuelage fee are due and payable within ten (10) days following each fuel delivery to the fuel storage facility.

6. Each operator of a self-fueling facility in the taxiway access area shall provide a monthly report to the governing body of the Fort Collins - Loveland Municipal Airport reflecting the total amount fuel delivered to the storage facilities during the previous calendar month. Said report shall be delivered within five (5) working days of the end of each month commencing with the first month following initial delivery of fuel to the fuel storage facility.

(END EXHIBIT "5")

3. Except as herein modified, the remainder of the terms of the "Amended Taxiway Improvement and Easement Agreement" are reaffirmed without modification.

IN WITNESS WHEREOF, the parties have executed this Second Amended Taxiway Improvement and Easement Agreement effective on the day and year first set forth above.

TRIAD DEVELOPMENT CORPORATION, INC.

By *Ralph Ogburn*
RALPH OGBURN, President
DATE: 12-18-86

ATTEST:

Barbara A. Van Hook
Secretary

CITY OF FORT COLLINS, COLORADO,
A Municipal Corporation

By *Bob Jenkins*
MAYOR
DATE: 12-29-89

ATTEST:

Molly Davis, Deputy City Clerk
Secretary

Approved As To Form:

Mary Cunningham-Suit
Fort City Atty.

184

City Attorney, City of Fort Collins,
Colorado

CITY OF LOVELAND, COLORADO,
A Municipal Corporation



By W. B. Reed
MAYOR
DATE: August 4-1987

Approved As To Form:

W. B. Reed
City Attorney, City of Loveland,
Colorado

FORT COLLINS - LOVELAND AIRPORT
AUTHORITY, A Public Airport
Authority

By B. R. G.
The Chairman of the Board of the
Fort Collins - Loveland Airport
Authority
DATED: 10 January 1990

ATTEST:
Joseph E. Sullivan
Secretary

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 24

DATE: December 19, 1989

STAFF: Julia Novak

SUBJECT:

Resolution 89-224 Authorizing the Mayor to Enter into a Second Amended Taxiway Improvement and Easement Agreement With Triad Development Corporation, Inc.

RECOMMENDATION:

Staff recommends adoption of the Resolution.

FINANCIAL IMPACT:

There is no direct financial impact to the City of Fort Collins, however in consideration of this agreement the Fort Collins-Loveland Airport Authority receives an increased base fuelage fee of 10% or eight cents per gallon, which ever is greater (previously the agreement provided only a 6% or five cent per gallon base fuelage fee).

EXECUTIVE SUMMARY:

Approval of this resolution will authorize the Mayor to sign and execute a contract which was originally prepared in 1986. The City of Loveland authorized the agreement in August of 1987, and for whatever reason, the Fort Collins City Council was not forwarded the agreement for Council action. The Airport Authority has actually been operating under this agreement since 1986. Council approval is required because this is an amendment to an agreement made prior to the formation of the Airport Authority at a time when both cities were necessary parties. Since the City is a party, the agreement cannot be changed without its participation. This agreement has been beneficial to the Airport Authority, and staff considers this now to be a housekeeping matter. The attached memorandum from Airport Commissioner and Council Member Azari provides additional explanation.

BACKGROUND:

In May of 1982, the Cities of Fort Collins and Loveland entered into an agreement with Triad Development Corporation for taxiway improvements upon

the Airport property which would permit aircraft access to the Airport taxiways and runways from an adjacent property developed by Triad Development Corporation. The taxiway improvements provide general benefits to the Fort Collins-Loveland Airport and provide revenues to the Airport. The 1982 agreement was extended in 1984 with agreement by the Fort Collins and Loveland City Council's and the Airport Authority.

RESOLUTION 89- 224
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR TO ENTER INTO A
SECOND AMENDED TAXIWAY IMPROVEMENT AND EASEMENT
AGREEMENT WITH TRIAD DEVELOPMENT CORPORATION, INC.

WHEREAS, on May 4, 1982, the Cities of Fort Collins and Loveland (prior to the existence of the Fort Collins-Loveland Airport Authority) executed the Taxiway Improvement and Easement Agreement with Triad Development Corporation, Inc. ("Triad") to facilitate the development of the Industrial Air Park; and

WHEREAS, on May 4, 1984, the Cities of Fort Collins and Loveland and Triad replaced the May 4, 1982 agreement with one entitled "Amended Taxiway Improvement and Easement Agreement," which agreement added the Fort Collins-Loveland Airport Authority (the "Authority") as a named party; and

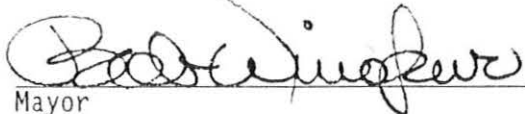
WHEREAS, under the 1984 agreement, Triad constructed a taxiway on a portion of the Fort Collins-Loveland Airport and continuing on to its own property located adjacent to the Airport, gained certain rights of access to Airport property and agreed to remit certain self-fueling fees to the Authority; and

WHEREAS, effective October 8, 1986, the Authority and Triad began operating under the "Second Amended Taxiway Improvement and Easement Agreement," which agreement incorporated a new Exhibit 5, resulting in an increase in the fuelage fees owed by Triad to the Authority; and

WHEREAS, the City Council wishes to ratify the 1986 agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS, COLORADO, that the Mayor be, and he hereby is, authorized to enter into the Second Amended Taxiway Improvement and Easement Agreement with Triad Development Corporation, Inc.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 19th day of December, A.D. 1989.


Mayor

ATTEST:


City Clerk

AMENDED TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT

This amended Agreement, made and entered into effective May 4, 1984, is by and between TRIAD DEVELOPMENT CORPORATION, INC., an Arizona Corporation (hereinafter referred to as "Triad"); the CITY OF FORT COLLINS, COLORADO, a Municipal Corporation, and the CITY OF LOVELAND, COLORADO, a Municipal Corporation; and the FORT COLLINS - LOVELAND AIRPORT AUTHORITY, a Public Airport Authority (hereinafter referred to as "Owner"), which now operates the Fort Collins - Loveland Municipal Airport (hereinafter "Airport"), pursuant to the terms of an Agreement dated December 20, 1983 with the Cities of Loveland, Colorado, and Fort Collins, Colorado, who shall be deemed the "Owner" in the event the Fort Collins - Loveland Airport Authority ceases to operate the Airport.

WITNESSETH:

In consideration of the premises and covenants herein contained and payments to be made hereunder, the parties agrees as follows:

1. Triad and the Cities have previously entered into a Taxiway Improvement and Easement Agreement dated May 4, 1982 which is recorded at Book 2172, Page 1459, Records of Larimer County Clerk and Recorder, hereinafter referred to as "Taxiway Agreement". This Agreement supersedes and supplants the said "Taxiway Agreement".

2. Taxiway Improvements. Triad is hereby authorized to construct upon the Loveland - Fort Collins Airport taxiway improvements located as shown upon Exhibit "1" attached hereto, to have a paved surface no less than forty feet (40') in width and be constructed substantially in accordance with Exhibit "2" or the then applicable (if different than Exhibit "2") Federal Aviation Administration design specifications at the time of construction for taxiways accommodating dual wheel gear aircraft with a maximum gross weight of 60,000 pounds, whichever specifications render the greatest load bearing capacity. Triad shall include in such construction reflectors or other FAA approved marking devices, other than lights, to mark the taxiway. A portion of the cost of such construction and marking shall be eligible for refunding in accordance with paragraph 3 below. Triad, in its discretion, and at its sole expense, may at anytime oversize the taxiway improvements but shall have no obligation to do so. All improvements shall be constructed in accordance with specifications and plans approved by the Owner, which approval shall not be unreasonably withheld.

2.1. Upon completion of the taxiway improvements, that portion of the taxiway which is to be used as a combination of temporary crosswind runway and taxiway shall be appropriately marked to designate such usage. The Owner anticipates at sometime in the future that a permanent crosswind runway will be constructed, but the Owner shall have no obligation to do so and the taxiway may be

used indefinitely as a runway and taxiway. At such time as such permanent runway is completed, the taxiway improvements completed by Triad shall revert solely to taxiway use and the taxiway will be appropriately remarked at no cost to Triad or its successors or assigns.

2.2. The installation of the taxiway improvements shall be performed in a good and workmanlike fashion, and the contractor performing such work shall guarantee the materials and workmanship for a period of not less than one (1) year. The Owner shall have the right to inspect the work during construction and upon completion of the work. Upon its completion and provision to the Owner of evidence sufficient to show title to the work unencumbered by any encumbrances or liens, all such improvements located upon the Airport property shall thereupon be conveyed free of all liens and encumbrances to the Owner. Title shall vest in Owner upon acceptance of such conveyance by Owner, which shall not be unreasonably withheld.

3. Refunding. It is agreed that Triad shall have the right and opportunity to recoup a maximum of fifty percent (50%) of the costs eligible for refunding. In order to provide such reimbursement, at such time as any portion of the land within the "taxiway use zone" (as shown upon Exhibit "3"), is first leased by the governing body of the Fort Collins - Loveland Municipal Airport for use for aeronautical related activities, there shall be paid to Triad by the Cities a sum to be calculated by multiplying fifty percent (50%) of the cost of the taxiway improvements installed by Triad times a fraction in which the numerator is the square footage of the leased area, and the denominator is the total square footage in the taxiway use zone which the Owner plans to use or make available for use for aeronautical related activities.

3.1. The Owner agrees that, at the time any land in the "taxiway use zone" is first leased or improved for aeronautical activities, the Owner will define the area within the "taxiway use zone" which will be assessed for reimbursement. Such area will include all land within the "taxiway use zone" which will be reasonably expected to benefit from the taxiway improvements installed by Triad, but shall not include automobile service stations, rental auto offices, or public auto parking lots and roadways. The area so determined shall hereafter be called the "taxiway contribution area".

3.2. Triad shall, within one hundred and twenty (120) days after completion of any improvements constructed pursuant to this Agreement, supply to the Owner a statement of the total costs of such improvements, and support documentation if requested by the Owner.

3.3. The obligation of the Owner to provide reimbursement to Triad hereunder shall extend for a period of fifteen (15) years

from the date of completion of the improvements, and shall terminate without any act of the parties at the expiration of said period unless extended in writing by the Owner.

4. Use and Fee Covenants. The real property being developed by Triad is known as the Loveland - Fort Collins Industrial Airpark, and certain portions of the Airpark shall have direct access to the taxiway improvements which are the subject of this Agreement. Those portions of the real property having such direct access are hereinafter referred to as the "taxiway access area" and are described as Block 3 of the Master Plan of the Loveland - Fort Collins Industrial Airpark, dated November 4, 1981, as revised December 15, 1981 (hereinafter "Master Plan"), and no amendment to such Master Plan shall affect the terms of this Agreement unless approved in writing by Owner. Triad agrees to impose covenants upon the taxiway access area, prohibiting uses of the property for commercial aeronautical activities (as hereafter defined), and prohibiting sale of aviation fuel to the public. Such covenants shall not prevent aeronautical uses which are secondary or incidental to the primary use of the property which is not a commercial aeronautical use, and shall not prevent any aircraft operator from adjusting, repairing, refueling, cleaning, and otherwise servicing his own aircraft. In the event such covenants or any other covenants or agreements required to be created by Triad pursuant to the terms of this Agreement are not recorded, then this Agreement shall be construed as creating such restrictions on the Taxiway Access Area. In the event of any conflict between such covenants and this Agreement, this Agreement shall control.

4.1. For the purposes of this Agreement, the following shall constitute "commercial aeronautical activities" if provided to the public: airtaxi, charter, and aircarrier service operations; pilot training; aircraft rental; aerial sightseeing, spraying, and advertising; aircraft sales and service; aircraft storage; sale of aircraft parts; repair and maintenance of aircraft; sale or dispensing of aviation petroleum products; rental of motor vehicles. The Owner shall have a right to inspection of the property and improvements in the taxiway access area for the purpose of insuring compliance with this Agreement.

4.2. The Owner covenants and agrees that no owner of property in said taxiway access area shall be charged any direct fee, rental, or other charge which is used to directly defray or directly reimburse any of the reimbursable costs of taxiway improvements installed by Triad in accordance with this Agreement.

5. Control of Access.

5.1. The parties agree that in the event that any party hereto, or the owners in the taxiway access area find it desirable to provide a means by which access between the taxiway access area and the Airport is controlled in order to protect and preserve the

property and interest of the owners of land in the taxiway access area or to preserve the Owner's interest in protecting the general welfare and safety and the operation of the Airport, then the Owner may establish reasonable methods and procedures designed to insure that access to and from Airport facilities and the taxiway access area, by use of the taxiway improvements installed by Triad, may be gained only by the owners of property in the taxiway access area.

5.2. As a condition for access onto the Airport from the taxiway access area, each property owner or user shall be obligated to abide by the covenants placed upon the property by the owners. Further, as an additional condition for gaining access to the Airport from the taxiway access area, each property owner or user shall be prohibited from engaging in the commercial aeronautical activities described in paragraph 4.1 above on the property contained in the taxiway access area.

5.3. It is specifically understood and agreed that the provisions of this Section 5 shall be enforceable against each lot owner individually, or each person gaining access to the Airport from the taxiway access area.

6. Grant of Easement. The Owner agrees that upon commencement of the construction by Triad of the improvements described in this Agreement, the Owner shall forthwith execute and deliver to Triad an access easement in the form attached hereto as Exhibit "4". The time of commencement for such improvements shall occur at such time as required by the terms of the Subdivision Improvements Agreement effecting the taxiway improvements as entered into between Triad and the County of Larimer in connection with the approval by the County of Larimer of the Loveland - Fort Collins Industrial Airpark, and such Subdivision Improvements Agreement may hereafter be amended, extended, or modified, or May 4, 1988, whichever first occurs.

7. Maintenance. The Owner shall, subsequent to acceptance of the improvements by the Owner, maintain the completed improvements constructed by Triad on Airport land; however it is agreed that the costs of such maintenance should be shared equitably by property owners in the taxiway access area having a taxiway easement and others having access to the taxiway as follows:

7.1. The property owners in the taxiway access area shall be responsible for reimbursement to the Owner for that portion of the maintenance costs incurred subsequent to acceptance of the improvements by the Owner calculated by multiplying the total costs of such maintenance times a fraction whose numerator is the square footage of property in the taxiway access area adjacent to taxiway systems in the taxiway access area, and whose denominator is equivalent to the sum of the numerator plus the square footage of land in the "taxiway contribution area" (as defined in

paragraph 3.1 above) which has been leased or improved by the Owner for use for aeronautical related activities on or before the time such maintenance costs are incurred.

7.2. Triad agrees to impose covenants upon the land in the taxiway access area requiring the property owners in that portion of the taxiway access area, subject to reimbursement of maintenance costs as set forth above, to provide payment monthly, or at longer intervals as may be selected by the Owner, to the Owner for the costs of maintenance as calculated in paragraph 7.1. above within thirty (30) days following written notification by Owner of the amount of costs for which they are responsible, together with supporting documentation. Such payments shall be collected by and remitted to Owner by a property owners association composed of those subject to the obligation for such reimbursement, which association Triad hereby agrees to create in connection with the covenants imposed. Failure of the Association to collect and pay over to Owner the maintenance assessments owing may, at the Owner's option, result in closure of the point of access to the taxiway until such assessments are paid.

7.3. "Maintenance" costs, for the purposes of this Agreement, shall mean all costs incurred by the Owner for snow removal, sweeping, repair, lighting, electricity, resurfacing, and all other expenses necessary to maintain such improvements.

8. Fuel Fees.

8.1. Each property owner located in the taxiway access area shall comply with the standards of construction and operation of self-fueling facilities, and remit to the Owner the fuel fees in the amount and fashion set forth in Exhibit "5"; provided that if there is hereafter established by the Owner different standards or different fuel fees for such operations on Airport property, then such different standards and fees shall be applicable to the property owners located in the taxiway access area.

8.2. Nothing herein shall be construed to prevent the Owner from imposing reasonable and fair fees, rates, tolls, and charges for the use of the Airport facilities except as is provided in paragraph 4.2 above.

8.3. Failure of any property owner or user to remit payment for said rates, fees, rental, or other charges imposed herein or by rule or regulation shall be grounds upon which the Owner can deny the same access to the Airport, in addition to all other remedies which Owner may have.

8.4. Upon request of the Owner, the Owner's Association, referred to in paragraph 7.2 above, shall collect the fuel fees payable pursuant to paragraph 8.1 and remit the same to the Owner. Failure

of the Association to collect and remit such fees following request of the Owner, may, at the Owner's option, result in closure of the point of access to the taxiway until such remittance has been made.

9. Annual Fee. Triad shall, as further consideration to Owner for this Amended Agreement, make payment to Owner of the sum of One Hundred Dollars (\$100.00) annually until the taxiway improvements have been completed. The first such payment shall be made within thirty (30) days of the time that this Agreement has been executed by each party, and thereafter such payment shall be made on June 1 of each year in which this Agreement is in effect and the taxiway improvements have not been completed.

10. Aircraft Registration. The owners or pilots of all aircraft that are normally based, stored, or serviced shall register such aircraft with, and provide the Owner with such information as may be requested, on a form to be prescribed by Owner. In addition to any other remedy which may be available to the Owner against the person or persons failing to comply with this section, such noncompliance shall be grounds upon which the Owner may deny access to the Airport for the aircraft which have not been so registered.

11. Access Easement to Owner. Triad covenants and agrees that at such time as the taxiway easement described in paragraph 6 is granted by Owner, Triad shall provide for permanent access by Owner to the Airport lands lying North of the taxiway easement. Such permanent access may be in the form of dedicated public streets or rights-of-way, or by grant of a nonexclusive easement to Owner, for access along the Northern boundary of the land described in the Master Plan, or at such other location selected by Triad as will provide access from a dedicated and improved public road. Improvement and maintenance of any such access easement shall be the responsibility of Owner. Improvement and maintenance of any access street dedicated to the public in connection with subdivision of land in the Master Plan shall be in accordance with any requirements regarding the same established at the time of subdivision; provided that if Owner desires such street to be improved prior to the time the street would otherwise be required to be improved in connection with subdivision, then the cost and maintenance thereof shall be borne by the Owner.

12. Term, Effect, Integration, and Severability. This Amended Taxiway Improvement and Easement Agreement constitutes the entire agreement of the parties hereto and replaces and supersedes the Taxiway Improvement and Easement Agreement above identified which was entered into on May 4, 1982 between the Cities and Triad. This Agreement shall be recorded in the records of the Office of the Larimer County Clerk and Recorder, and the cost for such recording shall be paid by Triad.

12.1. The terms of this Agreement shall be binding upon and inure to the benefit of the successors, representatives, and assigns of


the parties hereto, including each user or owner of property located in the taxiway access area.

12.2. This Agreement may be altered, amended, or otherwise revised only by written agreement of the parties hereto.

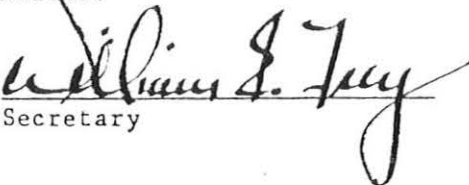
12.3. If any provisions, sentence, phrase, or word in this Agreement shall be determined to be void, invalid, or unenforceable by a final judgment of a court of competent jurisdiction, such determination shall not affect any other remaining provision, portion of provision, sentence, phrase, or word; provided that, notwithstanding the foregoing, should determination be made that taxiway access to the Airport from the taxiway access area of the Loveland - Fort Collins Industrial Airpark is not available in perpetuity, then the provisions regarding maintenance costs to be paid by property owners in the taxiway access area of the Airpark shall be deemed unenforceable and void.

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the day and year first set forth above.

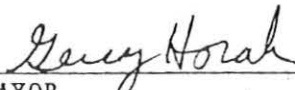
TRIAD DEVELOPMENT CORPORATION, INC.

By 
RALPH OGBURN, President
DATE: Aug. 9, 1984.

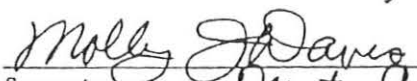
ATTEST:


Secretary

CITY OF FORT COLLINS, COLORADO,
A Municipal Corporation

By 
MAYOR
DATE: September 7, 1984

ATTEST:


~~Secretary~~ Deputy City Clerk

rec'd 9/29/84

(14)

Approved As To Form:

John W. Hinson
City Attorney, City of Fort Collins,
Colorado

CITY OF LOVELAND, COLORADO,
A Municipal Corporation

By Ray R. B.
MAYOR
DATE: Sept. 10, 1984



Approved As To Form:

Carol B.
City Attorney, City of Loveland,
Colorado

FORT COLLINS - LOVELAND AIRPORT
AUTHORITY, A Public Airport
Authority

By John A. Smith
The Chairman of the Board of the
Fort Collins - Loveland Airport
Authority
DATED: 7/16/84

ATTEST:
Joseph E. Dull
Secretary

15-

FINAL WAY (ASSESSMENT NO. 1)

DESCRIPTION OF A 20 foot wide permanent easement with shortened and extended side lines to meet existing property lines as shown on the accompanying plat located in the SE 1/4 of Section 26, 16N, 24W, of the 6th P.M. Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the S $\frac{1}{2}$ of said Section 26, as bearing N 00° 08' 44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28, said point being the true point of beginning; thence, along the said line of the said 20 foot easement; N 00° 09' 44" E 2847.56 feet to the 1/4 corner of said Section 28, said point being the terminal point of the said easement.

The above described easement is subject to all easements and rights of way now on record or indicated on the attached plat.

ALIMAT (ASEM) NO. 2

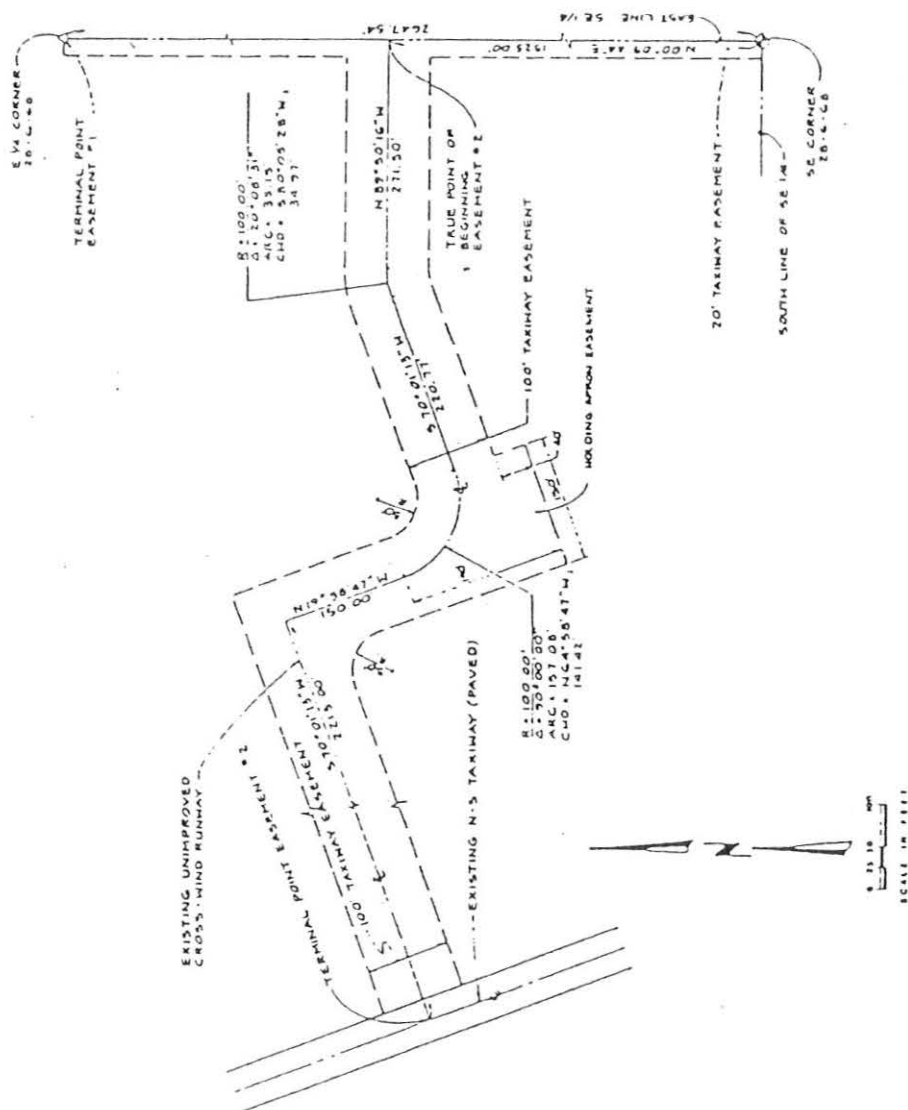
and extended side lines to meet existing property lines and existing area easement as shown on the accompanying plat; located in the SE 1/4 of section 25, 13N, 88W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Considering the axis line of the $5\frac{1}{4}$ of said Section 28 as bearing $S 0^{\circ} 09' 44'' E$ and with all bearings contained herein relative thereto.

[illegible]

The above described agreement is subject to all easements and rights of way now on record or indicated on the attached plat.

James M. Nichols, Registrar and Surveyor
and Professional Engineer
Colorado Registration No. 4414



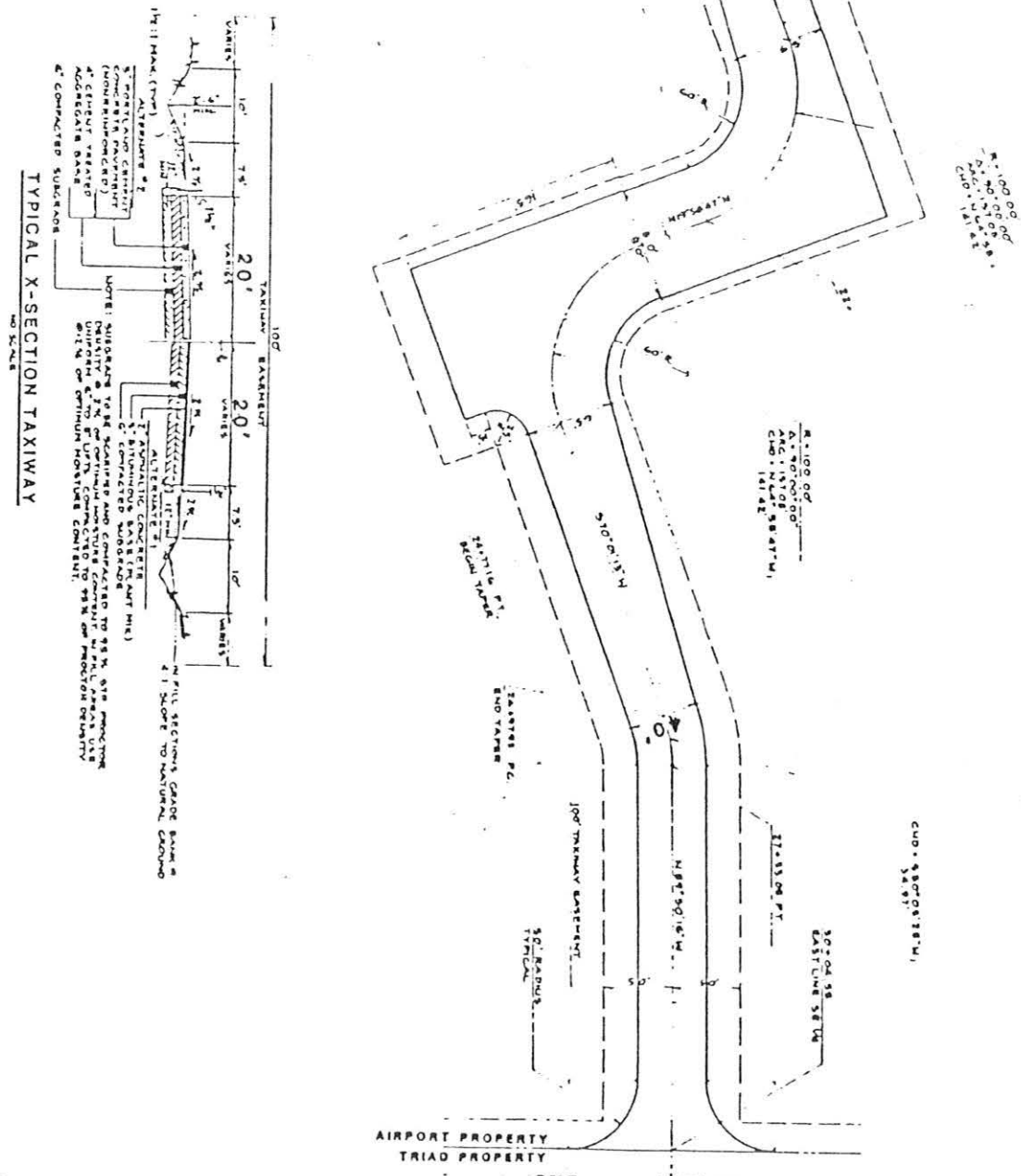
MGI consulting engineers
110 SOUTH COLLEGE AVENUE

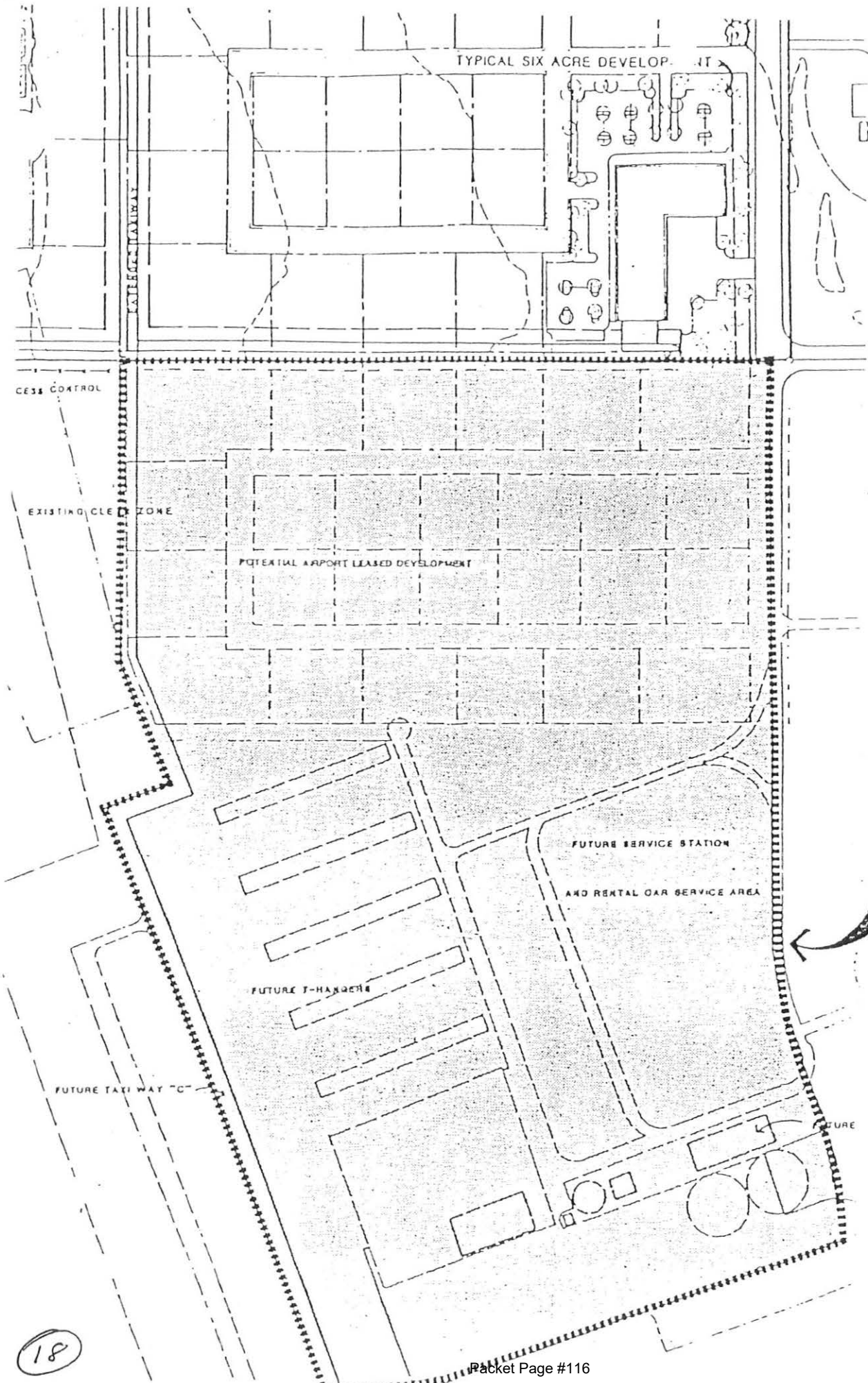
CLIENT THIRD DEVELOPMENT CASE 2-10-91
PROJECT WORKSHEET FOR THE PROJECT
JOB # 104.001 MC TRIM 6 CM

EXHIBIT "1" - AMENDED TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT between TRIAD DEVELOPMENT CORPORATION, INC.; and CITIES OF LOVELAND and FORT COLLINS; and FORT COLLINS - LOVELAND AIRPORT AUTHORITY

EXHIBIT "2"

AMENDED TAXIWAY IMPROVEMENT AND
EASEMENT AGREEMENT between
TRIAD DEVELOPMENT CORPORATION, INC.;
CITIES OF LOVELAND and FORT COLLINS;
and FORT COLLINS - LOVELAND AIRPORT
AUTHORITY





APPX. EXTENT OF AREA CONTRIBUTING TO TAXIWAY REPAYMENT

EXHIBIT "3" - AMENDED TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT between TRIAD DEVELOPMENT CORPORATION, INC.; CITIES OF LOVELAND and FORT COLLINS; and FORT COLLINS - LOVELAND AIRPORT AUTHORITY

GRANT OF EASEMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, the City of Loveland, a Colorado municipal corporation, and Fort Collins, a Colorado municipal corporation (hereinafter referred to as "Grantors"), do hereby grant to Triad Development Corporation, Inc., an Arizona corporation, its representatives, successors and assigns, and any person or entity now owning or hereafter acquiring all or any portion of the property described in Exhibit "A" attached hereto (hereinafter collectively referred to as "Grantees"), a nonexclusive easement and right-of-way for aircraft and ground service vehicles into, upon, over, across, and through the following described real property:

TAXIWAY EASEMENT NO. 1

DESCRIPTION OF a 20 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines as shown on the said accompanying plat attached hereto as Exhibit "B" and incorporated herein by this reference; located in the SE 1/4 of Section 28, T6N, R68W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28, as bearing N 00°09'44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28, said point being the True Point of Beginning; thence, along the said east line, being the easterly line of the said 20 foot easement; N 00°09'44" E 2647.54 feet to the E 1/4 corner of said Section 28, said point being the Terminal Point of the said easement.

and;

TAXIWAY EASEMENT NO. 2

DESCRIPTION OF a 100 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines and holding apron as shown on the said accompanying plat attached hereto as Exhibit "B"; located in the SE 1/4 of Section 28, T6N, R68W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28 as bearing N 00°09'44" E and with all bearings contained herein relative thereto.

EXHIBIT "4" - AMENDED TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT between TRIAD DEVELOPMENT CORPORATION, INC.; CITIES OF LOVELAND and FORT COLLINS; and FORT COLLINS - LOVELAND AIRPORT AUTHORITY

Commencing at the SE corner of the said Section 28; thence, along the said east line, N 00°09'44" E, 1525.00 feet to the True Point of Beginning; thence, along the centerline of the said easement, N 89°50'16" W, 271.50 feet; thence, 35.15 feet along the arc of a curve to the left with a central angle of 20°08'31", radius of 100.00 feet and whose long chord bears S 80°05'28" W, 34.97 feet; thence S 70°01'13" W, 220.77 feet; thence, 157.08 feet along the arc of a curve to the right, with a central angle of 90°00'00", radius of 100.00 feet, and whose long chord bears N 64°58'47" W, 141.42 feet, thence, N 19°58'47" W, 150.00 feet more or less to the centerline of the existing unimproved cross-wind runway of the Fort Collins - Loveland Municipal Airport; thence, S 70°01'13" W, 2213 feet more or less to the centerline of the existing north-south taxiway, said point being the Terminal Point of the said easement.

together with aircraft and ground service vehicle access to all the taxiway and runway systems of the Fort Collins - Loveland Municipal Airport as they now, and hereafter may exist.

The easement and right-of-way herein granted shall be appurtenant to and benefit and run with the land described in said Exhibit "A", and to all persons using the taxiway and runway systems of the Fort Collins - Loveland Municipal Airport. Grantees and all persons using such taxiway and runway systems shall be subject to and shall comply with the rules and regulations as are now or may hereafter be established by governmental or quasi-governmental bodies having authority to control the use of the said Airport. Grantors reserve the right to use or grant to others reasonable additional uses of the said real property, including, but not limited to, utility and vehicle use which do not preclude the aircraft and ground service vehicle usage herein granted.

DATED this 4th day of September, 1984.

CITY OF FORT COLLINS, COLORADO,
A Municipal Corporation

By Garry Horak
MAYOR

ATTEST:

Molly J Davis
Deputy City Clerk

STATE OF COLORADO)
)
COUNTY OF LARIMER)

The foregoing Grant of Easement was acknowledged before me by
Gerry Hall, Mayor of the City of Fort Collins, Colorado, a
Municipal Corporation, and attested to by the ^{Deputy} City Clerk of said
corporation, on behalf of said corporation, this 11th day of Sept,
1984.

WITNESS my hand and official seal.

My commission expires: MY COMMISSION EXPIRES
AUGUST 11, 1985

Deborah S. Carter
Notary Public
300 W. Laporte Avenue
Address Calvin, CO



Victoria Shuman
City Clerk

CITY OF LOVELAND, COLORADO,
A Municipal Corporation

By T. Ray Paul
MAYOR

STATE OF COLORADO)
)
COUNTY OF LARIMER)

The foregoing Grant of Easement was acknowledged before me by
Ray Reeb, Mayor of the City of Loveland, Colorado, a
Municipal Corporation, and attested to by the City Clerk of said
corporation, on behalf of said corporation, this 10th day of September,
1984.

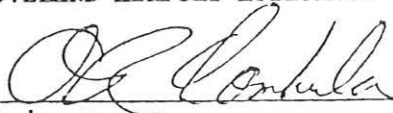
WITNESS my hand and official seal.

My commission expires: 7-11-88


Rockelle P. Catron
Notary Public
410 E 5 St; Loveland CO 80537
Address

APPROVED AND ACCEPTED BY:

BOARD OF THE FORT COLLINS -
LOVELAND AIRPORT AUTHORITY

By 
Chairman

ATTEST:


Secretary

STATE OF COLORADO)
)
COUNTY OF LARIMER)

The foregoing Grant of Easement was acknowledged before me by A.R. Chamberlain, Chairman of the Fort Collins - Loveland Airport Authority, Public Airport Authority, and attested to by the Secretary of said Authority, on behalf of said Authority, this 18th day of July, 1984.

WITNESS my hand and official seal.

My commission expires: 8-5-87

Barbara Henon
Notary Public
P.O. Box 1208, Ft. Collins, CO 80522
Address

EXHIBIT "A"
ATTACHED TO AND MADE A PART OF THE
GRANT OF EASEMENT FROM THE CITY OF LOVELAND AND THE
CITY OF FORT COLLINS TO TRIAD DEVELOPMENT CO., INC.

The land benefited by the easement is all of that land shown as "Block 3" of the Master Plan dated November 4, 1981 and revised December 15, 1981 of the Loveland - Fort Collins Industrial Airpark, being the Amended Master Plan of the Mountain Air Industrial Park for lands located in the West Half of Section 34 and the Southwest Quarter of Section 27, all in Township 6 North, Range 68 West of the 6th P.M., Larimer County, Colorado.

TAIRWAY EASEMENT NO. 1

DESCRIPTION OF A 20 foot wide permanent railway easement with shortened and extended side lines to meet existing property lines as shown on the accompanying plat; located in the SE 1/4 of Section 28, 18N, 88W, of the 5th P.M. Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28, as bearing N 00° 09' 44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28, said point being the True Point of Beginning; thence, along the said east line, being the easterly line of the said 20 foot easement; N 00° 09' 44" E 2847.54 feet to the SE corner of said Section 28, said point being the Terminal Point of the said easement.

The above described easement is subject to all easements and rights-of-way now on record or indicated on the attached plat.

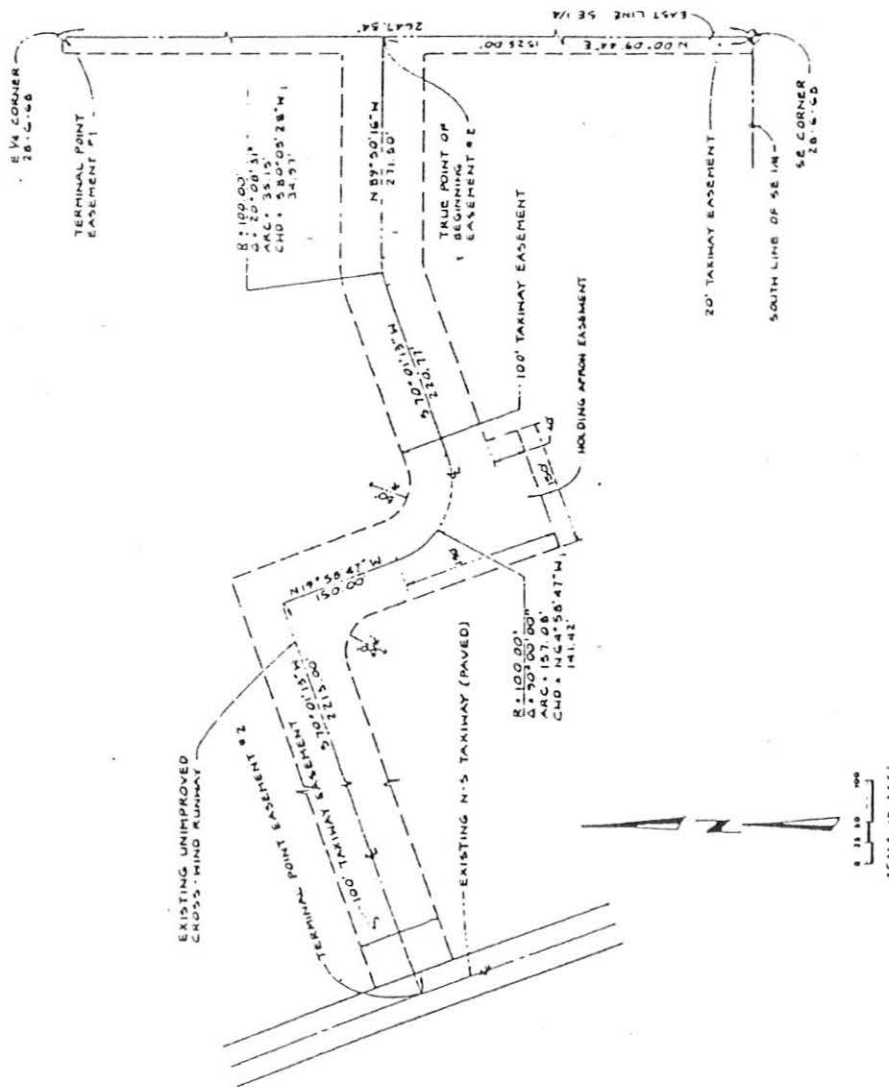
TAIRWAY EASEMENT NO. 2

DESCRIPTION OF A 100 foot wide permanent railway easement with shortened and extended side lines to meet existing property lines and holding apron easements as shown on the accompanying plat; located in the SE 1/4 of Section 28, 18N, 88W, of the 5th P.M. Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28 as bearing N 00° 09' 44" E and with all bearings contained herein relative thereto. Commencing at the SE corner of the said Section 28, thence, along the said east line, N 00° 09' 44" E, 1525.00 feet to the True Point of Beginning; thence, along the centerline of the said easement, N 89° 52' 15" W, 271.50 feet; thence, 35.15 feet along the arc of a curve to the left, with a central angle of 20° 08' 31", radius of 100.00 feet, and whose long chord bears S 80° 05' 28" W, 31.97 feet; thence, S 70° 01' 13" W, 222.77 feet; thence, 157.00 feet along the arc of a curve to the right, with a central angle of 20° 08' 31", radius of 100.00 feet, and whose long chord bears S 89° 52' 15" W, 31.97 feet; thence, 150.00 feet more or less to the centerline of the existing unimproved crosswind runway of the Fort Collins-Loveland Municipal Airport; thence, S 70° 01' 13" W, 221.9 feet more or less to the centerline of the existing north-south railway, said point being the Terminal Point of the said easement.

The above described easement is subject to all easements and rights-of-way now on record or indicated on the attached plat.

James R. Nichols
James R. Nichols, Registered Land Surveyor
and Professional Engineer
Colorado Registration No. 4418



MGI consulting engineers
1116 LUTIN COLLEGE AVENUE
FORT COLLINS CO. 80501 (970) 221-2322

CLIENT: TRIAD DEVELOPMENT, INC. DATE: 11-19-02
PROJECT: FORT COLLINS TARIWAY EASEMENTS
JOB NO.: J1824-003-11C-211-ME-1-EN
SHEET NO.: 001 OF 01-15-02

EXHIBIT "B" ATTACHED TO AND MADE A PART OF THE GRANT OF EASEMENT FROM THE CITY OF LOVELAND AND THE CITY OF FORT COLLINS TO TRIAD DEVELOPMENT CORP., INC

EXHIBIT "5" TO AMENDED TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT

FUEL FLOWAGE FEES AND REQUIREMENTS
FOR SELF-FUELING IN TAXIWAY ACCESS AREA

1. Fuel storage tanks shall have a minimum capacity of 15,000 gallons and shall comply with all applicable Federal Aviation Administration, National Fire Protection Association, and building and zoning standards and requirements.
2. Fuel from such storage tanks shall be restricted to use solely by the owners and occupants of real property in the taxiway access area, and no resale of the fuel to any other person or entity shall be permitted without the express written consent by the governing body of the Fort Collins - Loveland Municipal Airport or its designated representative or agent.
3. All persons performing the handling of fueling operations shall be adequately trained and qualified to perform such functions with skill and safety.
4. Except as may otherwise be provided in the Amended Taxiway Improvement and Easement Agreement to which this Exhibit "5" is attached, there shall be paid to the Owner the following fees:
 - 4.1. A sum equivalent to six percent (6%) of the actual cost, or five cents (\$.05) per gallon, whichever is greater, of the fuel delivered each month to the storage facility. This charge shall hereafter be referred to as the "base fuelage fee".
 - 4.2. In addition to the base fuelage fee set forth above, a "surcharge fuelage fee" calculated upon the differential between the actual cost of fuel delivered, and the "retail price of fuel". For purposes of calculation of this surcharge fuelage fee, "retail price" shall be defined as the mean retail price of fuel at Arapahoe County and Jeffco Airports during the thirty (30) days immediately preceeding delivery of the fuel to the storage facility; and "fuel cost differential" shall be defined as the "retail price" minus the actual cost of the fuel delivered to the self-fueling storage facility. The Owner's good faith determination of such surcharge fuelage fee shall be binding on the parties. The surcharge fuelage fee shall be as follows: a) for the period commencing with the first day of the first month in which delivery of fuel is made to the storage facility, and through and including the last day of the next succeeding eleven (11) months, the fee shall be equivalent to a sum calculated by multiplying 0.48 times the fuel cost differential; and b) for the period commencing on the first day of the thirteenth (13th) month

through and including the last day of the twenty-fourth (24th) month following the first delivery of fuel to the facility, the surcharge fuelage fee will be a sum equivalent to 0.32 times the fuel cost differential; and c) for the period commencing with the first day of the twenty-fifth (25th) month and extending through the last day of the thirty-sixth (36th) month following the month of initial delivery of fuel to the storage facility, the surcharge fuelage fee will be a sum equivalent to 0.16 times the fuel cost differential; and d) there will be no surcharge fuelage fee following the expiration of the period set forth in subparagraph c) above.

4.3. If a sum calculated pursuant to paragraph 4.2 above is zero or negative, there shall be no surcharge fuelage fee for that month, and there shall be no reimbursement of any prior fees.

5. The base fuelage fee and surcharge fuelage fee are due and payable within ten (10) days following each fuel delivery to the fuel storage facility.

6. Each operator of a self-fueling facility in the taxiway access area shall provide a monthly report to the governing body of the Fort Collins - Loveland Municipal Airport reflecting the total amount fuel delivered to the storage facilities during the pervious calendar month. Said report shall be delivered within five (5) working days of the end of each month commencing with the first month following initial delivery of fuel to the fuel storage facility.

(27)

MEETING DATE September 4, 1984

ITEM NUMBER.

24

AGENDA ITEM SUMMARY

FROM: John Huisjen

SUBJECT: Resolution Authorizing the Mayor of the City of Fort Collins to Enter into An Agreement with Triad Development Corporation Providing for the Construction of Taxiway Improvements and the Granting of an Easement Upon Airport Property.

RECOMMENDATION:

Staff recommends adoption of the Resolution.

BACKGROUND SUMMARY:

In May of 1982, the Cities of Fort Collins and Loveland entered into an agreement with Triad Development Corporation for taxiway improvements upon the Airport property which would permit aircraft access to the Airport taxiways and runways from an adjacent property being developed by Triad. The Triad development had been previously approved by Larimer County. The 1982 Triad Agreement provided that the Cities would grant the easement upon the condition that Triad would construct the improvements not later than two years after the date of execution by the parties, a time period now expired.

Triad Development Corporation has now commenced the construction of its project. Staff members from the Cities of Fort Collins, Loveland and the Airport Authority have negotiated the terms of the proposed Amended Taxiway Improvement and Easement Agreement. The Airport Authority has approved the Agreement which also will also be considered by the City of Loveland at its next Council meeting on September 4th. The Amended Taxiway Improvement and Easement Agreement provides that the taxiway improvements must be completed by Triad on or before May 4, 1988, or again, the Agreement expires by its terms. It appears now, that Triad is moving forward with this development and will shortly commence the construction of the taxiway improvements. If constructed, the taxiway improvements would provide general benefits to the Fort Collins-Loveland Airport and would also provide some revenues from aircraft fuel fees for aircraft fueling operations conducted upon the Triad property. Also, aircraft using the Fort Collins-Loveland Airport would be subject to all other normal airport charges.

The staff recommends approval of the Amended Taxiway Improvement and Easement Agreement as this Agreement provides to the Airport significant benefits.

(28)

RESOLUTION 84-132
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR OF THE CITY OF FORT COLLINS
TO ENTER INTO AN AGREEMENT WITH TRIAD DEVELOPMENT
CORPORATION PROVIDING FOR THE CONSTRUCTION OF
TAXIWAY IMPROVEMENTS AND THE GRANTING OF AN EASEMENT
UPON AIRPORT PROPERTY

WHEREAS, Triad Development Corporation desire is developing an industrial airpark adjacent to the Fort Collins-Loveland Airport which is dependent upon access to the Fort Collins-Loveland Airport; and

WHEREAS, on May 4, 1982, the Cities of Fort Collins and Loveland and Triad Development Corporation executed a Taxiway Improvement and Easement Agreement to facilitate the development of the industrial airpark; and

WHEREAS, the previous Taxiway Improvement and Easement Agreement has expired as the granting of the Deed of Easement to Triad Development Corporation was contingent upon the commencement of construction by Triad of the improvements described in the Agreement no later than two (2) years after the date of the Agreement; and

WHEREAS, the Cities and the Fort Collins-Loveland Airport Authority maintain that Triad's project is reasonable and proper and will benefit the operations of the Airport and in the improvement and natural development of the Airport; and

WHEREAS, the parties desire to execute another agreement to extend the terms of the previous Taxiway Improvement and Easement Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Mayor of the City of Fort Collins be, and he hereby is, authorized to enter into an agreement with Triad Development Corporation, Inc. and the City of Loveland, Colorado, whereby an easement and right-of-way for aircraft and ground service vehicles upon the property of the Fort Collins-Loveland Airport is granted to Triad Development Corporation, Inc.

BE IT FURTHER RESOLVED that in consideration for the granting of said easement to the Triad Development Corporation, Inc., Triad shall agree to construct and bear the initial cost for taxiway improvements upon said easements with the maximum of 50% of said costs to be refunded to Triad by the Cities of Fort Collins and Loveland upon the development of adjacent property to be served by the taxiway located on the Fort Collins-Loveland Airport and Triad shall further agree to a method whereby the Fort Collins-Loveland Airport shall be reimbursed for a portion of the maintenance costs incurred in the maintenance of said taxiway improvements.

FURTHER, Triad shall agree to such other provisions as deemed necessary by the Fort Collins-Loveland Airport.

Passed and adopted on final reading this 4th day of September, A.D. 1984.

Henry Horak
Mayor

ATTEST:

Deputy Molly Davis
City Clerk

TAXIWAY IMPROVEMENT AND EASEMENT AGREEMENT

This Agreement made and entered into this 4th day of May, 1982, by and between the CITY OF FORT COLLINS, COLORADO, a Municipal Corporation, and the CITY OF LOVELAND, COLORADO, a Municipal Corporation, hereinafter collectively referred to as the "Cities"; and TRIAD DEVELOPMENT CORPORATION, INC., an Arizona Corporation, hereinafter referred to as "Triad".

WITNESSETH:

WHEREAS, Triad desires to obtain access to the Fort Collins - Loveland Municipal Airport (hereinafter "Airport") runway and taxiway systems from certain real property owned by Triad; and

WHEREAS, the Cities have determined that such access is reasonable and proper and will benefit the operations of the Airport and aid in the improvement and natural development of the Airport; and,

WHEREAS, the parties desire to establish a mutually satisfactory method for installing the necessary taxiway improvements;

NOW THEREFORE, in consideration of the premises and covenants herein contained, the parties agree as follows:

1. Taxiway Improvements. Triad is hereby authorized to construct upon the Loveland - Fort Collins Airport taxiway improvements located as shown upon Exhibit "1" attached hereto, to have a paved surface no less than forty feet (40') in width and be constructed in accordance with the design shown on Exhibit "2". The cost of such construction shall be eligible for refunding in accordance with Paragraph 2. Triad, in its discretion, may at anytime oversize the taxiway improvements but shall have no obligation to do so. All improvements shall be constructed in accordance with specifications and plans approved by the Cities, which approval shall not be unreasonably withheld.

The installation of the taxiway improvements shall be performed in a good and workmanlike fashion, and the contractor performing such work shall guarantee the materials and workmanship for a period of no less than one (1) year. The Cities shall have the right to inspect the work during

construction and upon completion of the work. Upon its completion and provision to the Cities of evidence sufficient to show title to the work unencumbered by mechanic or materialmen's lien, all such improvements located upon the Airport property shall thereupon be conveyed to the Cities.

2. Refunding. It is agreed that Triad shall have the right and opportunity to recoup fifty percent (50%) of the costs eligible for refunding. In order to provide such reimbursement, at such time as any portion of the land within the "taxiway use zone" (as shown upon Exhibit "3"), is first leased by the Cities for use for aeronautical related activities, there shall be paid to Triad by the Cities a sum to be calculated by multiplying fifty percent (50%) of the cost of the taxiway improvements installed by Triad times a fraction in which the numerator is equivalent to the square footage of the leased area, and the denominator is equivalent to the total square footage in the taxiway use zone which the Cities plan to use or make available for use for aeronautical related activities.

The Cities agree that, at the time any land in the "taxiway use zone" is first leased or improved for aeronautical activities, the Cities will define the area within the "taxiway use zone" which will be assessed for reimbursement. Such area will include all land within the "taxiway use zone" which will be reasonably expected to benefit from the taxiway improvements installed by Triad, but shall not include automobile service stations, rental auto offices or public auto parking lots and roadways. The area so determined shall be called the "taxiway contribution area".

Triad shall, within one hundred and twenty (120) days after completion of any improvements constructed pursuant to this Agreement, supply to the Cities a statement of the total costs of such improvements, and supporting documentation if requested by the Cities.

The obligation of the Cities to provide reimbursement to Triad hereunder shall extend for a period of fifteen (15) years from the date of completion of the improvements, and shall terminate without any act of

the parties at the expiration of said period unless extended in writing by the Cities.

3. Use and Fee Covenants. Triad agrees to impose covenants upon the property shown as Block 3 of the Master Plan of Loveland - Fort Collins Industrial Airpark, as approved by the County of Larimer, Colorado (hereinafter referred to as "Block 3"), prohibiting uses of the property for commercial aeronautical activities (as hereafter defined), and prohibiting sale of aviation fuel to the public. Such covenants shall not prevent aeronautical uses which are secondary or incidental to the primary use of the property which is not a commercial aeronautical use, and shall not prevent any aircraft operator from adjusting, repairing, refueling, cleaning, and otherwise servicing his own aircraft.

For the purposes of this Agreement, the following shall constitute "commercial aeronautical activities" if provided at retail to the public: airtaxi, charter, and aircarrier service operations; pilot training; aircraft rental; aerial sightseeing, spraying, and advertising; retail aircraft sales and service; aircraft storage; retail sale of aircraft parts; repair and maintenance of aircraft; retail sale of aviation petroleum products.

The Cities covenant and agree that no owner of property in said Block 3 shall be charged any fee, rental or other charge which is used to defray or reimburse any of the costs of taxiway improvements installed by Triad in accordance with this agreement.

4. Control of Access.

A. The parties agree that in the event that either party or the owners in Block 3 find it desirable to provide a means by which access between Block 3 and the Airport is controlled in order to protect and preserve the property and interest of the owners of land in Block 3 or to preserve the Cities' interest in protecting the general welfare and safety and the operation of the Airport, the Cities may establish reasonable methods and procedures designed to insure that access to and from Airport facilities and Block 3 by use of the taxiway improvements installed by Triad may be gained only by the owners of property in Block 3.

B. As a condition for access onto the Airport from Block 3, each property owner or user shall be obligated to abide by the covenants placed upon the property by the owners. Further, as

an additional condition for gaining access to the Airport from Block 3, each property owner or user shall be prohibited from engaging in the sale of aviation fuel on the property contained in Block 3.

C. It is specifically understood and agreed that the provisions of this Section 4 shall be enforceable against each lot owner individually or each person gaining access to the Airport from Block 3 individually.

5. Grant of Easement. The Cities agree that upon commencement of the construction by Triad of the improvements described in this Agreement, which shall occur no later than two (2) years hereafter, the Cities shall forthwith execute and deliver to Triad an access easement in the form attached hereto as Exhibit "4".

6. Maintenance. The Cities shall maintain the completed improvements constructed by Triad on Airport land, however it is agreed that the costs of such maintenance should be shared equitably by property owners in Block 3 having a taxiway easement and others having access to the taxiway as follows:

A. The property owners in Block 3 shall be responsible for reimbursement to the Cities for that portion of the maintenance costs calculated by multiplying the total costs of maintenance times a fraction whose numerator is the square footage of property in Block 3 adjacent to taxiway systems in Block 3, and whose denominator is equivalent to the sum of the numerator plus the square footage of land in the "taxiway contribution area" which has been leased or improved for use for aeronautical related activities.

B. Triad agrees to impose covenants upon the land in Block 3 requiring the property owners in that portion of Block 3, subject to reimbursement of maintenance costs as set forth above, to provide payment monthly, or at longer intervals as may be selected by the Cities, to the Cities for the costs of maintenance as calculated in paragraph 6.A. above within thirty (30) days following written notification by the Cities of the amount of costs for which they are responsible, together with supporting documentation. Such payments shall be collected and paid to the Cities by a property owners association composed of those subject to the obligation for such reimbursement, which association Triad hereby agrees to create in connection with the covenants imposed. Failure to pay the maintenance assessments owing may, at the Cities' option, result in closure of the point of access to the taxiway until such assessments are paid.

C. "Maintenance" costs, for the purposes of this agreement, shall mean all costs incurred by Cities for snow removal, sweeping, repair, lighting, electricity, resurfacing and all other expenses necessary to maintain such improvements. Such costs shall be determined and allocated using generally accepted accounting practices and principles.

7. Fees.

A. Each property owner located in Block 3 shall remit to the Cities eight percent (8%) of the wholesale cost of aviation fuels dispensed into aircraft from aviation fuels facilities located upon its property located in Block 3.

B. Nothing herein shall be construed to prevent Cities from imposing fees, notes, tolls and charges for the use of airport facilities. All such fees, rates, tolls and charges shall be similar for similar classes of users, and shall be reasonably related to the services and facilities used.

C. Failure of any property owner or user to remit payment for said rates, fees, rental or other charges imposed herein or by rule or regulation shall be grounds upon which the Cities can deny access to the Airport.

8. Term, Effect and Integration. This Agreement constitutes to such user or owner the entire Agreement of the parties hereto and may be altered, amended or otherwise revised only by written agreement of the parties hereto.

The terms of this Agreement shall be binding upon and inure to the benefit of the successors, representatives, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed their hands and seals on the day and year first set forth above.

TRIAD DEVELOPMENT CORPORATION, INC.

By: Tom R. Van Sickle
Tom R. Van Sickle

ATTEST:

Jack Secretary

CITY OF FORT COLLINS, COLORADO,
A Municipal Corporation

By: Greg Cassel
Mayor

Approved As To Form:

John H. Winger
City Attorney

ATTEST:

Charles H. Krause
City Clerk

CITY OF LOVELAND, COLORADO,
A Municipal Corporation

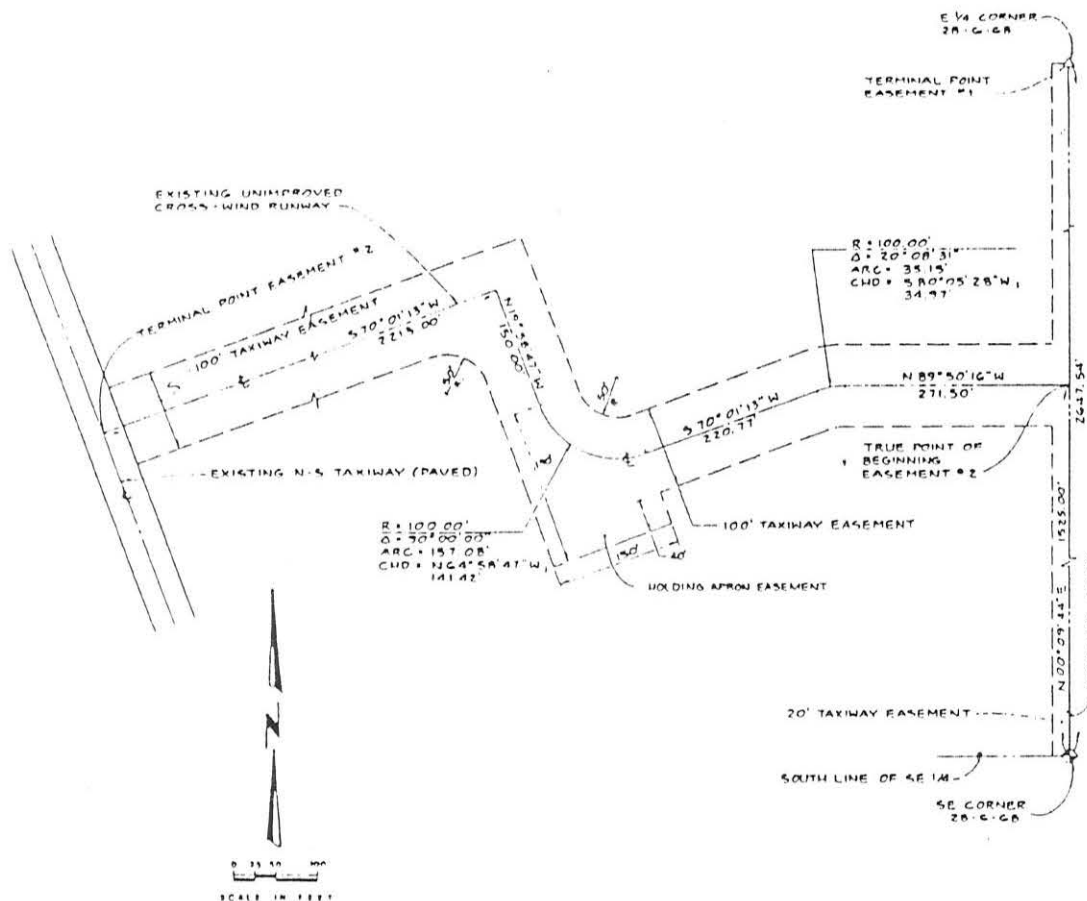
By: T. Ray T. Ruhl
Mayor

ATTEST:

City Clerk

(35)

EXHIBIT "1" Taxiway Improvement and Easement Agreement between Loveland and Fort Collins, and Triad



TAXIWAY EASEMENT NO. 1

DESCRIPTION OF a 20 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines as shown on the accompanying plat; located in the SE 1/4 of Section 28, 16N, 84W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28, as bearing N 00° 09' 44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28, said point being the True Point of Beginning; thence, along the said east line, being the easterly line of the said 20 foot easement; N 00° 09' 44" E 2647.54 feet to the E 1/4 corner of said Section 28, said point being the Terminal Point of the said easement.

The above described easement is subject to all easements and rights-of-way now on record or indicated on the attached plat.

TAXIWAY EASEMENT NO. 2

DESCRIPTION OF a 100 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines and holding apron easement as shown on the accompanying plat; located in the SE 1/4 of Section 28, 16N, 84W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28 as bearing N 00° 09' 44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28; thence, along the said east line, N 00° 09' 44" E, 1525.00 feet to the True Point of Beginning; thence, along the centerline of the said easement, N 89° 50' 16" W, 271.50 feet; thence, 35.15 feet along the arc of a curve to the left, with a central angle of 20° 08' 31", radius of 100.00 feet, and whose long chord bears S 80° 05' 28" W, 34.97 feet; thence, S 70° 01' 13" W, 220.77 feet; thence, 157.08 feet along the arc of a curve to the right, with a central angle of 20° 00' 00", radius of 100.00 feet, and whose long chord bears N 64° 58' 47" W, 141.42 feet; thence, N 19° 58' 47" W, 150.00 feet more or less to the centerline of the existing unimproved cross-wind runway of the Fort Collins-Loveland Municipal Airport; thence, S 70° 01' 13" W, 221.3 feet more or less to the centerline of the existing north-south taxiway, said point being the Terminal Point of the said easement.

The above described easement is subject to all easements and rights-of-way now on record or indicated on the attached plat.

James H. Nichols
James H. Nichols, Registered Land Surveyor
and Professional Engineer
Colorado Registration No. 4414



M&I consulting engineers

4714 SOUTH COLLIER AVENUE
FORT COLLINS CO. 80525 (303) 228-2223

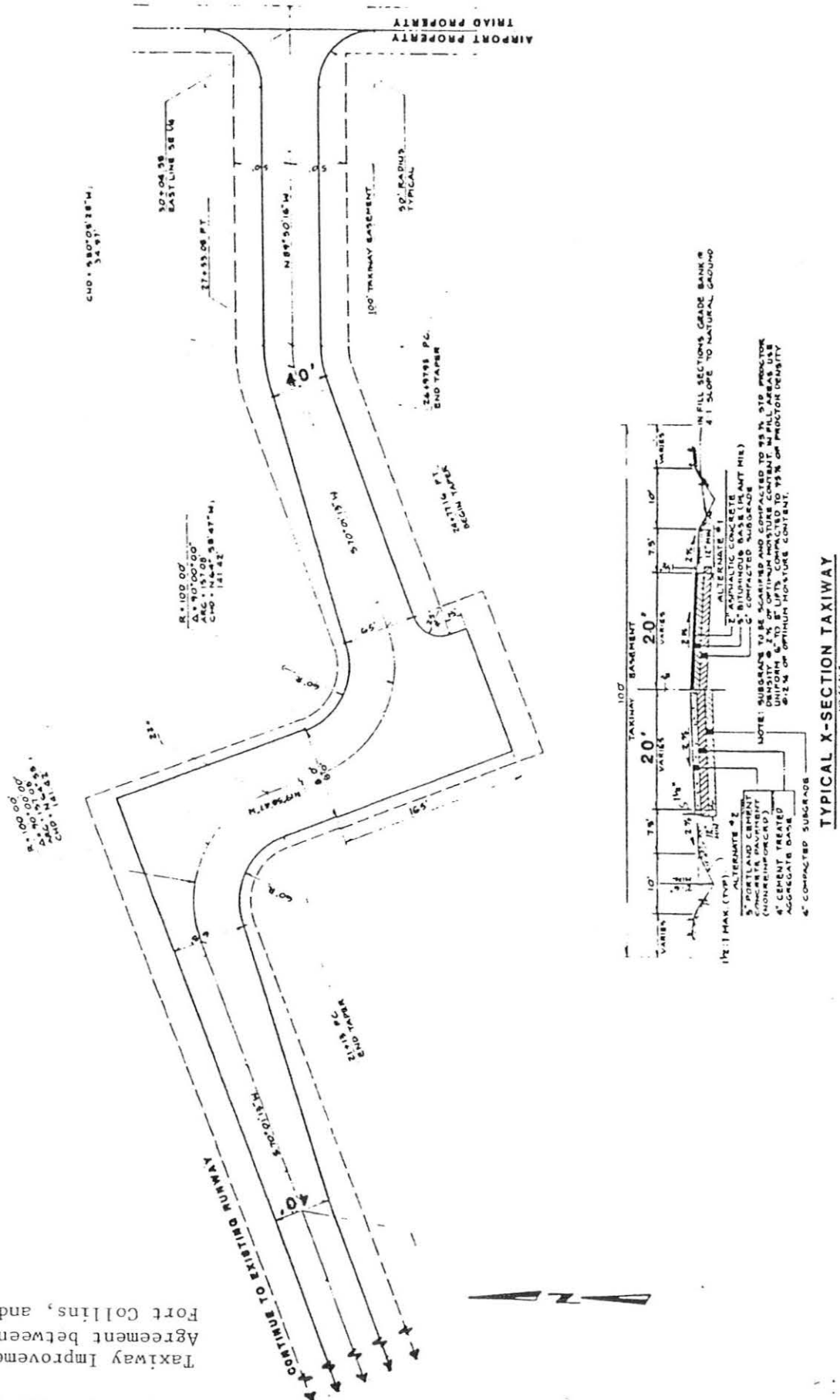
CLIENT: TRIAD DEVELOPMENT, DATE: 2-13-81
PROJECT: LOVELAND-FORT COLLINS AIRPORT
JOB NO.: 1104-001, 1104-002, 1104-003, 1104-004, 1104-005
DRAWN: M&I, DATE: 2-13-81

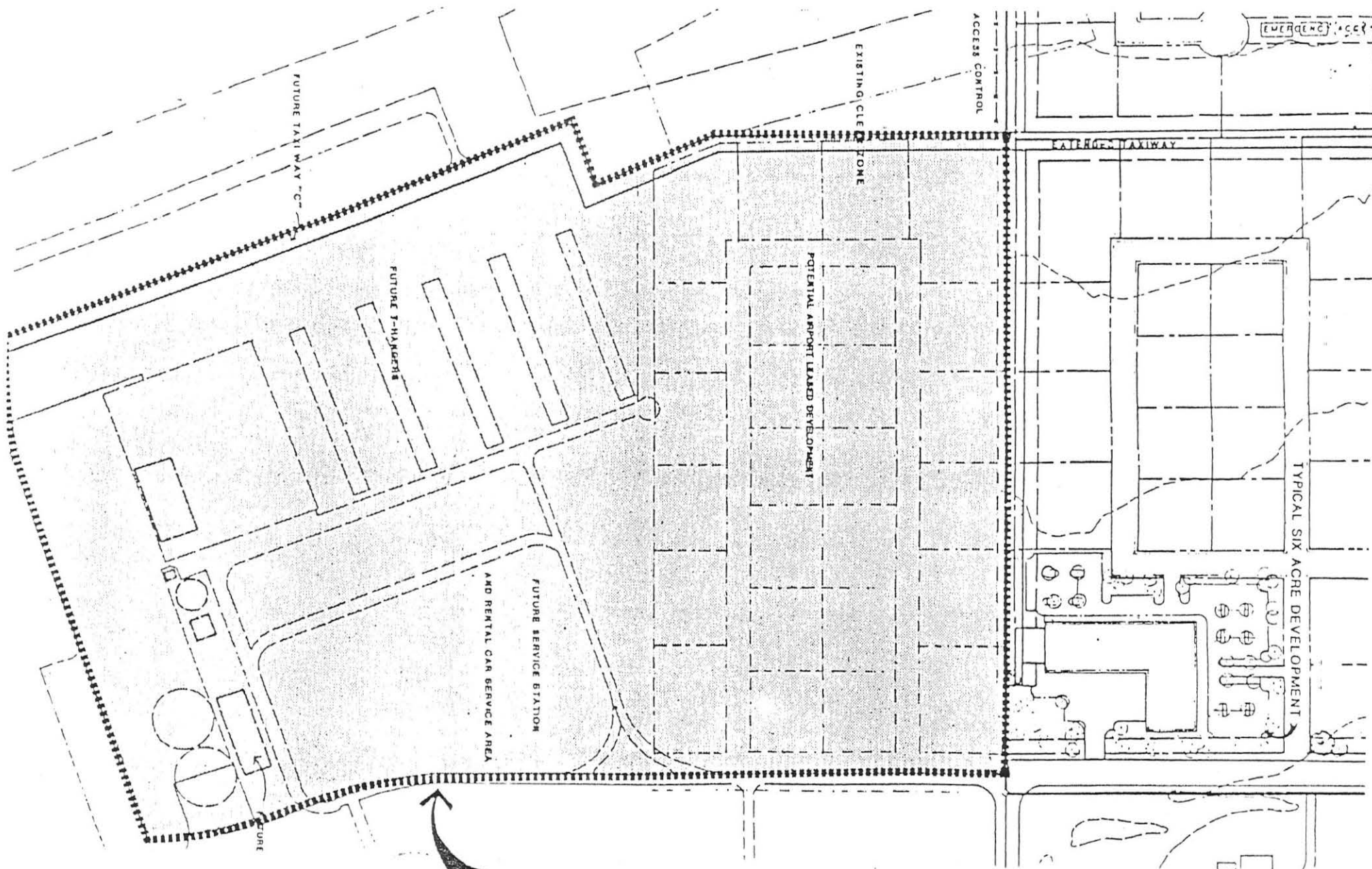
B2172 P1464

EXHIBIT "2"

Taxiway Improvement and Easement Agreement between Loveland and Fort Collins, and Triad

37





APPX. EXTENT OF AREA CONTRIBUTING TO TAXIWAY REPAYMENT

EXHIBIT "3"
Taxiway Improvement and Easement Agreement between Loveland
and Fort Collins, and Triad

GRANT OF EASEMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, the City of Loveland, a Colorado municipal corporation, and Fort Collins, a Colorado municipal corporation (hereinafter referred to as "Grantors"), do hereby grant to Triad Development Corporation, Inc., an Arizona corporation, its representatives, successors and assigns, and any person or entity now owning or hereafter acquiring all or any portion of the property described in Exhibit "A" attached hereto, an easement and right-of-way for aircraft and ground service vehicles into, upon, over, across and through the following described real property:

TAXIWAY EASEMENT No. 1

DESCRIPTION OF a 20 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines as shown on the said accompanying plat attached hereto as Exhibit "B" and incorporated herein by this reference; located in the SE 1/4 of Section 28, T6N, R68W, or the 6th P.M. Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28, as bearing N 00°09'44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28, said point being the True Point of Beginning; thence, along the said east line, being the easterly line of the said 20 foot easement; N 00°09'44" E 2647.54 feet to the E 1/4 corner of said Section 28, said point being the Terminal Point of the said easement.

and;

TAXIWAY EASEMENT No. 2

DESCRIPTION OF a 100 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines and holding apron as shown on the said accompanying plat attached hereto as Exhibit "B"; located in the SE 1/4 of Section 28, T6N, R68W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Exhibit "4"
Taxiway Improvement and Easement Agreement
between Loveland and Fort Collins, and Triad

Considering the east line of the SE 1/4 of said Section 28 as bearing N 00°09'44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28; thence, along the said east line, N 00°09'44" E, 1525.00 feet to the True Point of Beginning; thence, along the centerline of the said easement, N 89°50'16" W, 271.50 feet; thence, 35.15 feet along the arc of a curve to the left with a central angle of 20°08'31", radius of 100.00 feet and whose long chord bears S 80°05'28" W, 34.97 feet; thence S 70°01'13" W, 220.77 feet; thence, 157.08 feet along the arc of a curve to the right, with a central angel of 90°00'00", radius of 100.00 feet, and whose long chord bears N 64°58'47" W, 141.42 feet, thence, N 19°58'47" W, 150.00 feet more or less to the centerline of the existing unimproved cross-wind runway of the Fort Collins-Loveland Municipal Airport; thence, S 70°01'13" W, 2213 feet more or less to the centerline of the existing north-south taxiway, said point being the Terminal Point of the said easement.

together with aircraft and ground service vehicle access to all the taxiway and runway systems of the Fort Collins - Loveland Municipal Airport as they now, and hereafter may exist.

The easement and right-of-way herein granted shall be appurtenant to and benefit and run with the land described in said Exhibit "A", and all persons using the taxiway and runway systems of the Fort Collins - Loveland Municipal Airport shall be subject to and shall comply with rules and regulations as are now or may hereafter be established by governmental or quasi-governmental bodies having authority to control the use of the said Airport.

DATED this ____ day of _____, 1982.

CITY OF FORT COLLINS, COLORADO
A Municipal Corporation

By _____
MAYOR

ATTEST:

City Clerk

(40)

B2172 P1469

CITY OF LOVELAND, COLORADO,
A Municipal Corporation

By _____
MAYOR

ATTEST:

City Clerk

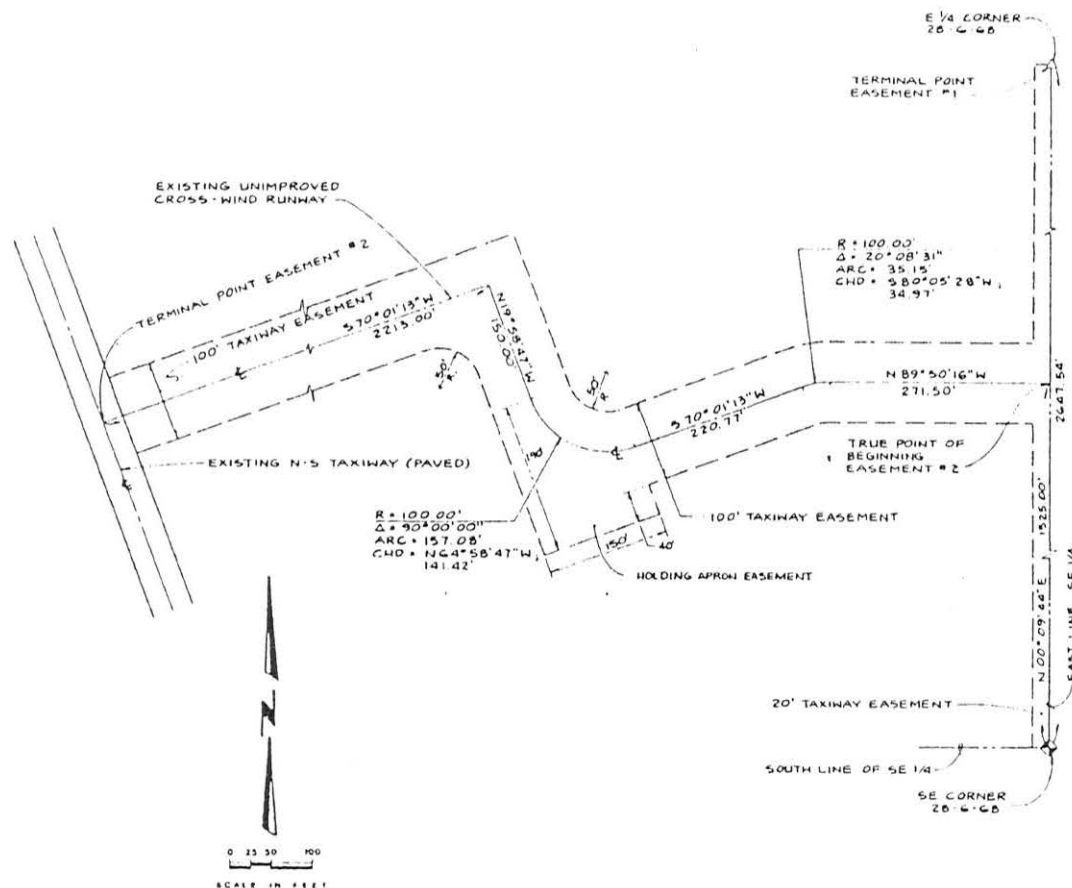
EXHIBIT "A"

ATTACHED TO AND MADE A PART OF THE
GRANT OF EASEMENT FROM THE CITY OF LOVELAND AND THE
CITY OF FORT COLLINS TO TRIAD DEVELOPMENT CO., INC.

The land benefited by the easement is all of that land shown as "Block 3" of the Master Plan dated November 4, 1981 and revised December 15, 1981 of the Loveland - Fort Collins Industrial Airpark, being the Amended Master Plan of the Mountain Air Industrial Park for lands located in the West Half of Section 34 and the Southwest Quarter of Section 27, all in Township 6 North, Range 68 West of the 6th P.M., Larimer County, Colorado.

EXHIBIT "B"

ATTACHED TO AND MADE A PART OF THE
GRANT OF EASEMENT FROM THE CITY OF LOVELAND AND THE
CITY OF FORT COLLINS TO TRIAD DEVELOPMENT CO., INC.



TAXIWAY EASEMENT NO. 1

DESCRIPTION OF A 20 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines as shown on the accompanying plat; located in the SE 1/4 of Section 28, 16N, R68W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28, as bearing N 00° 09' 44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28, said point being the True Point of Beginning; thence, along the said east line, being the easterly line of the said 20 foot easement; N 00° 09' 44" E 2647.54 feet to the E 1/4 corner of said Section 28, said point being the Terminal Point of the said easement.

The above described easement is subject to all easements and rights-of-way now on record or indicated on the attached plat.

TAXIWAY EASEMENT NO. 2

DESCRIPTION OF A 100 foot wide permanent taxiway easement with shortened and extended side lines to meet existing property lines and holding apron easement as shown on the accompanying plat; located in the SE 1/4 of Section 28, 16N, R68W, of the 6th P.M., Larimer County, Colorado, being more particularly described as follows:

Considering the east line of the SE 1/4 of said Section 28 as bearing N 00° 09' 44" E and with all bearings contained herein relative thereto.

Commencing at the SE corner of the said Section 28; thence, along the said east line, N 00° 09' 44" E, 1525.00 feet to the True Point of Beginning; thence, along the centerline of the said easement, N 89° 50' 16" W, 271.50 feet; thence, 35.15 feet along the arc of a curve to the left, with a central angle of 20° 08' 31", radius of 100.00 feet, and whose long chord bears S 80° 05' 28" W, 34.97 feet; thence, S 70° 01' 13" W, 220.77 feet; thence, 157.08 feet along the arc of a curve to the right, with a central angle of 90° 00' 00", radius of 100.00 feet, and whose long chord bears N 64° 58' 47" W, 141.42 feet; thence, N 19° 58' 47" W, 150.00 feet more or less to the centerline of the existing unimproved cross-wind runway of the Fort Collins-Loveland Municipal Airport; thence, S 70° 01' 13" W, 2213 feet more or less to the centerline of the existing north-south taxiway, said point being the Terminal Point of the said easement.

The above described easement is subject to all easements and rights-of-way now on record or indicated on the attached plat.

James M. Nichols
James M. Nichols, Registered Land Surveyor
and Professional Engineer
Colorado Registration No. 4414

MEETING DATE: April 6, 1962

ITEM NUMBER: 31

AGENDA ITEM SUMMARY

FROM: John E. Arnold

SUBJECT: Resolution Authorizing an Agreement with Triad Development Corporation, Inc. Regarding the Fort Collins - Loveland Airpark

RECOMMENDATION:

Staff recommends adoption of the Resolution.

BACKGROUND SUMMARY:

This item was withdrawn from the March 16th Agenda at the request of the Triad Development Corporation.

Triad Development Corporation, Inc., an Arizona Corporation, is in the process of developing an industrial airpark adjacent to the Fort Collins - Loveland Airport in the vicinity of the east-west runway. In order for Triad's airpark to be feasible, it is necessary for them to obtain an access easement onto the Airport property in order to put a taxiway from the Triad Development property to the existing north-south runway. The prospect of Triad locating adjacent to the Airport has met with the approval of the Fort Collins - Loveland Airport Ad Hoc Committee and the negotiated contract has also been approved with some modifications.

The contract between the cities of Fort Collins and Loveland and Triad Development Corporation, as modified, contains the following provisions:

1. Triad will be granted an easement on Airport property allowing access from Triad's private property to the north-south runway.
2. Triad will be responsible for the construction of a forty (40) foot paved taxiway on the easement granted. Upon the completion of the construction of the taxiway, title to said taxiway shall be conveyed to the cities of Fort Collins and Loveland.
3. The initial cost of the taxiway is to be paid by Triad, however, Triad will be able to recoup fifty percent (50%) of the costs for the installation of the taxiway upon the development or improvement for aeronautical related activities of the property located on the Airport adjacent to the taxiway. The specific amount of money to be recouped by Triad would be generally on the basis of that percentage of the adjacent Airport property which is improved. In no event shall the cost of the City exceed fifty percent (50%) of the cost of the taxiway and further, the provision for reimbursement extends only for a period of fifteen years from the date of completion of the improvements.

(continued)

PAGE NO. 2

4. Triad would agree to impose covenants upon the property in the Triad development area prohibiting uses of the property for commercial aeronautical activities and further prohibiting the sale of aviation fuel to the public.
5. The City would accept the obligation to maintain the taxiway. However, the agreement calls for reimbursement to the Cities by the property owners in the Triad development area of a portion of the maintenance costs.
6. The agreement is to provide that any private companies locating in the Triad development area that have self-service aviation fuel facility will be required to pay to the Cities eight percent (8%) of the whole-sale cost of the fuel used.
7. The final provision of the agreement allows for the Cities to charge whatever fees, rental or other charges they so desire for the use of the Airport by the aircraft located on the Triad development area with the exception of fees for the purpose of defraying or reimbursing to the Cities any costs of the improvement of the taxiway.

In sum, the agreement will provide access from the Triad property on to the Airport by the companies locating in the Triad development area. The cost of the taxiway will be shared by both Triad and the City on a reimbursement basis by the Cities with a maximum payment of fifty percent (50%) of the cost of those improvements. Further, the Cities may impose whatever fees are necessary for the purpose of maintaining the economic integrity of the Airport.

RESOLUTION 82- 39
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR OF THE CITY OF FORT COLLINS
TO ENTER INTO AN AGREEMENT WITH TRIAD DEVELOPMENT
CORPORATION PROVIDING FOR THE CONSTRUCTION OF
TAXIWAY IMPROVEMENTS AND THE GRANTING OF AN EASEMENT

WHEREAS, Triad Development Corporation's desire to develop an industrial airpark adjacent to the Fort Collins - Loveland Airport is dependent upon access to the Fort Collins - Loveland Airport; and

WHEREAS, it is beneficial to the Fort Collins - Loveland Airport that an industrial airpark be located adjacent to the Airport; and

WHEREAS, the Fort Collins - Loveland Airport Ad Hoc Committee has recommended that the cities of Fort Collins and Loveland enter into a contract with Triad Development Corporation for the development of said industrial airpark.

NOW, THEREFORE, BE IT RESOLVED THAT THE MAYOR OF THE CITY OF FORT COLLINS is hereby authorized to enter into an agreement with Triad Development Corporation, Inc. and the City of Loveland, Colorado, whereby an easement and right-of-way for aircraft and ground service vehicles upon the property of the Fort Collins - Loveland Airport is granted to Triad Development Corporation, Inc.

BE IT FURTHER RESOLVED that in consideration for the granting of said easement to the Triad Development Corporation, Inc., Triad shall agree to construct and bear the initial cost for taxiway improvements upon said easements with the maximum of 50% of said costs to be refunded to Triad by the cities of Fort Collins and Loveland upon the development of adjacent property to be served by the taxiway located on the Fort Collins - Loveland Airport and Triad shall further agree to a method whereby the Fort Collins-Loveland Airport shall be reimbursed for a portion of the maintenance costs incurred in the maintenance of said taxiway improvements.

FURTHER, Triad shall agree to such other provisions as deemed necessary by the Fort Collins - Loveland Airport Ad Hoc Committee in order to preserve the economic integrity of the Fort Collins - Loveland Airport.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 6th day of April, 1982.

Mayor

ATTEST:

Handa M. Krajicek
City Clerk

(46)

