

PREDEVELOPMENT AGREEMENT

Between

HEBER CITY CORPORATION (“City”)

And

AH AERO SERVICE, INC. d/b/a OK3 AIR (“OK3 AIR”)

PRE-DEVELOPMENT AGREEMENT

THIS PRE-DEVELOPMENT AGREEMENT (this “Agreement”) is made as of this 29th day of June, 2023 (the “Effective Date”), by and between HEBER CITY CORPORATION (“City”) and AH Aero Service, Inc. d/b/a OK3 AIR (“OK3 AIR”). The City and OK3 AIR are referred to individually as a “Party” and together as the “Parties”.

Recitals

A. The City is the owner, operator, and legal sponsor for the purposes of the Federal Aviation Administration (“FAA”) matters of the Heber Valley Airport (the “Airport”).

B. OK3 AIR is a full-service fixed base operator located on the Airport, providing aircraft maintenance, ramp parking, fueling, de-icing, overnight hangar services, and other services pursuant to that certain Amended Agreement dated January 8, 1995, originally between the City and High City Aviation, Inc., and later assigned to OK3 AIR, and as amended by the Addendum to Amended 1995 Airport Agreement dated May 8, 2012, the Addendum to 1995 Airport Agreement dated January 26, 2015, and the Addendum to the 1995 Airport Agreement dated contemporaneously herewith (the “FBO Lease Addendum” and, collectively, the “FBO Lease”).

C. OK3 AIR leases certain property from the City pursuant to the FBO Lease and certain other written agreements, including ground leases for those premises known as Hangar A, Hangar E, and Daniel Hangar 1 and the New Hangar (the “Hangar Leases”).

D. At its regular meeting on February 21, 2023, the Heber City Council (the “City Council”) approved an Airport Layout Plan (the “Draft ALP” attached as Exhibit A). The Draft ALP will be submitted to the FAA for approval upon the completion of a Master Plan (the “Master Plan”) for the Airport, reflecting the upgrade of the Airport to meet C-II airfield design standards. Among other items, the Draft ALP provides for a shift in the Airport runway to the south and east, which will impact property leased by OK3 AIR under the FBO Lease and Hangar Leases.

E. Contemporaneously with this Agreement, OK3 AIR and the City have entered into that Settlement Agreement and Mutual Release, which resolves certain claims and potential claims among the parties (the “Settlement Agreement”). Among other items, the Settlement Agreement contemplates that the Parties will enter a Predevelopment Agreement addressing, among other items, the relocation and expansion of OK3 AIR’s leased property as a result of the Airport upgrades proposed in the ALP and Master Plan. This Agreement is the Predevelopment Agreement contemplated in the Settlement Agreement.

F. The Settlement Agreement also contemplates that the City and OK3 AIR will enter into an amended and restated FBO lease agreement (such lease or, if such lease is not entered into for any reason, the FBO Lease, the “Current Lease”).

Agreement

NOW THEREFORE, in consideration of the foregoing recitals (which are incorporated into this Agreement by reference), and the mutual promises herein contained, and intending to be legally bound hereby, the Parties hereto agree as follows:

I. Term. The “Term” of this Agreement shall commence on the Effective Date and shall terminate on the earlier of (1) the date upon which all areas of the Selected Campus, as defined below, have been leased by OK3 AIR in accordance with the provisions hereof; or (2) the termination date of the Current Lease, in accordance with the terms of the Current Lease.

II. General Cooperation. The Parties acknowledge that there are a number of steps that need to be accomplished to complete the Master Plan and achieve the upgrade of the Airport to meet C-II airfield and design standards, as reflected on the Draft ALP. Accordingly, from and after the Effective Date, the Parties shall work together cooperatively and shall execute such additional documents as may reasonably be necessary to accomplish the tasks described in Paragraphs III through VIII below.

III. Master Plan and ALP Submission

A. The City shall, at its cost, diligently complete the Master Plan and submit the Draft ALP for approval by the FAA. The Master Plan shall show the reservation of space for an approximately 17.8-acre new leasehold in the southwest portion of the Airport (the “South FBO Campus”) and an approximately 9-acre new leasehold in the northwest portion of the Airport (the “North FBO Campus” and, collectively, the “FBO Areas”). In addition, the Master Plan shall include various improvements eligible for Airport Improvement Program or other federal grant funding administered by the FAA’s Office of Airports (the “Federal Grant Programs”), including but not limited to, the relocation of the runway, various taxiways, aircraft parking ramp, and various demolition and remediation requirements (collectively, the “Grant Funded Projects”).

B. Upon completion of the Master Plan, the City shall submit the Master Plan and Draft ALP for FAA acceptance of the Master Plan and conditional approval of the Draft ALP (together, the “FAA Approvals”). The City shall make all reasonable and necessary efforts to obtain the FAA Approvals. In the event that the FAA requires any changes to the Draft ALP that would materially affect the size, location, access to, or economic feasibility of the FBO Areas shown on the Draft ALP or the ability of the City to implement the Master Plan as submitted to the FAA (the “Required ALP Changes”), the City shall review the Required ALP Changes with OK3 AIR. The City shall consult with OK3 AIR regarding the Required ALP Changes, and shall address the Required ALP Changes with the FAA in a manner that preserves, to the greatest extent possible, the development opportunities reflected on the Draft ALP, including, without limitation, the opportunity for OK3 AIR to develop either FBO Area and construct the Minimum Program Requirements, as defined in Section IV.B, below, in accordance with the Minimum Standards. The City shall resubmit an ALP addressing the Required ALP Changes to the FAA for conditional approval. In the event the City is unable to reasonably address the Required ALP Changes to the FAA’s satisfaction in a manner that preserves the material benefits provided to OK3 AIR hereunder, OK3 AIR may in its discretion terminate this Agreement and, in the event of OK3

AIR's election to terminate this Agreement under this paragraph, the City shall not be liable to OK3 AIR as a result thereof as long as the City has complied with this Section III.B.

C. Upon receipt of the FAA Approvals, the City shall promptly provide written notice of the FAA Approvals to OK3 AIR, and the date of such notice shall be referred to herein as the "ALP Approval Date".

IV. Site Selection

A. Upon execution of this Agreement, OK3 AIR and the City shall diligently work together to conduct a Phase II Environmental Site Assessment of the South FBO Campus (the "Phase II ESA"). OK3 AIR and the City shall share equally in the costs incurred in conducting the Phase II ESA, which the Parties understand will not be eligible for federal funding. Upon completion of the Phase II ESA, the City will diligently pursue an appropriate mitigation plan with the Utah Department of Environmental Quality and/or other agency(ies) with jurisdiction to permit the closure of the former landfill. The City will thereafter conduct preliminary soil sampling and other analyses necessary to determine the general suitability of the South FBO Campus for the construction of improvements on the South FBO Campus, in accordance with the approved mitigation plan. OK3 AIR and the City shall share equally in the costs incurred in such sampling and analyses. The City will work with OK3 AIR and the FAA to seek funding from the FAA to reimburse the City and OK3 AIR for the costs incurred pursuant to this Section IV.A. The City and OK3 AIR will comply with any applicable law, regulation, or policies to ensure that such costs incurred are reimbursable through the Federal Grant Programs to the greatest extent possible.

B. Within ninety (90) days after completion of such sampling and analyses, OK3 AIR shall submit a preliminary site plan for the South FBO Campus (the "Preliminary Site Plan"). The Preliminary Site Plan shall include at a minimum (a) 12,000 square feet of office space; (b) 70,000 square feet of hangar space; (c) at least 13 acres of contiguous ramp space; (d) a ground support equipment structure not to exceed 10,000 square feet, which ground support structure may be used to maintain and store OK3 AIR's equipment, including but not limited to fuel trucks, tugs, deicers and snow removal equipment; and (e) a modern fuel farm (collectively, the "Minimum Program Requirements"). The Preliminary Site Plan shall be for the purposes of facilitating the Environmental Studies, described below, and shall not be binding on OK3 AIR.

C. As soon as practical, but no greater than three (3) years from the ALP Approval Date, the City shall make all reasonable and necessary efforts to initiate with the FAA those environmental studies required under the National Environmental Policy Act (NEPA) (the "Environmental Studies") to obtain environmental clearance and secure funding eligibility for the Grant Funded Projects, and the City shall be required to pay the Local Match associated with funding under the Federal Grant Programs relating to the Environmental Studies; provided, however, that the City shall not be obligated to initiate the Environmental Studies unless and until the FAA agrees to provide funding under the Federal Grant Programs for the Environmental Studies.

D. Once initiated, the City shall diligently pursue the Environmental Studies in cooperation with the FAA, and promptly submit the completed Environmental Studies to the FAA. The City shall promptly notify OK3 AIR of the FAA's approval of the Environmental Studies, issuance of a Record of Decision or other final determination under NEPA (the "Final Environmental Determination").

E. Within ninety (90) days following the Final Environmental Determination, OK3 AIR shall provide the City with a South FBO Campus Site Plan. The City shall review and approve or provide comments to the South FBO Campus Site Plan within thirty (30) days. The City's review shall be limited to confirming that the South FBO Campus Site Plan conforms to the Master Plan, ALP, and the Minimum Standards, and such approval shall not be unreasonably withheld, conditioned or delayed. Should the City determine the South FBO Campus Site Plan is not approved because it does not conform to the Master Plan, FAA-approved ALP, or Minimum Standards, the City shall provide comments to OK3 AIR, and the Parties shall diligently cooperate to adjust the South FBO Campus Site Plan to address the City's comments so that the City is able to approve the South FBO Campus Site Plan as quickly as possible. In making adjustments to the South FBO Campus Site Plan, the City's approval shall not be unreasonably conditioned, withheld or delayed.

F. Not less than six (6) months after the City's written approval of the South FBO Campus Site Plan (the "Site Selection Period") OK3 AIR shall notify the City in writing (the "Final Site Notification") of its election to either (a) lease the South FBO Campus, (b) lease the North FBO Campus; or (c) terminate this Agreement (OK3 AIR's elected site, the "Selected Campus"). During the Site Selection Period, the City and OK3 AIR shall cooperate with each other and coordinate with the FAA to determine the general feasibility of developing the South FBO Campus and the likely extent and timing of funding under the Federal Grant Programs for the Grant Funded Projects associated with the South FBO Campus. Upon OK3 AIR's request, the City will extend the Site Selection Period by additional three (3) month intervals if (i) OK3 AIR reasonably determines that it lacks sufficient information to determine the general feasibility of developing the South FBO Campus and the likely extent and timing of AIP funding for the Grant Funded Projects associated with the South FBO Campus; and (ii) the FAA does not object to the extension. For the purposes of the foregoing sentence, the FAA will be deemed to have objected to the extension if any representative of the FAA indicates, in writing or verbally, that the FAA objects to the extension; provided, however, that any such indication by verbal communication must be made to both parties simultaneously and memorialized by written notice from the City to OK3 AIR in accordance with Section XII.H; and provided further that the foregoing provision shall not prohibit either party from seeking a review of the objection by the Manager of the Denver Airports District Office or more senior official within ten (10) business days thereof. OK3 AIR understands and acknowledges it may be required to make its Final Site Notification prior to any determination regarding the FAA's willingness to fund the Grant Funded Projects.

G. In the event OK3 AIR elects in the Final Site Notification to lease the South FBO Campus, the City shall, within one hundred and eighty (180) days after the Final Site Notification issue a Request for Proposals ("RFP") for the development on the North FBO Campus

of hangars and a light general aviation FBO consistent with the FAA-approved ALP, the terms of the Minimum Standards as amended, and the Settlement Agreement. Upon the issuance of said RFP, OK3 AIR shall have no further rights to the North FBO Campus.

H. In the event OK3 AIR elects in the Final Site Notification to lease the North FBO Campus, OK3 AIR shall have no further rights to the South FBO Campus. OK3 AIR shall then provide the City with a revised Preliminary Site Plan for the North FBO Campus within ninety (90) days after the Final Site Notification that will include the Minimum Program Requirements, to the extent such can be accommodated. Within one hundred and eighty (180) days of its receipt of a revised Preliminary Site Plan, the City shall make all reasonable and necessary efforts to amend the ALP in accordance with the revised Preliminary Site Plan and obtain FAA approval and environmental clearance thereof. In the event the FAA requires any changes to the ALP that would materially affect the Preliminary Site Plan, the City and OK3 AIR will proceed as provided in Section III.B. To the extent there is sufficient developable space available on the South FBO Campus, the City shall within one hundred and eighty (180) days after the Final Site Notification issue an RFP for the development on the South FBO Campus of hangars and a light general aviation FBO consistent with the terms of the Minimum Standards as amended and the Settlement Agreement.

V. Project Execution

A. The Parties acknowledge the City's obligation to preserve those rights and powers necessary to comply with the terms of all existing agreements between the City and the United States of America relative to the operation or maintenance of the Airport. To the extent permissible under such agreements, the City agrees to prioritize those Grant Funded Projects associated with the Selected Campus and any necessary enabling projects, prior to seeking funding under the Federal Grant Programs for other Grant Funded Projects and agrees that it will not seek funding under the Federal Grant Programs to relocate the runway or condemn or purchase any of OK3 AIR's existing facilities without also seeking funding under the Federal Grant Programs for Grant Funded Projects on the Selected Campus. Notwithstanding the foregoing, this provision shall not prohibit the City from applying for and/or accepting a grant under the Federal Grant Programs for any Grant Funded Project reasonably necessary to maintain the safety of the Airport, nor shall this provision prohibit the City from applying for and/or accepting a grant under the Federal Grant Programs for any Grant Funded Project that would not delay the FAA funding of the Grant Funded Projects associated with the Selected Campus. Without limiting the foregoing, OK3 AIR understands and agrees that the City intends to pursue the following Grant Funded Projects prior to making any application for funding of the Grant Funded Projects associated with the Selected Campus, and waives any right under this Agreement to challenge the same: (i) the upgrade and relocation of the AWOS; (ii) the Environmental Studies; (iii) the acquisition of snow removal equipment; (iv) the acquisition of property or easements necessary to facilitate the relocation of the runway and parallel taxiway in accordance with FAA standards; and (v) relocation of the access road along the southern boundary of the South FBO Campus.

B. The City shall be responsible for, and its liability to fund the Grant Funded Projects hereunder will be limited to, the local match associated with these Grant Funded Projects

(the “Local Match”). The City will not be obligated to complete the Grant Funded Projects on the Selected Campus unless and until the FAA issues a grant under the Federal Grant Programs covering not less than 90 percent of the cost of the Grant Funded Projects. The Local Match shall be paid by the City. The City shall only be obligated to pay the Local Match out of the City’s Airport Special Revenue Fund, and not from the City’s General Fund; provided, however, that nothing herein shall be construed as preventing the City from making payments from the City’s General Fund, in the City’s sole discretion. The Parties further acknowledge that the timing and availability of funding for the Grant Funded Projects is partially outside the City’s control, and, to that extent, cannot be specifically determined, and except as provided in Section IV.C, the City shall not be in default of its obligations hereunder as a result of its failure to timely raise the Local Match throughout the term of this Agreement, subject to the provisions of this Section V.

VI. Leasehold Interest

A. At any time after providing the City with its Final Site Notification, OK3 AIR may provide written notice to the City of its intent to lease all or a portion of the Selected Campus (each such notice a “Notice of Intent to Lease”). Each Notice of Intent to Lease shall specify the location and approximate square footage of the area to be leased and its intended use, which shall be consistent with the approved Site Plan for the Selected Campus. Not later than sixty (60) days following the receipt of a Notice of Intent to Lease, the City shall:

1. In the case of an area to be used for the development of vehicle parking or aircraft parking ramp/apron, the Current Lease shall be amended to include the area specified in the Notice of Intent to Lease. The City shall prepare and execute a lease addendum to memorialize the addition of the area specified in the Notice of Intent to Lease as a ministerial function, which addendum shall not be subject to City Council approval except as required by law. The terms of the Current Lease shall apply to the area; however, the rental rate shall be initially established at fifteen cents (\$0.15) per square foot. The rental rate shall thereafter be annually adjusted by a percentage equal to the increase in the Mountain-Plains Consumer Price Index through January 31 of the then-current year, as calculated by the U.S. Bureau of Labor Statistics or any successor agency; provided, that no annual increase in the rental rate shall exceed three percent (3%); and provided further, that the rental rate shall not decrease. Notwithstanding the foregoing, the rental rate shall increase to twenty-five cents (\$0.25) per square foot on the fifth anniversary of the addendum to include the area specified in the Notice of Intent to Lease, and thereafter adjusted for inflation as provided in the preceding sentence; and the rental rate shall be reset to the City’s then-current rental rate for comparable uses of airport property on the thirty-fifth anniversary of the addendum to include the area specified in the Notice of Intent to Lease, and thereafter adjusted for inflation as provided in the preceding sentence.

2. In the case of an area to be used for the development of fuel farm facilities, the City shall prepare a lease for the area specified in the Notice of Intent to Lease on such form then in effect for the lease of airport property for comparable uses. The rental rate shall be initially established at fifteen cents (\$0.15) per square foot. The rental rate shall thereafter be annually adjusted by a percentage equal to the increase in the Mountain-Plains Consumer Price Index through January 31 of the then-current year, as calculated by the

U.S. Bureau of Labor Statistics or any successor agency; provided, that no annual increase in the rental rate shall exceed three percent (3%); and provided further, that the rental rate shall not decrease. Notwithstanding the foregoing, the rental rate shall increase to twenty-five cents (\$0.25) per square foot on the fifth anniversary of the lease of the area to be used for the development of fuel farm facilities, and thereafter adjusted for inflation as provided in the preceding sentence; and the rental rate shall be reset to the City's then-current rental rate for comparable uses of airport property on the thirty-fifth anniversary of the lease of the area to be used for the development of fuel farm facilities, and thereafter adjusted for inflation as provided in the preceding sentence. OK3 AIR shall pay ten percent (10%) of the rental rate for the area to be used for the development of fuel farm facilities until such time that the fuel farm is operational. The term of such lease will be coextensive with the Current Lease and contain those cross-default provisions contained in the Current Lease.

3. In the case of an area to be used for the development of any facility other than described in paragraphs VI.A.1 and VI.A.2, the City shall prepare a lease for the area specified in the Notice of Intent to Lease on such form then in effect for the lease of airport property for comparable uses, and at the City's then-current rental rate for comparable uses of airport property. The term of such lease will be coextensive with the Current Lease and contain those cross-default provisions contained in the Current Lease.

B. Upon the City's completion of the Grant Funded Projects associated with the Selected Campus, the City shall provide written notice to OK3 AIR (the date of such notice, the "Grant Funded Projects Completion Date"). Not less than thirty (30) days after the Grant Funded Projects Completion Date, the OK3 AIR shall submit one or more Notice(s) of Intent to Lease all remaining area on the Selected Campus not already under lease. The City shall process the Notice(s) of Intent to Lease as provided in Section VI.A; provided, however:

1. OK3 AIR shall pay ten percent (10%) of the rental rate for the areas identified in such Notice(s) of Intent to Lease until such time that it commences FBO operations from the Selected Campus; and

2. The term of the Current Lease and all other leases on the Selected Campus shall be reset to an initial period of thirty five (35) years and automatically extended for an additional fifteen (15) years when OK3 AIR provides the City's Airport Manager with written certification that it has completed the Minimum Program Requirements, or made a minimum capital investment of five million (\$5,000,000) in Adjusted Dollars in the facilities that contribute to the operation of the FBO, including but not limited to hangars, ramp and fuel farm, whichever happens earlier; provided, however, that if the lease term of the Current Lease has already been extended to fifty (50) years pursuant to the terms of the FBO Lease Addendum, the term shall be reset to initial period of fifty (50) years. For the purposes of this Agreement, "Adjusted Dollars" shall mean the dollar amount indicated in this Agreement multiplied by that fraction the numerator of which is the revised Bureau of Labor Statistics Mountain-Plains Consumer Price Index (the "Index") for December of the preceding year and the denominator of which is the Index for December 2022.

C. OK3 AIR understands and agrees that the City's construction of the Grant Funded Projects on the Selected Campus is in furtherance of the Master Plan, which shall require OK3 AIR to relocate its operations to the Selected Campus. Accordingly, OK3 AIR shall in good faith coordinate the timing of its commencement of FBO operations on the Selected Campus in accordance with the Minimum Standards with the City and the FAA. Notwithstanding the foregoing, OK3 AIR agrees to complete the Minimum Program Requirements and commence FBO operations on the Selected Campus no later than ten (10) years after the Grant Funded Projects Completion Date; or, in the event the City notifies OK3 AIR that the City reasonably anticipates demolishing a portion of OK3 AIR's existing leasehold to facilitate the Grant Funded Projects in less than ten (10) years after the Grant Funded Projects Completion Date, and such earlier date is indicated in an FAA-approved Capital Improvement Program submitted by the City, OK3 AIR shall complete those Minimum Program Requirements sufficient to commence FBO operations in accordance with the Minimum Standards on the Selected Campus no later than three (3) years after the City's notice thereof, and shall complete any remaining Minimum Program Requirements within ten (10) years of the Grant Funded Projects Completion Date. Notwithstanding the foregoing, if OK3 AIR's completion of the Minimum Program Requirements and commencement of FBO operations on the Selected Campus is delayed due to factors beyond OK3 AIR's control, such delay will not constitute a failure on OK3 AIR's part to comply with this Section, provided OK3 AIR gives timely notice to the City pursuant to Section IX.E.

VII. Moratorium; Obligation to Defend. This Agreement is intended to provide OK3 AIR with the opportunity to develop either the South FBO Campus or the North FBO Campus, in accordance with the provisions herein, in order to ensure the relocation OK3 AIR's operations to adequate alternative facilities in furtherance of the Master Plan. Accordingly, until such time as OK3 AIR provides a Final Site Notification to the City, the City will maintain a moratorium on the development of both FBO Areas. In the event the City receives a request to lease or develop any portion of either FBO Area prior to its receipt of the Final Site Notification, or a request to lease or develop any portion of the Selected Campus (other than a Notice of Intent to Lease) after Final Site Selection, then the City shall reject such request and defend OK3 AIR's rights under this Agreement against any alleged grant assurance violation. OK3 AIR's rights in either the South FBO Campus or North FBO Campus shall only be terminated at the request of OK3 AIR, to comply with a final agency action of the FAA, or upon the termination of this Agreement by the City as set forth in Section VIII.C below.

VIII. Defaults and Remedies

A. Event of Default. It shall be an "Event of Default" by either Party hereunder that such Party has defaulted in the performance of any of the terms, covenants, and conditions required under this Agreement and has failed to cure such default within thirty (30) days of receipt by such Party of a Default Notice, as defined below; or, if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following such Party's receipt of a Default Notice, such Party fails to commence the remedying of such default within thirty (30) days following its receipt of a Default Notice, or having so commenced, fails thereafter to continue with diligence to cure such default. The defaulting Party shall have the burden of proof to demonstrate (i) the default cannot be cured within thirty (30) days and (ii) it is proceeding with diligence to cure such default, and such default will be cured within a reasonable period of time.

B. Default Notice. If a default in the performance of any of the terms, covenants, and conditions required under this Agreement occurs, the non-defaulting Party shall deliver written notice (“Default Notice”) to the Party in default, specifying the nature of the alleged default. The Parties shall first attempt to resolve the alleged default, or any dispute arising out of, relating to, or in connection with this Agreement as set forth in the Dispute Resolution Protocol attached hereto as Exhibit B (the “Dispute Resolution Protocol”). The non-defaulting Party shall have no right to exercise any remedy for an Event of Default without delivering the Default Notice as provided herein and as set forth in the Dispute Resolution Protocol.

C. Remedies. Upon the occurrence of an Event of Default, completion of the Dispute Resolution Protocol, and the expiration of any applicable notice and cure periods, the non-defaulting Party shall have the right to terminate this Agreement for cause by giving written notice to the defaulting Party of such termination but shall have no other remedies at law or in equity except as expressly set forth in this Section.

1. With respect to an Event of Default by the City not constituting a Total Breach by the City (as defined in Section VIII.C.3 below), OK3 AIR shall be entitled only to its remedies in equity, including specific performance of this Agreement and injunctive relief; and the City and its officers, elected representatives, agents, employees, and volunteers shall not be liable to OK3 AIR for any loss of profits, expectation, consequential, incidental, indirect, special, punitive, or any other monetary damages arising from an Event of Default not constituting a Total Breach by the City.

2. With respect to an Event of Default by the City determined by a final non-appealable determination of a court of competent jurisdiction to constitute a Total Breach by the City (as defined below), except as provided below in this Section VIII.C.2, OK3 AIR shall be entitled only to its remedies in equity, including specific performance of this Agreement and injunctive relief. Notwithstanding the foregoing, at OK3 AIR’s election, or in the event a court denies OK3 AIR’s request for specific performance or injunctive relief for any reason (other than on the merits), then OK3 AIR may seek monetary damages against the City subject to a cap in the total aggregate amount of three million dollars (\$3,000,000.00). For the avoidance of doubt, any monetary penalties assessed by a court of competent jurisdiction for the City’s failure to comply with an order of specific performance or other equitable relief shall not be subject to the foregoing monetary damages cap, and OK3 AIR’s pursuit of such penalties shall not be deemed an election to seek monetary damages against the City. If OK3 AIR elects and is awarded a judgment for monetary damages resulting from a Total Breach by the City, both the City and OK3 AIR shall be relieved of any further obligations or liabilities under this Agreement and, upon the satisfaction of such judgment for monetary damages, this Agreement shall automatically terminate. The City shall in good faith endeavor to satisfy any judgment for monetary damages resulting from a Total Breach by the City in the fiscal year in which such judgment is awarded, if there are adequate City funds then available. Should the City determine in its sole discretion that it would be unable to satisfy such judgment for monetary damages in a single lump sum payment and meet its other financial obligations, then, notwithstanding any other law, the City shall have the right to divide such payment into not more than five (5) equal, annual installments, or over such longer period to which the Parties may mutually agree in writing. Nothing herein shall require OK3 AIR to bring

a separate cause of action to seek monetary damages in the event of a Total Breach by the City.

3. For the purposes of this Section, a “Total Breach by the City” shall mean an Event of Default constituting a failure or refusal to perform a material obligation under this Agreement through which the City has manifested an unequivocal intent to no longer be bound by the provisions of this Agreement that require performance in the future, or a failure or refusal to comply with a Court-ordered injunction or award of specific performance. Such failure or refusal to perform shall be further limited to official actions of the City as approved by a majority vote of the City Council or those official actions taken by employees of the City pursuant to authority expressly delegated by law or by the City Council (an “Official Action”), and shall in no way be construed to apply to limit the speech, advocacy, or actions of City officials, elected representatives, employees, or members of the Airport Advisory Board in their individual capacities or to their expression of views during the course of official public proceedings of the City Council or in the performance of their public duties, unless such speech or action constitutes an Official Action. OK3 AIR shall have the burden of proof to demonstrate a Total Breach by the City.

4. This Section is only intended to limit the Parties’ remedies for an Event of Default arising under this Agreement, and is not intended to waive or limit the remedies for any other claims or causes of action between the Parties, including those claims arising from any other agreement between the Parties, including the Settlement Agreement and the various leases between the Parties that currently exist or may exist in the future and any action brought by the City for the condemnation thereof. This Section also does not modify, waive or limit in any way either Parties’ right to seek any remedy, compensation or corrective action that may be available through the FAA.

D. The Parties acknowledge that the provisions of this Section VIII, *Defaults and Remedies*, are material and bargained-for terms of this Agreement and the Settlement Agreement, including without limitation the limitation of OK3 AIR’s remedies in the event of a default by the City and the cap on aggregate damages that may be awarded only in the event of a Total Breach by the City of this Agreement, and hereby waive any right to challenge the same.

IX. General Provisions

A. Assignment. OK3 AIR shall have the right to assign this Agreement with the City’s prior written approval, provided the Current Lease is assigned to the same assignee, in accordance with the provisions thereof. The City’s approval shall not be unreasonably withheld, conditioned or delayed provided that OK3 AIR demonstrates that the proposed assignee has financial means and operating capacity that are substantially equivalent to the financial means and operating capacity of OK3 AIR. Any such assignment shall release OK3 AIR from its obligations under this Agreement, provided that the assignee acknowledges in writing that it shall be subject to the terms and conditions of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including assignees.

B. Amendments and Changes. Except where otherwise provided herein, any amendments changes, or modifications to this Agreement or any of its Exhibits must be in writing and executed by authorized agents or representatives of City and OK3 AIR, or their respective successors or assigns.

C. Severability. If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid, or unenforceable, or in conflict with any State or Federal laws or regulations, it is agreed that the remainder of the Agreement shall remain in full force and effect as if such invalid or inconsistent provision was not included.

D. Waiver. No delay or omission in the exercise of any right or remedy of either Party on any default by either Party shall impair such a right or remedy or be construed as a waiver. Any waiver by either Party of any Event of Default on the part of the other must be in writing and shall not be a waiver of any other Event of Default concerning the same or any other provision of the Agreement.

E. Force Majeure. Neither Party shall be in violation of this Agreement by reason of failure to perform any of its obligations by reason of strikes, boycotts, labor disputes, embargoes, unforeseen shortages of materials, acts of God, acts of public enemy, substantial non-temporary flight restrictions, extraordinary and unforeseeable weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible and which are not within its control (each, an event of "Force Majeure"). The non-performing Party shall notify the other Party of such Force Majeure within ten (10) business days after such occurrence by giving written notice to the other Party stating the nature of the event, its anticipated duration, and any action being taken to avoid or minimize its effect. The suspension of performance shall be of no greater scope and no longer duration than is necessary and the non-performing Party shall use commercially reasonable efforts to remedy its inability to perform. Upon the cessation or removal of the Force Majeure, the Party so excused from its obligation shall perform as required under this Agreement.

F. Entire Agreement. This Agreement embodies the entire agreement and understanding among the Parties relating to the subject matter hereof and supersedes all prior agreements and understandings related to such subject matter, and it is agreed that there are no terms, understandings, representations, or warranties, express or implied, relating to such subject matter other than those set forth herein.

G. Captions. The descriptive headings of the sections of this Agreement are inserted for convenience only. They are not intended to and shall not be construed to limit, enlarge, or affect the scope or intent of this Agreement or the meaning of any provision hereof.

H. Notices. All notices, consents, waivers, directions, requests, or communications shall be in writing, and shall be deemed properly given if sent (i) by e-mail to the e-mail address provided by the receiving Party, provided that notices alleging a breach or default may not be given by e-mail, (ii) by hand delivery, (iii) by reputable next business day courier, or (iv) by registered or certified U.S. mail, return receipt requested, postage prepaid, addressed as follows:

If to OK3 AIR:

Nadim Abuhaidar
1980 Airport Road
Heber City, Utah 84032

With copies via email to:

Nadim Abuhaidar at nabuhaidar@ok3air.com
Maggie Abuhaidar at legal@ok3air.com
Craig Hoggan at choggan@dadlaw.net

If to City:

City Manager
75 North Main Street
Heber City, Utah 84032
Phone: 435-654-0757

and

Jeremy R. Cook
Cohne | Kinghorn
111 East Broadway, 11th Floor
Salt Lake City, Utah 84111
Phone: 801-363-4300

or to such other address as a Party may from time to time designate in writing to the other Party as provided above. Notices shall be deemed given upon receipt or refusal of delivery.

I. Rules of Construction. References to numbered or lettered articles, sections, and subsections refer to articles, sections, and subsections of this Agreement unless otherwise expressly stated. The words “herein,” “hereof,” “hereunder,” “hereby,” “this Agreement,” and other similar references shall be construed to mean and include this Agreement and all amendments and supplements hereto unless the context shall clearly indicate or require otherwise. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person may in the context require. Any reference to statutes or laws shall include all amendments, modifications, or replacements of the specific sections and provisions concerned.

J. Governing Law. With respect to an action to enforce the terms and conditions of this Agreement only, the Parties consent to the exercise of jurisdiction of the U.S. District Court for District of Utah and hereby agree that the venue of any action with respect to the enforcement of the terms and conditions of this Agreement shall be properly placed before this same court. This Agreement shall be interpreted under the laws of the State of Utah.

K. Attorney’s Fees. In the event of any dispute, claim, litigation, arbitration or mediation arising out of or in any way related to a Party’s failure to fulfill any of its obligations

under this Agreement, the prevailing Party shall be entitled to recover all reasonable costs and attorney's fees from the other Party.

L. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

M. Subordination to FAA Grant Assurances. This Agreement is subject and subordinate to the provisions of any existing or future agreements between the City and the United States of America relative to the operation or maintenance of the Airport (such provisions the "Grant Assurances"), the terms and execution of which have been or may be required as a condition precedent to the expenditure by or reimbursement to the City of federal funds for the development of the Airport. OK3 AIR acknowledges that it has had an opportunity to review the material terms of this Agreement with the FAA and neither party is aware of any FAA objection. Notwithstanding the foregoing sentence, however, in the event the U.S. Department of Transportation, the Federal Aviation Administration, or a court of competent jurisdiction makes a final non-appealable determination that the City's ability to perform any obligations under this Agreement would violate the Grant Assurances, the City shall be immediately excused from performing such obligation (subject to the limitations set forth below) and shall in good faith negotiate a lawful resolution to the mutual satisfaction of the Parties hereto; provided, however, that if the Parties are unable to resolve the conflict or violation within ninety (90) days, the City shall unilaterally amend this Agreement in the least material manner necessary to comply with the decision of the Court or agency and the remaining provisions hereof will continue in full force and effect and will be construed as if the invalid provision had not been a part of this Agreement.

N. Required Federal Clauses. OK3 AIR acknowledges that City is required by the FAA under the terms of its Grant Assurances to include in this Agreement certain required contract provisions, included as Exhibit C attached hereto and incorporated herein (the "Federal Clauses"). OK3 AIR further acknowledges that the FAA may from time to time amend or augment the Federal Clauses. In such event, City may provide OK3 AIR with a substitute Exhibit C reflecting such amendment or augmentation, and such substitute Exhibit C shall be effective and binding as if originally annexed hereto. OK3 AIR agrees to comply with the Federal Clauses and, where applicable, include the Federal Clauses in each of its subcontracts without limitation or alteration. OK3 AIR acknowledges that a failure to comply with the Federal Clauses constitutes an Event of Default.

O. Non-Circumvention. The Parties, and their respective successors, assigns, heirs, transferees, and affiliates, agree to not directly or indirectly take any actions, make any attempts, fail to act, act in concert with any person, agent, representative, associate, advisor, and/or entity who takes an action or fails to take any action intended to, or such that the resulting effect is to, materially undermine, frustrate, and/or circumvent the purposes of the effectiveness of the material provisions of this Agreement. For the avoidance of doubt, this provision shall apply to the City with respect only to its official actions approved by a majority vote of the City Council or those official actions taken by employees of the City pursuant to the authority expressly delegated by law or by the City Council, and shall in no way limit the speech, advocacy, or actions of City officials, employees or members of the Airport Advisory Board in their individual capacities. The Parties acknowledge that this provision is a material and bargained-for term of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

OK3 AIR:

AH Aero Service, Inc. d/b/a OK3 AIR

By: DocuSigned by:
Madim Abulhaidar
6C4AE81973F245F...

Title: **Owner**

Attest: DocuSigned by:
Maggie Abulhaidar
90A8E00EFBEE438...

CITY:

Heber City Corporation

By: DocuSigned by:
Matt Brower
641245F9CDB248E...

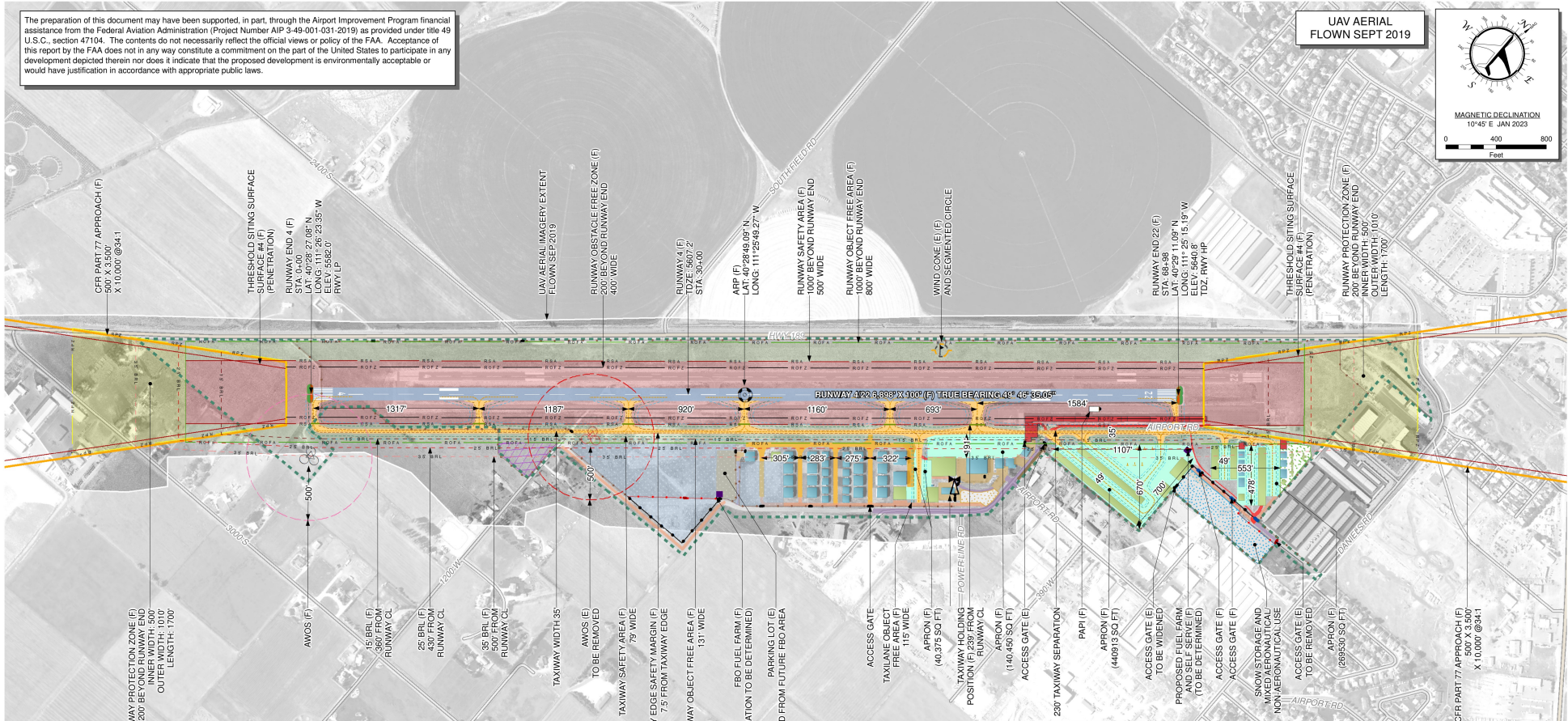
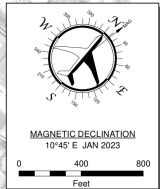
Title: **City Manager**

Attest: DocuSigned by:
Trina Cooke
CB019A1A3164422...

EXHIBIT A
DRAFT AIRPORT LAYOUT PLAN

The preparation of this document may have been supported, in part, through the Airport Improvement Program financial assistance from the Federal Aviation Administration (Project Number AIP 3-49-001-031-2019) as provided under title 49 U.S.C., section 47104. The contents do not necessarily reflect the official views or policy of the FAA. Acceptance of this report by the FAA does not in any way constitute a commitment on the part of the United States to participate in any development depicted therein nor does it indicate that the proposed development is environmentally acceptable or would have justification in accordance with appropriate public laws.

UAV AERIAL FLOWN SEPT 2019



ABBREVIATIONS

AP	AIRPORT
ARP	AIRPORT REFERENCE POINT
BRL	BUILDING RESTRICTION LINE
CL	CENTER LINE
ELEV	ELEVATION
(E)	EXISTING
(F)	FUTURE (MID-PHASE)
(F)	FEDERAL AVIATION ADMINISTRATION
HP	HIGH POINT
LP	LOW POINT
NPI	NON-PRECISION INSTRUMENT
ROFA	RUNWAY OBJECT FREE AREA
ROFZ	RUNWAY OBSTACLE FREE ZONE
RPZ	RUNWAY PROTECTION ZONE
RSA	RUNWAY SAFETY AREA
RWZ	RUNWAY VISIBILITY ZONE
RWY	RUNWAY
STA	STATION
TESM	TAXIWAY EDGE SAFETY MARGIN
TOFA	TAXIWAY OBJECT FREE AREA
TSA	TAXIWAY SAFETY AREA
TOZ	TOUCH-DOWN ZONE
TYP	TYPICAL
(U)	ULTIMATE (LONG-TERM)
VIS	VISUAL

FAA CONDITIONAL APPROVAL

SUBJECT TO LETTER DATED: _____

FEDERAL AVIATION ADMINISTRATION
DENVER AIRPORTS DISTRICT OFFICE

DATE: _____

AIRSPACE CASE NO: _____

CITY OF HEBER CITY
MAYOR _____ DATE _____

ITEM		DESCRIPTION	ITEM		DESCRIPTION	ITEM	
EXISTING	FUTURE		EXISTING	FUTURE		FUTURE	DESCRIPTION
BUILDING			NAVAIDS			MARKING LINE	
[Symbol]	[Symbol]	HANGAR TO BE REMOVED	[Symbol]	[Symbol]	AWOS	[Symbol]	RUNWAY CENTERLINE
[Symbol]	[Symbol]	HANGAR	[Symbol]	[Symbol]	AWOS PROTECTION	[Symbol]	TAXIWAY CENTERLINE
FENCE			[Symbol]	[Symbol]	BEACON	[Symbol]	TAXIWAY HOLDING POSITION
[Symbol]	[Symbol]	CHAINLINK FENCE (7')	X	[Symbol]	PAPI	[Symbol]	TIE DOWN
[Symbol]	[Symbol]	FENCE TO BE REMOVED	X	[Symbol]	THRESHOLD LIGHT	[Symbol]	SAFETY AREAS
[Symbol]	[Symbol]	WIRE FENCE (8')	[Symbol]	[Symbol]	WIND CONE	[Symbol]	RUNWAY SAFETY AREA (RSA)
[Symbol]	[Symbol]	GATE	[Symbol]	[Symbol]	SEGMENTED CIRCLE	[Symbol]	RUNWAY OBJECT FREE AREA (ROFA)
PART 77 SURFACE			PAVEMENT			[Symbol]	RUNWAY PROTECTION ZONE (RPZ)
X	[Symbol]	CFR PART 77 APPROACH	X	[Symbol]	APRON	[Symbol]	RUNWAY OBSTACLE FREE ZONE (ROFZ)
X	[Symbol]	THRESHOLD SITING SURFACE	[Symbol]	[Symbol]	DRIVEWAY	[Symbol]	TAXIWAY EDGE SAFETY MARGIN (TESM)
MISCELLANEOUS			[Symbol]	[Symbol]	PARKING LOT	[Symbol]	TAXIWAY OBJECT FREE AREA (TOFA)
[Symbol]	[Symbol]	AIRPORT BOUNDARY	[Symbol]	[Symbol]	ROAD	[Symbol]	TAXIWAY SAFETY AREA (TSA)
X	[Symbol]	AIRPORT REFERENCE POINT (ARP)	X	[Symbol]	RUNWAY	[Symbol]	15' BUILDING RESTRICTION LINE (BRL)
X	[Symbol]	FBO AREA	[Symbol]	[Symbol]	TAXIWAY	[Symbol]	25' BUILDING RESTRICTION LINE (BRL)
X	[Symbol]	SNOW STORAGE	X	[Symbol]	FUEL	[Symbol]	35' BUILDING RESTRICTION LINE (BRL)
X	[Symbol]	AIRPORT VIEW AREA	X	[Symbol]	ELECTRIC PLANE PARKING	[Symbol]	
X	[Symbol]	GLIDER AREA	[Symbol]	[Symbol]	ROAD TO BE REMOVED	[Symbol]	

REVISIONS

NO.	DESCRIPTION

DESIGNED: _____

DRAWN: _____

CHECKED: _____

APPROVED: _____

ARDURRA

2175 W. 3000 S., SUITE 200
HEBER VALLEY, UT 84021
PHONE: 435-315-6168 WWW.ARDURRA.COM

A.I.P. NO.: 3-49-001-031-2019

**AIRPORT LAYOUT PLAN
FUTURE
HEBER VALLEY AIRPORT**

DATE: XXX.XX.XXXX
PROJECT # 190036
SHEET: **3B**
4 OF 21

EXHIBIT B

DISPUTE RESOLUTION PROTOCOL

- A. NOTICE AND OPPORTUNITY TO CURE. Unless a shorter cure period or right to immediate termination is expressly provided in this Agreement, no Party shall be considered in default of any provision of this Agreement, or any covenant or obligation pertaining to the use or occupancy of Airport property, and no right of termination shall arise, unless and until the counter-Party has provided such Party with written notice of default and not less than thirty (30) days to cure such default or, if the default is not capable of cure within thirty (30) days, such Party has within thirty (30) days commenced, and thereafter diligently proceeds to complete, those actions reasonably necessary to cure such Party's default.
- B. INFORMAL DISPUTE RESOLUTION. The Parties agree that, at all times, they will attempt in good faith to resolve all disputes that may arise under this Agreement. Upon receipt of written notice of a dispute from a Party, the Parties agree to refer the dispute to the City Manager, for the City, and the Chief Executive Officer, for Lessee (collectively, "**Designated Persons**"). The Designated Persons shall within fifteen (15) days of such written notice meet and negotiate in good faith to resolve the dispute, conferring thereafter as often as they deem reasonably necessary, and shall gather and in good faith furnish to each other any information pertinent to the dispute. All communications between the Designated Persons during the dispute resolution procedures set forth in this Paragraph shall be deemed confidential and treated as compromise and settlement negotiations and shall not be admissible in evidence by any proceeding without the mutual consent of the Parties.
- C. MEDIATION. Mediation of a dispute arising under this Agreement may not be commenced until the earlier of: (i) such time as both of the Designated Persons, after following the procedures set forth in Paragraph A and B hereof, conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely or (ii) fifteen (15) days after the date of the notice referring the dispute to the Designated Persons. If, after such time period, the dispute remains unresolved, the Parties shall attempt to resolve the dispute through mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures. The place of mediation shall be in Heber City, Utah, unless the parties agree otherwise. Mediation under this paragraph shall be a necessary prerequisite to any judicial action to enforce the terms and conditions of this Agreement, unless waived in writing with the mutual consent of both Parties.
- D. JURISDICTION, VENUE AND APPLICABLE LAW. With respect to an action to enforce the terms and conditions of this Agreement only, the Parties consent to the exercise of jurisdiction of Fourth Judicial District, Wasatch County, District Court and hereby agree that the venue of any action with respect to the enforcement of the terms and conditions of this Agreement shall be properly placed before this same court. This Agreement shall be interpreted under the laws of the State of Utah.

- E. Emergency Relief. No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and is not otherwise available under this Agreement.

- F. Tolling. If a Party receiving a notice of default under this Agreement contests, disputes or challenges the propriety of such notice by making application to the dispute resolution procedure in this Exhibit, any cure period that applies to such default shall be tolled for the time period between such application and the issuance of a final award.

- G. FAA Disputes. The Parties understand and acknowledge the FAA's exclusive jurisdiction to determine the City's compliance with its federal Grant Assurance obligations (a "***Compliance Dispute***"), and that any remedies which may be imposed by the FAA for noncompliance therewith are exclusive. Accordingly, in the event of a Compliance Dispute, and after exhausting the procedures described in Paragraphs A and B hereof, either Party may initiate an informal or formal complaint proceeding with the FAA in accordance with 14 C.F.R. Parts 13 and 16 or similar succeeding provisions, without regard to the other provisions hereof.

EXHIBIT C

REQUIRED FEDERAL CLAUSES

- A. Compliance with Nondiscrimination Provisions. During the performance of this Agreement, OK3 AIR, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “OK3 AIR”) agrees as follows:
1. **Compliance with Regulations:** OK3 AIR will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
 2. **Non-discrimination:** OK3 AIR, with regard to the work performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors, including procurements of materials and leases of equipment. OK3 AIR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
 3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by OK3 AIR for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by OK3 AIR of OK3 AIR’s obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
 4. **Information and Reports:** OK3 AIR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts Authorities and instructions. Where any information required of OK3 AIR is in the exclusive possession of another who fails or refuses to furnish the information, OK3 AIR will so certify to City or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
 5. **Sanctions for Noncompliance:** In the event of OK3 AIR’s noncompliance with the Non-discrimination provisions of this Contract, City will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to cancelling, terminating, or suspending the Agreement, in whole or in part.
 6. **Incorporation of Provisions:** OK3 AIR will include the provisions of paragraphs one through six of this Exhibit A, Section (A) in every contract, including

procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. OK3 AIR will take action with respect to any contract or procurement as City or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if OK3 AIR becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, OK3 AIR may request City to enter into any litigation to protect the interests of City. In addition, OK3 AIR may request the United States to enter into the litigation to protect the interests of the United States.

- B. Real Property Acquired or Improved Under the Airport Improvement Program. OK3 AIR 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 property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, OK3 AIR will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- C. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program. OK3 AIR 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 (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that OK3 AIR will furnish its services in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts And Authorities.
- D. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, OK3 AIR, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
 - ii. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
 - iii. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

- iv. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- v. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- vi. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- vii. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- viii. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- ix. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- x. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- xi. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- xii. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
- xiii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

- E. General Civil Rights Provision. OK3 AIR agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If OK3 AIR transfers its obligation to another, the transferee is obligated in the same manner as OK3 AIR. This provision obligates OK3 AIR for the period during which the property is owned, used, or possessed by OK3 AIR and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

- F. Right of Re-entry. In the event of breach of any of the above Nondiscrimination covenants, City will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

- G. Subcontracts. OK3 AIR agrees that it shall insert the above six provisions (Section (A) through Section (F)) in any agreement by which OK3 AIR grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.