



**CITY OF ELKO
CITY MANAGER
1751 COLLEGE AVENUE
ELKO, NEVADA 89801
(775) 777-7110/FAX (775) 777-7119**

PUBLIC MEETING NOTICE

The Elko City Council will meet in regular session on Tuesday, October 26, 2021 at 4:00 P.M.–7:00 P.M., P.D.S.T. at the Elko City Hall, 1751 College Avenue, Elko, Nevada and by utilizing [GoToMeeting.com](https://global.gotomeeting.com/join/793396717)

Please join the meeting from your computer, tablet or smartphone.

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ELKO CITY HALL

1751 College Avenue, Elko, NV 89801

Date/Time Posted: 8:30 a.m. P.D.S.T., Thursday, October 21, 2021

Posted by: Kim Wilkinson, Administrative Assistant

The public may contact Kim Wilkinson by phone at (775) 777-7110 or email at kwilkinson@elkocitynv.gov to request supporting material for the meeting described herein. The agenda and supporting material is available on the City website at <http://www.elkocity.com>

The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone at: <https://global.gotomeeting.com/join/793396717> You can also dial in using your phone at **United States: +1 (646) 749-3122** the Access Code for this meeting is **793-396-717** Public Comment and questions can be received by calling (775) 777-0590 or by emailing cityclerk@elkocitynv.gov

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Dated this 21st day of October, 2021

NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Elko City Council, 1751 College Avenue, Elko, Nevada 89801, or by calling (775) 777-7110.

Curtis Calder, City Manager
Elko, Nevada

CITY OF ELKO
CITY COUNCIL AGENDA
REGULAR MEETING
4:00 P.M., P.D.S.T., TUESDAY, OCTOBER 26, 2021
ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA
<https://global.gotomeeting.com/join/793396717>

CALL TO ORDER

The Agenda for this meeting of the City of Elko City Council has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone by registering at link above.

ROLL CALL

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

APPROVAL OF MINUTES	October 12, 2021	Regular Session
	October 19, 2021	Special Session

I. PERSONNEL

A. Employee Introductions

- 1.) Jacob Liter, Equipment Operator, Street Department
- 2.) Landon Powers, WRF Technician Trainee, Sewer Department

II. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. FOR POSSIBLE ACTION**
- B. Review and possible approval of Utility Refunds, and matters related thereto. FOR POSSIBLE ACTION**
- C. Review and possible of Print n' Copy Warrants, and matters related thereto. FOR POSSIBLE ACTION**

- D. Review and possible ratification of General Hand-Cut Checks, and matters related thereto. **FOR POSSIBLE ACTION**
- E. Review, consideration, and possible action to award a bid for the City of Elko WRF BIOTOWER Removal Project, and matters related thereto. **FOR POSSIBLE ACTION**

Council directed Staff to solicit bids for the WRF BIOTOWER Removal Project on September 14, 2021. Bids were received on October 13th and opened at 3:00 pm. Q & D Construction was the lowest bid in the amount of \$288,440.00. A Bid Tally Sheet has been provided. DJ

- F. Review, consideration, and possible authorization to solicit Statements of Qualifications from airport consultant firms and begin the selection process in order to facilitate a future Airport Improvement Program grant; Acquire ARFF Vehicle and Ancillary Equipment at Elko Regional Airport, and matters related thereto. **FOR POSSIBLE ACTION**

The airport is required to follow requirements in FAA Advisory Circular 150/5100-14(series), *Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects*. The airport must solicit qualifications from interested consultant firms in order to purchase an ARFF vehicle and the associated equipment. Funding for this project will come from the Airport Improvement program for FY 2022. Upon selecting the most qualified firm, the airport will enter into negotiations over the lump sum price for completing this project. JF

- G. Review, consideration, and possible authorization for Staff to apply for Federal Aviation Administration Grant # AIP 3-32-0005-058-2022 Reconstruct Air Carrier Terminal Apron Phase I, Design, and matters related thereto. **FOR POSSIBLE ACTION**

Airport Improvement Project Grant Awards are based upon the outcome of competitive bid solicitations. As such, Staff is preparing to submit a grant application for the design and eventual replacement of Terminal Commercial Apron at the Elko Regional Airport that has been compromised by alkali-silica reaction (ASR). This grant will allow for the design of the Terminal Ramp Reconstruction Phase I. Any grant offer from the Federal Aviation Administration will be brought back to the City Council for consideration and possible acceptance. JF

- H. Review, consideration, and possible authorization for Staff to apply for Federal Aviation Administration Grant # AIP 3-32-0005-059-2022 Acquire ARFF Vehicle

(Class 4 - 1,500 Gallon) and Acquire ARFF Ancillary Equipment, and matters related thereto. **FOR POSSIBLE ACTION**

Airport Improvement Project Grant Awards are based upon the outcome of competitive bid solicitations. As such, Staff is preparing to submit a grant application for the purchase of an ARFF Vehicle (Class 4) and ancillary equipment. As a commercial service airport, FAR Part 139 requires the airport to provide on-site airport rescue firefighting capabilities. The proposed vehicle will be Class 4, 4x4, with agent capacities of 1,500 usable gallons of water and 500 pounds of sodium-based dry chemical agent. The ARFF vehicle shall meet the guidelines established in AC 150/5220-10E, Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles. The Ancillary Equipment includes items not addressed by the standard ARFF vehicle specification. This equipment shall meet the guidelines established in AC 150/5210-14B, Aircraft Rescue Fire Fighting, Equipment, Tools and Clothing. The current primary ARFF vehicle (A1) is nearing the accepted useful life. The ARFF Vehicle and Ancillary Equipment will be bid and awarded as separate schedules. JF

- I. Consideration, discussion, and possible authorization to accept a National Grant for the amount of \$50,000 from the NFC Grant Committee and Statewide Partners to install an outdoor fitness court at Angel Park, and matters related thereto. **FOR POSSIBLE ACTION**

On August 24, 2021, Council authorized Staff to apply for a grant with the National Fitness Campaign for participation in their 2022 initiative to install and activate outdoor Fitness Courts in 200 cities and schools across the country. Staff recently received notice that our application was approved for eligibility of a \$50,000 grant award. JW

III. NEW BUSINESS

- A. Review, consideration, and possible acceptance of a contract for the Food & Beverage Concession between the City of Elko and Fernando Vargas dba I Don't Know Deli & Cafeteria, and matters related thereto. **FOR POSSIBLE ACTION**

At the September 14, 2021 meeting, Council approved Staff's request to solicit proposal for the Food & Beverage Concession at the Elko Regional Airport. The City received one (1) completed proposal from Fernando Vargas dba I Don't Know Deli & Cafeteria. Staff asked for authorization to negotiate a contract with the vendor and to bring back for Council for approval. JF

- B. Review, consideration, and possible approval of a Land Lease Agreement for Hangar (C7) with Aaron Lamb, and matters related thereto. **FOR POSSIBLE ACTION**

Aaron Lamb is the new owner of Hangar C7. The previous agreements had expired and a new lease is required. Additionally, airport ground leases of less than one-half an acre are no longer subject to appraisal/auction process for cities whose population is less than 25,000 (NRS 496.80) JF

IV. RESOLUTIONS AND ORDINANCES

- A. Review, discussion, and possible adoption of Resolution No. 29-21, a resolution approving a Memorandum of Understanding and Form Contract to be utilized for Cold Weather Shelters during Cold Weather Emergencies, and matters related thereto. **FOR POSSIBLE ACTION**

As a possible means of providing shelter to homeless persons during periods of extreme cold weather Staff is proposing the adoption of a Memorandum of Understanding and a Form Contract that could be utilized to rent hotel/motel rooms under NRS 332.112 on an as-available basis. SAW

- B. Review, consideration, and possible approval of Resolution No. 30-21, to adopt and allocate funds for an outdoor fitness court as part of the 2022 National Fitness Campaign, and matters related thereto. **FOR POSSIBLE ACTION**

Council Authorized Staff to pursue the installation of outdoor fitness equipment at Angel Park on June 8, 2021. Subsequently, Council authorized Staff to apply for a grant through the National Fitness Campaign on August 24, 2021. Resolution NO30-21 formally accepts the award of a grant in the amount of \$50,000 from the NFC and State Partners as part of the 2022 National Fitness Campaign.

V. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Review, consideration, and possible approval of issuing a revised Packaged Liquor License to Airport Phillips 66 / Conrad & Bishoff, modifying the current Packaged Liquor License for a change in business entity, and matters related thereto. **FOR POSSIBLE ACTION**

VI. 5:30 P.M. PUBLIC HEARINGS

- A. Review, consideration of bids and public auction for the lease of approximately 2.262 acres (98,526 sq.) of City-owned property located on the Elko Regional Airport, identified as Lease Area N2, pursuant to NRS 268.062, and matters related thereto. **FOR POSSIBLE ACTION**

City Council adopted resolution No. 25-21 at its meeting on September 28, 2021, finding that it is in the best interest of the City to lease the property, and setting forth the conditions of public auction for City owned property identified as Lease Area N2. The Council previously accepted the annual market rent value of the

property of \$29,558.00, in accordance with the appraisal of Jason Buckholz of CRBE, Inc., appraiser. JF

VII. REPORTS

- A. Mayor and City Council
- B. City Manager
- C. Assistant City Manager
- D. Utilities Director
- E. Public Works Director
- F. Airport Manager
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Financial Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

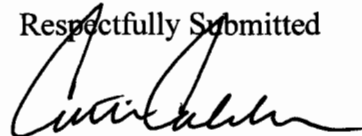
COMMENTS BY THE GENERAL PUBLIC

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NOTE: The Mayor, Mayor Pro Tempore, or other Presiding Officer of the City Council reserves the right to change the order of the agenda, and if the agenda has not been completed, to recess the meeting and continue on another specified date and time. Additionally, the City Council reserves the right to combine two or more agenda items, and/or remove an item from the agenda, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

ADJOURNMENT

Respectfully Submitted



Curtis Calder
City Manager

City of Elko)
County of Elko)
State of Nevada)

SS October 12, 2021

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, October 12, 2021. The meeting was held at Elko City Hall, 1751 College Ave., Elko and via GoTo Meeting.

This meeting was called to order by Mayor Reece Keener. The public can participate in person, by phone, tablet, laptop, or computer by registering with the GoTo Meeting link provided in the agenda. Questions can be sent to cityclerk@elkocitynv.gov.

CALL TO ORDER

ROLL CALL

Council Present: Mayor Reece Keener
Councilwoman Mandy Simons
Councilman Chip Stone
Councilman Clair Morris
Councilman Giovanni Puccinelli

City Staff Present: Scott Wilkinson, Assistant City Manager
Kelly Wooldridge, City Clerk
Jan Baum, Financial Services Director
Dennis Strickland, Public Works Director
Cathy Laughlin, City Planner
Jim Foster, Airport Manager
Matt Griego, Fire Chief
Jack Snyder, Deputy Fire Chief
Ty Trouten, Police Chief
Dave Stanton, City Attorney
Bob Thibault, Civil Engineer
Michele Rambo, Development Manager
James Wiley, Parks and Recreation Director
Dale Johnson, Utilities Director
Susie Shurtz, Human Resources Manager
DJ Smith, Computer Information Systems Coordinator
Diann Byington, Recording Secretary

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

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on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

There were no public comments.

APPROVAL OF MINUTES: September 28, 2021 **Regular Session**

The minutes were approved by general consent.

II. PERSONNEL

- C. Presentation of Utah Commission for Professional Fire Officer Development Managing Fire Officer credential to Fire Captain James Johnston, and matters related. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

Mayor Keener presented Fire Captain James Johnston with his Utah Commission for Professional Fire Officer Development Managing Officer Certificate. There is no such certificate/award available in Nevada and that is why he got this from Utah. Mr. Johnston is the first in Nevada to receive this.

Captain James Johnston thanked the Chief and his whole crew for their help and support in getting this.

I. PRESENTATIONS

- A. Reading of a proclamation in recognition of October 20, 2021, as Unity Day in Elko, Nevada, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

Mayor Keener read the proclamation.

Kelly Wooldridge, City Clerk, accepted the proclamation on behalf of Nevada PEP, which is a board she has been on for several years. Nevada PEP serves children and families with disabilities of all types. This month is Anti-Bullying Month and they are glad that the Elko City Council could join them.

- B. Biobot Analytics COVID-19 presentation by Valerie Zatarain, WRF Laboratory Director, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

Valarie Zatarain, WRF Laboratory Director, gave a presentation regarding the BioBot testing.

Mayor Keener asked if the reports took into consideration vacuum trucks and sewage that are hauled in from other communities.

Ms. Zatarain answered it does take those into consideration.

Mayor Keener wondered how many different municipalities within the State of Nevada are part of this program.

Ms. Zatarain didn't know how many participate. That used to be published in the reports months ago. She offered to get that information.

- C. Elko Community Ponds Project presentation by Joe Doucette, NDOW Conservation Educator IV, including consideration and possible approval of City-provided park maintenance (assuming project completion), and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the presentation has been included in the agenda packet for review. CC

Joe Doucette, NDOW, gave a presentation.

Mayor Keener asked Mr. Doucette what kind of commitment he was looking for from the City.

Mr. Doucette answered they are looking at someone that would manage it as a park and do the long-term stuff. There may be a bit of a financial commitment as far as putting the bathrooms in. They want someone to operate and manage the park. As we go through the process, they are looking at NDOW, Nevada Gold Mines and other interested parties like NV Energy with grant processes, to fund the project. They would manage the fishery and provide the fish. The biologists would do the studies and water sampling. This will also be a place where we could do the casting classes and some introductions to fishing.

Scott Wilkinson, Assistant City Manager, suggested the action tonight might include direction to work with NDOW and develop an MOU that could be presented to City Council at a future date for consideration.

Mayor Keener called for public comment without a response.

**** A motion was made by Councilman Stone, seconded by Councilwoman Simons, to instruct staff to research and build a Memorandum of Understanding, working with NDOW in regards to the pond development, maintenance of buildings, pond park ownership, insurance, costs associated and the money that can be used and to assist in other ideas.**

Mr. Wilkinson said the City Manager has spoken to the Parks and Recreation Director and he was in favor of the City maintaining the facility going forward and looks forward to the possibility of it getting developed.

The motion passed unanimously. (5-0)

II. PERSONNEL (Cont.)

A. Employee Introductions:

1.) Jerry Riess, Parks Maintenance Tech

Present and introduced.

2.) Javonni Brown, Equipment Operator

Present and introduced.

3.) Cory Geer, Equipment Operator

Present and introduced.

B. Appointment of Deputy Fire Chief Jack Snyder as the Fire Chief for the City of Elko, effective December 25, 2021, and matters related thereto. **FOR POSSIBLE ACTION**

During the August 24, 2021 Council Meeting, Council directed Staff to coordinate a meeting with Mayor Keener, Councilman Stone, and Deputy Fire Chief Jack Snyder. The purpose of the meeting was to discuss the possibility of a direct appointment to the position of Fire Chief by the City Council, based upon Fire Chief's Griego's recommendation. Based upon that meeting, Staff proceeded with a contingent job offer to Deputy Chief Snyder. Staff is pleased to report that the contingent job offer was accepted. SS

Susie Shurtz, Human Resources Manager, explained there had been some conversations and Mr. Calder had been involved in that after the previous action. She was pleased that Mr. Snyder accepted the written offer.

Mayor Keener asked Mr. Snyder to introduce his family that were present.

Jack Snyder, Deputy Fire Chief, introduced his children and wife.

All the Council Members and some staff voiced their support in Mr. Snyder taking over the role of Fire Chief.

Mr. Snyder thanked everyone for the support. He has big shoes to fill but he was confident he could fill them and take the department into the future. He looks forward to working with everyone. He also thanked his family and especially his wife, for putting up with him.

**** A motion was made by Councilman Stone, seconded by Councilman Morris, to appoint Deputy Fire Chief Jack Snyder to replace our current Fire Chief, Matt Griego, effective December 25, 2021.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible approval to reclassify one (1) Records Technician Position to a Lead Records Technician Position in the Police Department, and matters related thereto. **FOR POSSIBLE ACTION**

The Police Department currently has three (3) budgeted Full-Time Records Technician positions. This request is for a reclassification for one Records Technician position to Lead Records Technician. This will be a new job title, providing one journey level position in the Records Technician series. This position will provide back-up to the Police Records Supervisor, and will supervise the Records Technicians. The reclassification will create minimal impact to the budget. SS

Susie Shurtz, Human Resources Manager, explained the job description was included in the packet.

Chief Trouten explained why they are requesting this reclassification.

**** A motion was made by Councilman Morris, seconded by Councilwoman Simons, to approve the position description as presented.**

The motion passed unanimously. (5-0)

III. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Simons, seconded by Councilman Puccinelli, to approve the general warrants in the amount of \$736,358.66.**

The motion passed unanimously. (5-0)

- C. Review and possible ratification of General Hand-Cut Checks, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Simons, seconded by Councilman Puccinelli, to approve the hand-cut checks in the amount of \$133,118.92.**

The motion passed unanimously. (5-0)

- B. Review and possible approval of Utility Refunds, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Simons, seconded by Councilman Puccinelli, to approve the utility refunds in the amount of \$1,389.66**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible approval to solicit bids for the Sewer Slip Line Project 2021, and matters related thereto. **FOR POSSIBLE ACTION**

This project was approved in the Fiscal Year 2021/2022 Budget. The sewer's located in the upper Indian Reservation have a lot of root intrusion and offsets in the pipe which causes a number of Sanitary Sewer Overflows caused by grease and wipes that get hung up inside the pipe. The approximate 3,800 linear feet of sewer to be slip lined are located in the following streets:

- Buckskin to Ruby View Golf Entrance & to 2000 Ruby View-1,340-feet
- Feather Way to Indian View Heights- 225-feet
- Newe Circle to Indian View Heights- 340-feet
- Pinenut Circle to Indian View Heights- 500-feet
- Sagebrush Drive to Eagle Drive- 1,400-feet

Alternate sewers to be slip lined are located in the following streets should budget allow:

- Eagle Drive to Buckskin Drive- 1,265-feet
- Arrow Lane to Heritage Way- 445-feet
- Heritage Way to Eagle Drive- 470-feet DJ

Dale Johnson, Utilities Director, explained they are just looking for approval to solicit for bids.

**** A motion was made by Councilman Stone, seconded by Councilman Puccinelli, to approve soliciting for bids for the Sewer Slip Line Project 2021.**

The motion passed unanimously.

IV. NEW BUSINESS

- A. Review, consideration, and possible acceptance of a proposal for the Food and Beverage Concession Services at the airport, from Fernando Vargas dba I Don't Know Deli & Cafeteria, and matters related thereto. **FOR POSSIBLE ACTION**

At the September 14, 2021 meeting, Council approved Staff's request to solicit proposal for the Food and Beverage Concession at the Elko Regional Airport. The City received one (1) completed proposal from Fernando Vargas dba I Don't Know Deli & Cafeteria. JF

Jim Foster, Airport Manager, explained the proposal received was included in the packet. Mr. Vargas is excited to get started. Now we are looking for authorization to accept the proposal and start the contract negotiation.

Mayor Keener said he has known Mr. Vargas for many years. He is confident he will be successful.

**** A motion was made by Councilman Stone, seconded by Councilman Morris, to accept the proposal from Fernando Vargas, dba I Don't Know Deli and Cafeteria, and authorize staff to negotiate a concession agreement for the Food/Beverage Concession Service with Fernando Vargas, dba I Don't Know Deli and Cafeteria at the Elko Regional Airport.**

The motion passed unanimously. (5-0)

- B. Consideration of a request by the Elko County Board of Commissioners for the City of Elko to share equally in the costs of providing a Community Monoclonal Antibody Therapy Clinic, and matters related thereto. **FOR POSSIBLE ACTION**

Monoclonal antibody treatments have been authorized by the Federal Drug Administration (FDA) for emergency use to treat high-risk patients who have contracted or been exposed to COVID-19. The antibodies help the immune system recognize and respond more effectively to the virus. In clinical trials, monoclonal antibody therapy treatment showed a 70% reduction in hospitalization and death among high-risk patients.

City of Elko Staff has agreed in concept to allocate America Rescue Plan Act (ARPA) funds for this treatment, which began on October 1, 2021. The Elko County Manager has agreed to provide a monthly itemization of expenses for the City of Elko's review and reimbursement. CC

Mayor Keener said he was approached by Rex Steninger to support this. Upon learning more about it he was on board. Anything that we can do here in the community to abate some of the crushing load at the hospital. There is still a high census of COVID patients at the hospital right now.

Scott Wilkinson, Assistant City Manager, said if Council is in favor of this, as a part of this action he would recommend that it be made retroactive back to the start of the clinic, which was October 1. The City Manager is estimating that the first month's cost might be around \$30,000 with Elko's share around \$15,000.

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to agree to the request from the Elko County Board of Commissioners for the City of Elko to share equally in the costs of providing a Community Monoclonal Antibody Therapy Clinic and make it retroactive to October 1, 2021.**

The motion passed unanimously. (5-0)

V. REPORTS

A. Mayor and City Council

Mayor Keener reported the opening of the Dog Park was a great event. He recommended everyone go there at some point. Hats off to Darcy for all the work she did and thank you to all the sponsors, volunteers, and City Rec and Park Departments employees.

Councilman Stone agreed it was a great turnout for the opening, he counted about 105 people at one point.

Councilman Morris said he attended an RTC Meeting last week. NDOT is doing some great work on US93 north by adding six some passing lanes.

B. City Manager - Absent

C. Assistant City Manager

Mr. Wilkinson reminded Council about the special meeting for ARPA next week @ 4:00 p.m.

Mayor Keener asked if he had heard anything on the VA Cemetery.

Mr. Wilkinson answered he has not heard anything but he knew the property had closed.

D. Utilities Director

Dale Johnson said they officially started working out of the new shop on Monday. They are still moving items in. The crew is surprised at how big the space is.

E. Public Works- No Report

F. Airport Manager

Mayor Keener thanked him for sending the numbers on enplanements.

G. City Attorney

Mayor Keener told Dave he read his article published in the Nevada Lawyer Magazine and felt it was great work and it should be a foundational article for staff and Planning Commission.

H. Fire Chief - Absent

I. Police Chief

Chief Trouton reported they now have animal control and are interviewing for a part-time animal control officer. He apologized for absences tonight as there were some issues he was working on at the School Board Meeting tonight.

J. City Clerk – No Report

K. City Planner

Cathy Laughlin said she had sent out a report on Bird Rides regarding an end of the season summary and they are happy to meet with anyone if needed.

Mayor Keener asked any progress with the Knights on the lot issue at Idaho and 5th.

Ms. Laughlin answered she had not had a response to the demand letter and thought this may wrap up in court.

L. Development Manager – No Report

M. Financial Services Director

Jan Baum said they have been attending seminars and educating themselves on ARPA. Reporting has been extended. They expected the interim rule from

the treasury but that has not arrived due to the reporting dates being pushed out. They are working on the application and expects some presentations at the meeting next week.

Mayor Keener asked if he and Ms. Baum need to meet prior to the meeting.

Ms. Baum responded no, most of the meeting will be providing information and approving the application, as well as the water/sewer infrastructure.

Mr. Wilkinson commented it is important to look at the water/sewer recommendations. There is a lot of need and we have a unique opportunity to get in front of it.

Ms. Baum explained Mr. Johnson has a detailed list of the projects. Mr. Calder will be working on condensing it for the meeting.

N. Parks and Recreation Director

James Wiley reported they are busy winterizing all the irrigation systems and get it done by the end of the month since it is getting cold. Mr. Wiley stated the SnoBowl is in good shape to run, we just need the snow.

O. Civil Engineer - No Report

P. Building Official

Mayor Keener asked if we have seen anything from the LDS Temple.

Mr. Wilkinson stated we are processing a conditional use permit with the Planning Commission right now.

Mayor Keener asked if we foresee any trouble based on the height of the light.

Mr. Wilkinson did not think they would be encroaching into any air space at that location. He believes the space was well thought out.

COMMENTS BY THE GENERAL PUBLIC

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There were no public comments.

There being no further business, Mayor Reece Keener adjourned the meeting.

Mayor Reece Keener

Kelly Wooldridge, City Clerk

City of Elko)
County of Elko)
State of Nevada)

SS October 19, 2021

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 PM, Tuesday, October 19, 2021. The meeting was held in the council chambers, 1751 College Ave., Elko and via GoTo Meeting.

This meeting was called to order by Mayor Reece Keener. He stated the agenda for this meeting has been posted for this date and time in accordance with State of Nevada NRS 241. The public can participate in person, by phone, tablet, laptop, or computer by registering with the GoTo Meeting link provided in the agenda, or calling 775-777-0590. Questions can be sent to cityclerk@elkocitynv.gov.

I. CALL TO ORDER

The Agenda for this meeting of the City of Elko City Council has been properly posted for this date and time in accordance with NRS requirements.

II. ROLL CALL

Present:

Mayor Keener
Council Member Simons
Council Member Stone
Council Member Morris
Council Member Puccinelli

City Staff Present:

City Manager Calder
Assistant City Manager Wilkinson
Jan Baum, Financial Services Director
DJ Smith, Computer Information Systems Coordinator
Kelly Wooldridge, City Clerk
Dale Johnson, Utilities Director
Diann Byington, Recording Secretary

III. PLEDGE OF ALLEGANCE

IV. COMMENTS BY THE GENERAL PUBLIC

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Carolyn Jordan, ABC4 Salt Lake City, handed out some paperwork (Exhibit "A") and spoke about possible advertising/promotional uses for ARPA funds.

October 19, 2021

City Council | Minutes

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Sheldon Hetzel, Bailey Homes, said it has come to his attention that a number of non-profits in the community are struggling with space, etc., for their services. He wondered if the City will have some space coming available that the non-profits could use. In Winnemucca, some non-profits are sharing larger spaces and it is working out. There are at least 4 local nonprofits that are willing to do this. We are also approaching a housing crisis. There are a lot of supplies and materials that they cannot get.

V. APPROVAL OF MINUTES

VI. PUBLIC HEARING

VI.A. Review and possible approval of the City of Elko American Rescue Plan Act (ARPA) Grant Application Form, and matters related thereto. FOR POSSIBLE ACTION

Jan Baum, Financial Services Director, went over the ARPA Grant Application they put together (Exhibit "B").

**** A motion was made by Council Member Simons, seconded by Council Member Stone, to approve the City of Elko American Rescue Plan Act Grant Application form subject to City Attorney approval.**

The motion passed unanimously. (5-0)

VI.B. Review and possible approval of City of Elko water and sewer project prioritization list for ARPA eligible infrastructure projects, and matters related thereto. FOR POSSIBLE ACTION

Curtis Calder, City Manager, gave a presentation (included in the packet).

Mayor Keener liked the report and how it was put together. He wondered if there was any cooperation that has been talked about with the County for some of the community health needs?

Mr. Calder answered he was not aware of any. The County has about \$10 million vs. our \$28 million.

Councilwoman Simons asked about some of the money going towards the geothermal system.

Mr. Calder answered a study was done on the geothermal system. Phase One would cost about \$3.3 million just to replace the pipes in the ground and keep it at its normal capacity. If you wanted to expand the capacity up to the college and other places, a lot more work would be done and the price tag gets closer to \$9-\$10 million. He doesn't think it would qualify under ARPA but it is listed under our infrastructure wish list.

Scott Wilkinson, Assistant City Manager, said it is important that we let Dale Johnson take a few minutes to inform the Council on how these projects really add to the security of our water system and address some deficiencies.

Dale Johnson, Utilities Director, explained each project on the list and how it will benefit the City.

Scott Gavorsky, Gavorsky Consulting Nevada Recovers, asked if the proposed deadline for the application October 19, 2021

will be December 31, 2021.

Mr. Calder answered yes and that will be for the first round of ARPA grant funding. There will be a second round and maybe a third.

**** A motion was made by Council Member Stone, seconded by Council Member Morris, to approve the City of Elko Water and Sewer Project Prioritization list for ARPA eligible infrastructure projects as stated with Priority 1 and 2.**

The motion passed unanimously. (5-0)

VI.C. Presentation by Vitality Unlimited regarding ARPA eligible projects for future consideration, and matters related thereto. FOR POSSIBLE ACTION

Sarah Adler, SSGR, Vitality Unlimited, gave a presentation (Exhibit "C").

VIII. COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. ACTION WILL NOT BE TAKEN

Mr. Calder stated staff does not envision a third public hearing. They believe they can bring back the individual requests during regular meetings as the requests are received. If there is a request to get more public input, he was willing to work with their schedules to get another meeting scheduled. Now that we have the application, we will be directing applicants to do that first, let staff vet the applications and then presentations could be made at Council Meetings if needed.

There being no further business, Mayor Reece Keener adjourned the meeting.

Mayor Reece Keener

Kelly Wooldridge, City Clerk

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to award a bid for the City of Elko WRF BIOTOWER Removal Project, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2021**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **3 Minutes**
5. Background Information: **Council directed Staff to solicit bids for the WRF BIOTOWER Removal Project on September 14, 2021. Bids were received on October 13th and opened at 3:00 pm. Q & D Construction was the lowest bid in the amount of \$288,440.00. A Bid Tally Sheet has been provided. DJ**
6. Budget Information:

Appropriation Required: \$288,440.00
Budget amount available: \$350,000.00
Fund name: WRF/Sewer
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Bid Tally Sheet**
9. Recommended Motion: **Move to award a bid for the WRF BIOTOWER Removal Project to Q & D Construction, in the amount of \$288,440.00.**
10. Prepared by: **Dale Johnson, Utilities Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**CITY OF ELKO
BID TABULATION**

**PROJECT: WRF BIO-TOWER PROJECT
DATE: 10/13/2021**

						1		2		3	
						Name	Q&D Construction	Name	Great Basin Engineering Contractors	Name	Granite Construction
						Address	1050 S. 21st. Street	Address	PO Box 396	Address	905 Railroad Street, Suite # 202
						City State	Sparks, NV 89431	City State	Elko, NV 89801	City State	Elko, NV 89801
						Phone No.	775-786-5136	Phone No.	775-340-5365	Phone No.	775-367-8714
						Fax No.	jpere@gdconstruction.com	Fax No.	greatbasinelkko@gmail.com	Fax No.	sethjohnson@gmail.com
No.	Bid Item Description	Quantity	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
1	Cap existing 18" effluent line per keynote 1 sheet C2 of the construction plans.	3	Each	\$ 2,500.00	\$7,500.00	\$6,831.39	\$20,494.17	\$6,957.00	\$20,871.00		
2	Remove concrete structure and lateral piping per keynote 2 sheet C2 of the construction plans.	1	Each	\$ 4,000.00	\$4,000.00	\$5,311.02	\$5,311.02	\$1,078.00	\$1,078.00		
3	Remove sample line and conduits per keynote 3 sheet C2 of the construction plans.	1	Lump Sum	\$ 4,000.00	\$4,000.00	\$1,041.64	\$1,041.64	\$4,562.00	\$4,562.00		
4	Remove 24" above ground air vent piping and supports per keynote 4 sheet C2 of the construction plans.	1	Lump Sum	\$ 2,500.00	\$2,500.00	\$2,877.95	\$2,877.95	\$209.00	\$209.00		
5	Remove 18" above ground effluent pipe and approximately 15 feet of underground effluent pipe at tee connection per keynote 5 sheet C2 of the construction plans.	1	Lump Sum	\$ 1,000.00	\$1,000.00	\$2,732.99	\$2,732.99	\$4,563.00	\$4,563.00		
6	Cap 1" drinking water line and remove at valve location per keynote 6 sheet C2 of the construction plans	1	Each	\$ 500.00	\$500.00	\$678.65	\$678.65	\$2,224.00	\$2,224.00		
7	Cap two 2" hot water lines and remove per keynote 7 sheet 2 of the construction plans.	2	Each	\$ 600.00	\$1,200.00	\$766.81	\$1,533.62	\$1,683.00	\$3,366.00		
8	Cap 4" drain line and remove line and cleanout per keynote 8 sheet C2 of the construction plans	1	Each	\$ 1,000.00	\$1,000.00	\$966.87	\$966.87	\$3,425.00	\$3,425.00		
9	Remove existing concrete sidewalk per keynote 9 sheet C2 of the construction plans	140	Sq. Ft.	\$ 4.50	\$630.00	\$4.85	\$679.00	\$1.50	\$210.00		
10	Remove existing bollard per keynote 10 sheet C2 of the construction plans.	1	Each	\$ 350.00	\$350.00	\$208.33	\$208.33	\$400.00	\$400.00		
11	Remove and salvage stairway structure per keynote 11 sheet C2 of the construction plans.	1	Lump Sum	\$ 18,000.00	\$18,000.00	\$6,653.79	\$6,653.79	\$19,400.00	\$19,400.00		
12	Remove and salvage stairway structure per keynote 11 sheet C2 of the construction plans.	1	Lump Sum	\$ 19,000.00	\$19,000.00	\$10,057.07	\$10,057.07	\$48,861.00	\$48,861.00		

13	Remove biotower including contents and foundation per keynote 13 sheet C2 of the construction plans.	1	Lump Sum	\$ 129,760.75	\$129,760.75
14	Unclassified Excavation as shown sheet C3 of the construction plans.	100	Cubic Yards	\$ 33.00	\$3,300.00
15	Unclassified Embankment as shown on sheet C3 of the construction plans.	530	Cubic Yards	\$ 54.00	\$28,620.00
16	3-inches type 2, Class B aggregate base as shown sheet C3 of the construction plans	6655	Sq. Ft.	\$ 1.15	\$7,653.25
17	1.5-inches of ¾" washed gravel as shown on sheet C3 of the construction plans	6,655	Sq. Ft.	\$ 1.00	\$6,655.00
18	Electrical work as shown on sheet E1 of the construction plans	1	Lump Sum	\$ 24,771.00	\$24,771.00
19	Mobilization and Demobilization	1	Lump Sum	\$ 28,000.00	\$28,000.00
	Total				<u>\$288,440.00</u>

Complete Bid

\$163,762.08	\$163,762.08
\$29.88	\$2,988.00
\$37.99	\$20,134.70
\$1.10	\$7,320.50
\$0.92	\$6,122.60
\$30,363.53	\$30,363.53
\$28,617.47	\$28,617.47
	<u>\$312,543.98</u>

Complete Bid

\$188,123.00	\$188,123.00
\$40.00	\$4,000.00
\$60.00	\$31,800.00
\$1.40	\$9,317.00
\$1.10	\$7,320.50
\$26,100.00	\$26,100.00
\$30,410.50	\$30,410.50
	<u>\$406,240.00</u>

Complete Bid

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible authorization to solicit Statements of Qualifications from airport consultant firms and begin the selection process in order to facilitate a future Airport Improvement Program grant; Acquire ARFF Vehicle and Ancillary Equipment at Elko Regional Airport, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **The airport is required to follow requirements in FAA Advisory Circular 150/5100-14(series), *Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects*. The airport must solicit qualifications from interested consultant firms in order to purchase an ARFF vehicle and the associated equipment. Funding for this project will come from the Airport Improvement program for FY 2022. Upon selecting the most qualified firm, the airport will enter into negotiations over the lump sum price for completing this project. JF**
6. Budget Information:
 Appropriation Required: **NA**
 Budget amount available: **NA**
 Fund name: **Airport Enterprise Fund**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Draft Scope of Work**
9. Recommended Motion: **Authorize Staff to solicit qualifications in order to begin the selection process of a consultant to provide services for the Acquire ARFF Vehicle and Ancillary Equipment.**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

**SCOPE OF WORK
FOR
ELKO REGIONAL AIRPORT
Elko, NV
AIP Project No. 3-32-0006-059-2022
Acquire ARFF Vehicle and Ancillary Equipment**

This project shall consist of preparing Contract Documents, Technical Specifications and Engineer's Design Report, along with Bidding and Procurement Administration for the Acquire Aircraft Rescue and Fire Fighting (ARFF) Vehicle and Ancillary Equipment Project. This scope of work is for the consulting services provided by the Engineer for the Sponsor.

DESCRIPTION

This project consists of the procurement, through the competitive bidding process, of one ARFF vehicle and associated ancillary equipment. The proposed vehicle will be Class 4, 4x4, with agent capacities of 1,500 usable gallons of water and 500 pounds of sodium-based dry chemical agent. The ARFF vehicle shall meet the guidelines established in AC 150/5220-10E, *Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles*, and the National Fire Protection Association Standard (NFPA) 414, 2012 edition, *Standard for Aircraft Rescue and Fire-Fighting Vehicle*. Since the procurement of this vehicle will be through the competitive bidding process, a non-proprietary equipment specification will be developed to ensure the proper vehicle is secured for the Sponsor. An Engineer's Design Report and Final Construction Report will be produced and submitted to the FAA for the procurement of the ARFF Vehicle.

The Ancillary Equipment includes items not addressed by the standard ARFF vehicle specification. This equipment shall meet the guidelines established in AC 150/5210-14B, *Aircraft Rescue Fire Fighting, Equipment, Tools and Clothing*.

The ARFF Vehicle and Ancillary Equipment will be bid and awarded as separate schedules.

The engineering fees for this project will be broken into two parts. **Part A-Basic Services** includes; 1) Preliminary Design Phase, 2) Design Phase, 3) Bidding Phase; and **Part B-Special Services**, which includes; 4) Manufacturing/Procurement Phase and 5) Post Manufacturing Phase. Parts A and B and the five phases are described in more detail below.

PART A - BASIC SERVICES consists of the Preliminary Design Phase, Design Phase and Bidding Phase, all invoiced on a lump sum basis.

1.0 Preliminary Design Phase

1.1 Coordinate and Attend Meetings with the Sponsor and FAA. Meetings with the Sponsor and the FAA will take place to determine critical project dates, establish the proposed design schedule and AIP development schedule, review environmental component(s), determine the feasibility of the proposed project. Various meetings during the design phase will also be conducted to review the progress of the design, discuss manufacturing details and proposed time frame of manufacturing and identify any special requirements for the project. It is anticipated that there will be a minimum of two meetings with the Sponsor and/or the FAA throughout the course of the design.

1.2 Prepare Project Scope of Work and Contract. This task includes establishing the scope of work through meetings outlined above. Fees will be negotiated with the Sponsor. This task also includes drafting the contract for the work to be completed by the Engineer for the Sponsor once negotiations are complete.

1.3 Prepare Preliminary Cost Estimating. This task includes creating a preliminary rough order of magnitude (ROM) cost estimate, a preliminary manufacturing days estimate, a preliminary overall project schedule, and a preliminary overall project budget. The preliminary ROM cost estimate will be based upon the most current information available at the time of preparation. Work to refine these estimates is included under Task 2.4.

1.4 Provide Project Coordination. The Engineer shall provide project management and coordination services to ensure the completion of the design. These duties include:

- Time the Engineer spends planning, organizing, securing and scheduling resources, and providing instruction to staff to meet project objectives as defined in the approved scope of work.
- The Engineer will analyze the budget semi-monthly to ensure budget and staffing needs are on track to meet design schedules within budget.
- Additional items to be accomplished include compiling and sending additional information requested from the office to related parties, maintaining project files as necessary and other items necessary in day to day project coordination.
- The Engineer will prepare and submit monthly invoicing.

The Engineer will complete the following tasks:

- Provide the Sponsor with a monthly Project Status Report (PSR), in writing, reporting on Engineer's progress and any problems that may arise while performing the work. The PSR must include an update of the project schedule, as described in this section, when schedule changes are expected.
- Submit for acceptance and maintain a design schedule detailing the scheduled performance of the work.
- Create and maintain a Quality Control Checklist (QCC) for the project. The QCC shall include personnel, project milestone checking and peer review procedures at each phase of the project.

1.5 Prepare Federal Grant Application. This task consists of preparing the federal grant application. The application will be submitted during the initial portion of the project. Preparation of the application includes the following:

- Prepare Federal 424 form.
- Prepare Federal Form 5100 – II thru IV.
- Prepare project funding summary.
- Prepare program narrative, discussing the purpose and need of the work and the method of accomplishment.
- Prepare preliminary cost estimate.
- Include the existing Exhibit "A" Property Map
- Prepare the Sponsor's certifications.
- Attach the current grant assurances.

- Include DOT Title VI assurances.
- Include certification for contract, grants and cooperative agreements.
- Include Title VI pre-award checklist.
- Include current FAA advisory circulars required for use in AIP approved projects.

The Engineer shall submit the grant application to the Sponsor for approval and signatures. After obtaining the necessary signatures, the Sponsor or Engineer shall forward a copy of the signed application to the FAA for further processing.

1.6 Prepare Environmental Documentation. Not Applicable. The FAA determined that a Categorical Exclusion (CATEX) applies according to FAA orders 1050.1F and 5050.4B. The project will be environmentally approved through the FAA's internal memorandum. The Engineer's environmental planner will coordinate with the FAA to provide the necessary information for the internal memorandum.

TASK 1 DELIVERABLES	TO FAA	TO SPONSOR
1.1 Meeting Agendas, AIP Development Schedule and Meeting Minutes from Pre-Design Meeting	✓	✓
1.2 Scope of Work and Draft Contract for the Sponsor	✓	✓
1.3 Preliminary Cost Estimate	✓	✓
1.4 Design Schedule, Project Status Report and Monthly Invoicing	✓	✓
1.5 Federal Grant Application	✓	✓

TASK 1 MEETINGS/SITE VISITS	LOCATION/ATTENDEES/DURATION
1.1 Pre-design meeting	<ul style="list-style-type: none"> • Elko, Nevada One (1) Project Manager and one (1) Office Manager Assume One, two-hour visit with Airport Manager (1 meeting)
1.2 Prepare Project Scope of Work and Contract	<ul style="list-style-type: none"> • Elko, Nevada One (1) Project Manager Assume One (1) hour meeting with Airport Manager (1 meeting)

2.0 Design Phase

2.1 Prepare Preliminary Contract Documents. This task includes preparing the Preliminary Contract Documents, including Bid Form, Bid Schedule, Bidder's General Information and Major Subcontractors Listing, Bid Bond, Subcontractor/Material Supplier Listing, Certification of Non-Segregated Facilities, Equal Employment Opportunity Report Statement, Buy America Certification, Buy America Waiver Request, Buy America Conformance Listing, Certification of Offer or/Bidder Regarding Tax Delinquency and Felony Convictions, Contractor's Statement of Qualifications, Agreement, Payment Bond, Performance Bond, Certification of Legal Work Status (Contractor), Certification of Legal Work Status (Subcontractor), Notice of Award, Notice to Proceed, Certification of Legal Work Status (Payment Request), Conditional Waiver and Release upon Progress Payment (General Contractor), Conditional Waiver and Release upon Progress Payment (Subcontractor), Waiver and Release upon Final Payment (General Contractor), Waiver and Release upon Final Payment (Subcontractor), Request for Information, Change Order, Notice of Substantial Completion, Final Acceptance Letter and General Provisions. Preparation will include establishing the location for the bid opening, dates for advertisement and description of the work schedule. Also included in the Preliminary Contract Documents and covered under separate tasks below,

are the Technical Specifications and Special Provisions. Preliminary Contract Documents will be prepared as early as possible during the design phase and submitted to the Sponsor for review.

2.2 Prepare Preliminary Technical Specifications. This task includes assembling the technical specifications necessary for the project. Standard FAA specifications will be utilized where possible. Additional specifications will be prepared to address work items for materials that are not covered by the standard FAA specifications. This applies to the Ancillary Equipment. All specifications will be written to ensure the requirements are non-proprietary and not sole sourcing any equipment manufacturer.

2.3 Prepare Preliminary Special Provisions. This task includes preparing the preliminary Special Provisions to address, or expound on, conditions that require additional clarification. These include, but are not limited to: Insurance, Indemnification, Sales and Use Taxes, Permits and Compliance with Laws, Executed Contracts, Subletting or Assigning of Contracts, and Liquidated Damages. The St. George City General Conditions will also be included in the Special Provisions.

2.4 Prepare Estimate of Probable Construction Cost. Following the completion of the plans and specifications, the Engineer will prepare the cost estimate. The estimate will be based on information obtained from previous acquisitions, material suppliers and other available databases.

2.5 Prepare Engineer's Design Report. This task includes preparation of the Engineer's design report in accordance with current FAA Northwest Mountain Region Design Report guidelines. The Engineer's design report will include a description of the project, estimate of project costs, justification of equipment requirements and a schedule for the completion of the design, bidding and procurement.

2.6 Review at 90% Complete. The Engineer will submit a set of Contract Documents and Specifications to the Sponsor for their review at 90% design completion. The project will be reviewed with the FAA to obtain concurrence with the design.

2.7 Provide In-House Quality Control. The Engineer has an established quality control program that will provide both experienced and thorough reviews of all project submittals and will also provide engineering guidance to the design team throughout design development from an experienced senior-level Professional Engineer.

Prior to each review set of Contract Documents, Specifications and Engineer's Design Report being submitted to the Sponsor and FAA, a thorough in-house quality control review of the documents will be conducted. This process will include an independent review of the Contract Documents, Specifications and Engineer's Design Report being submitted, by a licensed Professional Engineer other than the Engineer who performed the design of the project. Comments will be offered by the Engineer that performed the review and revisions to the Contract Documents, Specifications and Engineer's Design Report will be made accordingly.

In addition to the 90% review, the Engineer's in-house quality control program also provides engineering guidance to the design team throughout the project design in an attempt to steer the project in a manner that provides the best engineering judgment.

2.8 Prepare and Submit Specifications, Contract Documents, and Design Report. A final set of Specifications, Contract Documents and the Engineer's Design Report will be prepared and submitted to the Sponsor and the FAA. These documents incorporate all revisions, modifications and corrections determined during the final review. Paper and electronic copies will be provided.

TASK 2 DELIVERABLES	TO FAA	TO SPONSOR
2.1 Preliminary Contract Documents for Sponsor's Review	✓	✓
2.6 90 % Contract Documents, Specifications and Design Report	✓	✓
2.8 Final Specifications, Contract Documents and Engineer's Design Report	✓	✓

TASK 2 MEETINGS/SITE VISITS	LOCATION/ATTENDEES/DURATION
2.6 Plan Review at 90% complete.	<ul style="list-style-type: none"> Elko, Nevada One (1) Project Manager Assume One (1), two-hour visit with Airport Manager (1 meeting)

3.0 Bidding Phase

3.1 Provide Bid Assistance. The Engineer will assist the Sponsor, as needed, with any required bidding documents, including the project advertisement.

3.2 Prepare/Conduct Pre-Bid Meeting. The Engineer will conduct the pre-bid meeting in coordination with the Sponsor and contract document requirements. As a part of this meeting, the Engineer will discuss the equipment requirements and procurement schedule.

3.3 Prepare Addenda. Any necessary addenda will be issued to clarify and modify the project, as required, and based on questions or comments that may arise from potential manufacturers during the bidding process. Any necessary addenda will be reviewed with the Sponsor and FAA prior to being issued.

3.4 Consult with Prospective Bidders. During the bidding process, the Engineer shall be available to clarify bidding issues with manufacturers and suppliers and for consultation with the various entities associated with the project.

3.5 Attend Bid Opening. The Engineer shall attend the bid opening for the project, which will be conducted by the Sponsor.

3.6 Review Bid Proposals. Upon the opening of submitted bid proposals by the Sponsor, the Engineer shall review all the bid proposals submitted. A cost analysis of the bid prices will be completed and tabulated; the manufacturer's qualifications to perform the work will be included, including review of suspension and debarment rules on the www.Sam.gov website, Buy American compliance analysis/review, and project funding review. A check on inclusion of bid guarantee and acknowledgement of addenda shall be completed.

3.7 Prepare Recommendation of Award. The Engineer shall prepare a Recommendation of Award for the Sponsor to accept or reject the bids received with a summary of the items listed in Task 3.6. If rejection is recommended, the Engineer will supply an explanation for their recommendation and possible alternative actions the Sponsor can pursue to complete the project.

TASK 3 DELIVERABLES	TO FAA	TO SPONSOR
3.1 Required Bidding Documents	✓	✓
3.2 Pre-Bid Meeting Agenda and Pre-Bid Meeting Minutes	✓	✓

3.3 Addenda	✓	✓
3.6 Bid Tabulations	✓	✓
3.7 Recommendation of Award	✓	✓

TASK 3 MEETINGS/SITE VISITS	LOCATION/ATTENDEES/DURATION
3.2 Prepare/Conduct Pre-Bid Meeting	<ul style="list-style-type: none"> Elko, NV One (1) Project Manager Assume One (1) hour meeting (1 meeting)
3.5 Attend Bid Opening	<ul style="list-style-type: none"> Elko, NV One (1) Project Manager Assume One (1) hour meeting (1 meeting)

PART B - SPECIAL SERVICES consists of the Manufacturing/Procurement Phase and Post Manufacturing Phase, all invoiced on a lump sum basis.

4.0 Manufacturing/Procurement Phase

4.1 Prepare Contract and Documents. In agreement with the FAA, the Engineer shall prepare the Notice of Award, Notice to Proceed and Contract Agreements, including bonds and insurance documents, which will be updated to include all addenda items issued during bidding, for the Sponsor's approval and signatures. Approximately five copies will be submitted to the successful Manufacturer for their signatures.

The Engineer will ensure the procurement contracts are in order, the bonds have been completed, and the Manufacturer has been provided with adequate copies of the Contract Documents and Specifications which will be updated to include all addenda items issued during bidding.

4.2 Provide Support During Manufacturing/Procurement of Equipment. The Engineer will provide support during the manufacturing and procurement of the equipment. Such support may include answering and clarifying any questions the manufacturer may have, coordinating with manufacturer on timeline of delivery or any delays, and coordinating with Sponsor and the FAA in the event any changes or modifications from the specifications are required. These duties include:

- Provide the Sponsor with a monthly Project Status Report (PSR), in writing, reporting on Engineer's progress and any problems that may arise while performing the work. The PSR must include an update of the project schedule, as described in this section, when schedule changes are expected.
- Prepare quarterly performance reports.

4.3 Prepare Requests for Reimbursement. This task includes preparing the FAA Standard Form 271 for Sponsor reimbursement of eligible expenses incurred. The Engineer will submit the completed form along with appropriate supporting documentation to the Sponsor for review and approval. Upon approval, the Engineer or the Sponsor will submit the completed forms and supporting documentation to the FAA for reimbursement. It is estimated there will be three RFRs for expenses incurred during the design, procurement and closeout phase of the project.

TASK 4 DELIVERABLES	TO FAA	TO SPONSOR
4.1 Contract and Documents to Manufacturer	✓	✓
4.1 Notice of Award, Notice to Proceed and Contract Agreement	✓	✓

4.1 Issue Contract Documents and Specifications	✓	✓
4.2 Monthly PSR	✓	✓
4.2 Quarterly Performance Reports	✓	✓
4.3 Request for Reimbursement	✓	✓

5.0 Post Manufacturing Phase

5.1 Conduct Final Inspection. The Engineer, along with the Sponsor and FAA (if available), shall conduct the final inspection.

5.2 Prepare Final Acquisition Report. The Engineer will prepare the final acquisition report to meet the applicable FAA closeout checklist requirements.

5.3 Summarize Project Costs. The Engineer will be required to obtain all administrative expenses, engineering fees and costs, and acquisition costs associated with the project and assemble a total project summary. The summary will be analyzed with the associated project funding.

TASK 5 DELIVERABLES	TO FAA	TO SPONSOR
5.2 Final Acquisition Report	✓	✓
5.3 Project Cost Summary	✓	✓

TASK 5 MEETINGS/SITE VISITS	LOCATION/ATTENDEES/DURATION
5.1 Conduct Final Inspection	<ul style="list-style-type: none"> Elko, NV One (1) Project Manager Assume One (4) hour meeting (1 meeting)

Assumptions

The scope of services described previously is based on the following assumptions of responsibilities by the Engineer and Sponsor.

1. It is anticipated there will be a minimum number of trips and site visits to the airport to facilitate the completion of the various phases listed in this scope. The number of trips for each phase are included at the end of each phase above.
2. All engineering work will be performed using accepted engineering principles and practices and provide quality products that meet or exceed industry standards. Specifications and criteria will be in accordance with AC 150/5220-10E, *Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles*, and the National Fire Protection Association Standard (NFPA) 414, 2012 edition, *Standard for Aircraft Rescue and Fire-Fighting Vehicle* and related circulars. Project planning, design and manufacturing will further conform to all applicable standards, including all applicable current FAA Advisory Circulars and Orders required for use in AIP-funded projects and other national, state, or local regulations and standards, as identified and relevant to an equipment acquisition project.
3. The Engineer will utilize the following assumptions when preparing the project manual for bidding and construction of the project:

- The project manual Contract Documents will be developed jointly by the Sponsor and the Engineer. The St. George City standard bidding documents will be utilized.
 - The Engineer is responsible for developing the contents of the document and including the Front-End documents which will be supplied by the Sponsor.
 - FAA General Provisions and required contract language will be used as well as St. George City General Conditions.
4. The Engineer must maintain records of design analyses and calculations consistent with typical industry standards, as required by the FAA, for a period of three years after the project is closed by the FAA.
5. Because the Engineer has no control over the cost of manufacturer-related labor, materials, or equipment, the Engineer's opinions of probable equipment costs will be made on the basis of experience and qualifications as a practitioner of his/her profession. The Engineer does not guarantee that proposals for manufacturing, manufacturing bids, or actual project manufacturing costs will not vary from Engineer's estimates of equipment cost.

It is assumed that a project audit will not be performed. If a project audit occurs, the Engineer is prepared to assist the Sponsor in gathering and preparing the required materials for the audit. This work will be negotiated with the Sponsor, should the need occur, and payment will be on a time and material basis.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible authorization for Staff to apply for Federal Aviation Administration Grant # AIP 3-32-0005-058-2022 Reconstruct Air Carrier Terminal Apron Phase I, Design, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2021**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Airport Improvement Project Grant Awards are based upon the outcome of competitive bid solicitations. As such, Staff is preparing to submit a grant application for the design and eventual replacement of Terminal Commercial Apron at the Elko Regional Airport that has been compromised by alkali-silica reaction (ASR). This grant will allow for the design of the Terminal Ramp Reconstruction Phase I. Any grant offer from the Federal Aviation Administration will be brought back to the City Council for consideration and possible acceptance. JF**
6. Budget Impact Statement:

Appropriation Required: NA
Budget amount available: NA
Fund name: Airport Enterprise
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Authorize Staff to apply for FAA Airport Improvement Program Grant #58 3-32-0005-058-2022**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Kirk Nielsen, Project Manager, Jviation, Inc.
Jviation, Inc. Kirk.Nielsen@woolpert.com**

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible authorization for Staff to apply for Federal Aviation Administration Grant # AIP 3-32-0005-059-2022 Acquire ARFF Vehicle (Class 4 - 1,500 Gallon) and Acquire ARFF Ancillary Equipment, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2021**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Airport Improvement Project Grant Awards are based upon the outcome of competitive bid solicitations. As such, Staff is preparing to submit a grant application for the purchase of an ARFF Vehicle (Class 4) and ancillary equipment. As a commercial service airport, FAR Part 139 requires the airport to provide on-site airport rescue firefighting capabilities. The proposed vehicle will be Class 4, 4x4, with agent capacities of 1,500 usable gallons of water and 500 pounds of sodium-based dry chemical agent. The ARFF vehicle shall meet the guidelines established in AC 150/5220-10E, Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles. The Ancillary Equipment includes items not addressed by the standard ARFF vehicle specification. This equipment shall meet the guidelines established in AC 150/5210-14B, Aircraft Rescue Fire Fighting, Equipment, Tools and Clothing. The current primary ARFF vehicle (A1) is nearing the accepted useful life. The ARFF Vehicle and Ancillary Equipment will be bid and awarded as separate schedules. JF**
6. Budget Impact Statement:

Appropriation Required:
Budget amount available:
Fund name: **Airport Enterprise**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Authorize Staff to apply for FAA Airport Improvement Program #59 3-32-0005-059-2022**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution

**Elko City Council
Agenda Action Sheet**

1. **Title: Consideration, discussion, and possible authorization to accept a National Grant for the amount of \$50,000 from the NFC Grant Committee and Statewide Partners to install an outdoor fitness court at Angel Park, and matters related thereto. FOR POSSIBLE ACTION**
2. **Meeting Date: October 26, 2021**
3. **Agenda Category: APPROPRIATION**
4. **Time Required: 5 Minutes**
5. **Background Information: On August 24, 2021, City Council authorized Staff to apply for a grant with the National Fitness Campaign for participation in their 2022 initiative to install and activate outdoor Fitness Courts in 200 cities and schools across the country. Staff recently received notice that our application was approved for eligibility of a \$50,000 grant award. JW**
6. **Budget Information:**
 - Appropriation Required: \$90,000.00**
 - Budget amount available: \$100,000.00**
 - Fund name: Recreation Fund**
7. **Business Impact Statement: Not Required**
8. **Supplemental Agenda Information:**
9. **Recommended Motion: Acceptance of a grant award of \$50,000 from NFC and State Partners for the purchase of an outdoor fitness court associated with 2022 campaign.**
10. **Prepared by: James Wiley, Director of Parks and Recreation**
11. **Committee/Other Agency Review:**
12. **Council Action:**
13. **Agenda Distribution:**

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible acceptance of a contract for the Food & Beverage Concession between the City of Elko and Fernando Vargas dba I Don't Know Deli & Cafeteria, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2021**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **At the September 14, 2021 meeting, Council approved Staff's request to solicit proposal for the Food & Beverage Concession at the Elko Regional Airport. The City received one (1) completed proposal from Fernando Vargas dba I Don't Know Deli & Cafeteria. Staff asked for authorization to negotiate a contract with the vendor and to bring back for Council for approval. JF**
6. Budget Information:

Appropriation Required: N/A
Budget amount available: N/A
Fund name: N/A
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Concession agreement w/ exhibits**
9. Recommended Motion: **Move to accept the concession agreement between the City of Elko and Fernando Vargas dba I Don't Know Deli & Cafeteria.**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review: **City Attorney**
12. Council Action:
13. Agenda Distribution: **Fernando Vargas macachi@aol.com**

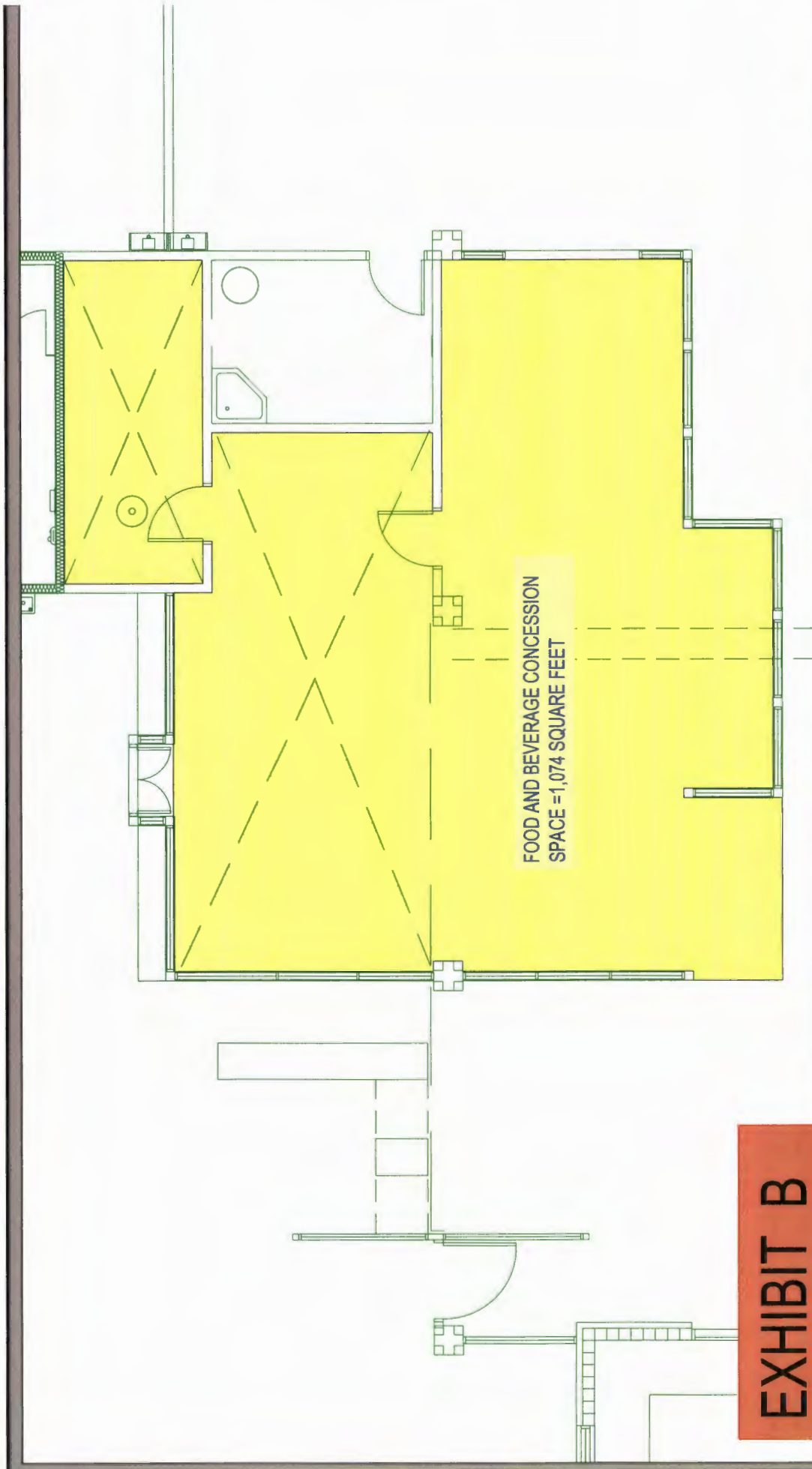
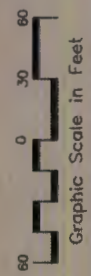


EXHIBIT B



3/14/2012 10:41 AM

TERMINAL FLOOR PLAN-FOOD & BEVERAGE CONCESSION AREA



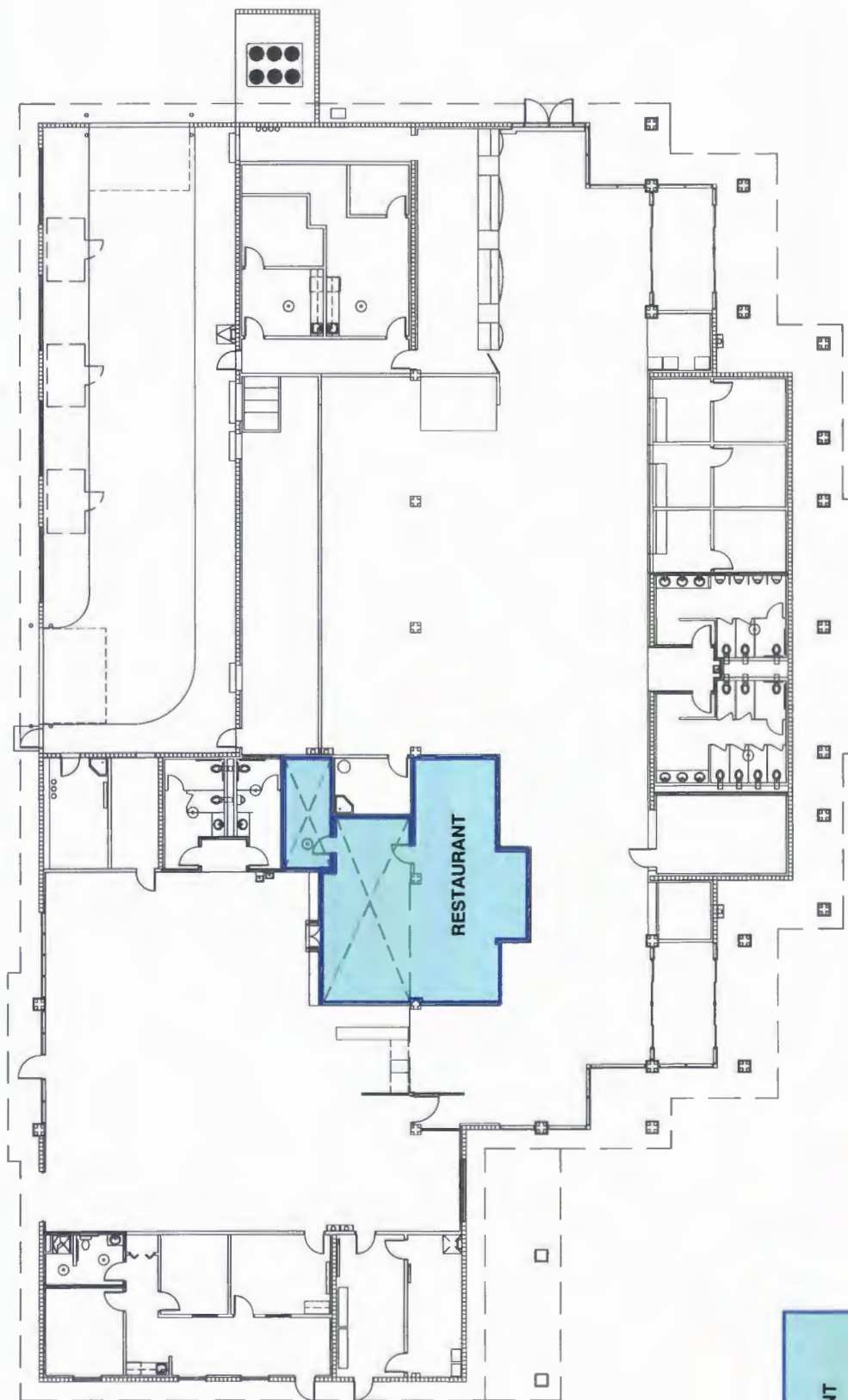


EXHIBIT "A" LEASEHOLD AREAS



RESTAURANT

**CONCESSION AGREEMENT FOR FOOD AND
BEVERAGE AT THE ELKO REGIONAL AIRPORT**

This Concession Agreement ("Agreement") made and entered into this ___ day of _____, 2021 (hereinafter the "Effective Date") by and between **the City of Elko, Nevada**, a municipal corporation and political subdivision of the State of Nevada ("City"), and **I Don't Know Deli & Cafeteria**, a general partnership organized and existing under the laws of the State of Nevada, ("Concessionaire").

W I T N E S S E T H

WHEREAS, the City owns and operates Elko Regional Airport, located in Elko, Nevada ("Airport"); and

WHEREAS, the City has selected Concessionaire as the most qualified to provide the service contemplated by this Agreement;

NOW THEREFORE, in consideration of the mutual covenants, terms, conditions, privileges, obligations and agreements herein contained, the City and Concessionaire hereby mutually undertake, promise and agree, each for itself, and its successors and assigns, as follows:

ARTICLE 1

DEFINITIONS

1.01 "Airport" means the Elko Regional Airport located in Elko, Nevada.

1.02 "Airport Concession Disadvantaged Business Enterprise" or "ACDBE" has the meaning set forth in Title 49, Part 23 of the Code of Federal Regulations, as now enacted, or hereafter amended or any successor regulation specifically enacted to replace Title 49, Part 23.

1.03 "Airport Terminal," "Terminal" and "Terminal Building" mean the existing airline passenger terminal building at the Airport.

1.04 "Annual Gross Revenues" means the total Gross Revenues of Concessionaire for each Contract Year.

1.05 "Assigned Area" is the area in the Airport Terminal designated by this Agreement and indicated on the exhibit attached hereto at **Exhibit B** (Food and Beverage Concession Location Map) and made a part hereof, consisting of approximately 1,074 square feet, which is the location where the business of Concessionaire may be conducted.

1.06 "Auditor" means the City's Auditor and/or any person acting on behalf of the Auditor who has been approved by the City to perform that function.

1.07 “Concession Equipment” means the personal property listed on **Exhibit C**, which is owned by the City and is provided to Concessionaire for use in connection with the Concessionaire’s business operation in the Assigned Area.

1.08 “Contract Year” means the twelve (12) month period beginning on the Effective Date and each twelve (12) month period thereafter, until the termination of this Agreement.

1.09 “Manager” or “Airport Manager” means the Manager of the Airport and includes any person as may, from time-to-time, be authorized in writing by the Manager to act in his or her behalf.

1.10 “FAA” means the Federal Aviation Administration.

1.11 “Gross Revenues,” and “Gross Revenues of Concessionaire,” means the aggregate of all charges or other fees charged by Concessionaire on all sales made by Concessionaire of food and beverages, including alcoholic beverages, and all other items and revenues of every kind and character derived from, arising out of or payable on account of the business conducted by Concessionaire at the Airport or from the operations of Concessionaire under this Agreement, whether for cash or credit, without any deduction for credit card discounts or credit card services, whether the same shall be paid or unpaid, except as otherwise provided herein. “Gross Revenues” shall not include: (1) sales tax collection allowance paid the State of Nevada to Concessionaire as compensation for the keeping of prescribed records and the proper accounting and remittance of state sales tax; (2) any charges on a reimbursement basis, as mutually agreed upon by the City and Concessionaire; (3) any refunds made by Concessionaire to customers, because of unacceptable or unsatisfactory goods or services; (4) any taxes imposed by law which are separately stated to and paid by the customer and directly payable by Concessionaire to a taxing the City; (5) tips and gratuities, and free or compensatory meals for employees of Concessionaire; (6) fees and payments received by Concessionaire from sublicenses, subcontractors, or sublessees, (7) rebates and volume discounts from manufacturers or distributors; and (8) proceeds from the sale of used equipment by Concessionaire.

1.12 “Improvement(s)” or “improvement(s)” means all structures, furnishings, displays, equipment, trade fixtures, and all other fixtures that are or become permanently installed or affixed at the Assigned Area, together with all additions, alterations, repairs, and modifications thereto. Any structure, furnishing, display, equipment, trade fixture, fixture, or any other improvement that is nailed, bolted, stapled, or otherwise permanently affixed to any Assigned Area is considered permanently installed or affixed and is included within the definition of Improvement. The term “Improvements” shall not include “Personalty” as defined herein.

1.13 “Monthly Gross Revenues” means the aggregate amount of all Gross Revenues of Concessionaire during any month.

1.14 "Percentage Fee" is an aggregate of the amounts that are derived as a percentage of Gross Revenues paid to the City in consideration for the rights and privileges granted by this Agreement.

1.15 "Personalty" means all furniture, furnishings, trade fixtures, and equipment of Concessionaire, located in the Assigned Area, but not permanently affixed thereto.

1.16 "Term" of this Agreement or words of similar import shall mean the term set forth in Article 2, hereof.

1.17 "TSA" means the United States Transportation Security Administration.

ARTICLE 2

EFFECTIVE DATE AND TERM

2.01 Effective Date. This Agreement shall become effective on the date first above indicated.

2.02 Term. This Agreement shall be for a term shall be for a period of three (3) years commencing on the Effective Date and terminating at midnight on the ___ day of _____, 2024 ("Term"). Notwithstanding any other provision contained in this Agreement, Concessionaire may terminate this Agreement upon giving sixty (60) days' prior written notice to the City.

ARTICLE 3

PRIVILEGES AND ASSIGNED AREA

3.01 Description of Specific Privileges, Uses and Rights. The City hereby grants to Concessionaire the following non-exclusive specific privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants set forth in this Agreement. Concessionaire shall operate from the Assigned Area.

a. Concessionaire shall have the non-exclusive right, privilege and obligation to sell in the Airport Terminal for on-Airport consumption and operate a food and beverage services within the Airport Terminal including, but not limited to: seated dining, coffee facilities, concession stands and bars, snack bars and the three (3) vending machines located on-site. All of such sales may only be conducted from the Assigned Area according to the terms and conditions of this Agreement. Concessionaire shall have no sublicensee, subcontractor or subtenant operators of any food or beverage services provided hereunder without the prior written consent of the City. Concessionaire shall be the holder of any franchises that are required in connection with any of the food and beverage services provided hereunder.

b. The rights granted herein are non-exclusive and the City may, at any time, grant to other parties (via lease, license, or other types of agreements) the same or similar rights as those granted herein.

c. Concessionaire expressly agrees to prevent any use of the Assigned Area which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute an Airport hazard.

3.02 Description of General Privileges, Uses and Rights. In addition to the privileges granted in Article 3.01 of this Agreement, the City hereby grants to Concessionaire:

a. The non-exclusive use of the Public Areas within the Terminal for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service and agents in connection with its operations hereunder. For purposes of this Agreement, "Public Areas" means the public corridors, restrooms and other areas within the Terminal that the general public has the right to access. Public Areas shall at all times be subject to the exclusive control and management of the City. The City shall have the full right and the City to make all rules and regulations as the City may in its sole discretion deem proper, pertaining to the proper operation and maintenance of the Public Areas.

b. For so long as Concessionaire is not in default hereunder, Concessionaire shall and may peacefully and quietly have, hold, and enjoy the Assigned Area, solely for the purposes provided hereunder during the Term of this Agreement, and subject to the terms and provisions of this Agreement.

c. The non-exclusive right of ingress to and egress from the Terminal over and across public roadways and walkways serving the Airport for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service and agents in connection with its operations hereunder.

d. Nothing herein contained shall be construed to grant Concessionaire, its employees, contractors, patrons, invitees, suppliers of service or agents the right to use or occupy any space or area at the Airport, improved or unimproved, that is leased or assigned to a third party. The rights granted hereunder are expressly limited to the operation and management of a food and beverage concession. Concessionaire covenants and agrees that the Assigned Area shall be used solely for the uses expressly permitted by this Agreement and for no other purposes whatsoever. Concessionaire acknowledges and agrees that Concessionaire shall not have the exclusive right to conduct a food and beverage concession at the Airport and the City may arrange with others for similar activities at the Airport. Failure of Concessionaire to use the Assigned Area for purposes specifically set forth in this Agreement shall constitute an Event of Default under this Agreement.

3.03 As-Is Condition of Assigned Area. The City makes no representations or

warranties whatsoever as to: (i) the condition of the Assigned Area or any improvements or personal property in the Assigned Area, including without limitation the Concession Equipment and all improvements currently installed at such locations and all future improvements to be installed thereto, or (ii) whether the Assigned Area or any improvements or personal property in the Assigned Area, are in compliance with applicable federal, state, county and local laws, ordinances, rules, or regulations, or (iii) the fitness of the Assigned Area or any improvements or personal property in the Assigned Area, for any particular purpose. Concessionaire specifically obligates itself to conduct its own due diligence investigation as to the suitability of the Assigned Area and any such improvements and personal property (including, without limitation, Concession Equipment) for Concessionaire's purposes. The Assigned Area and all improvements and personal property therein are provided for Concessionaire's use in "AS IS CONDITION" and "WITH ALL FAULTS." The Concessionaire shall not be entitled to any adjustment of any Percentage Fees or other payments hereunder on account of the condition of the Assigned Area or of any improvements or any failure of any improvements or personal property to be in working order or because of any necessity of Concessionaire to repair or take corrective actions with respect to the Assigned Area or of any improvements or personal property because of the inability of obtaining or any delay in obtaining any required approvals from any governmental body having jurisdiction. Furthermore, the Concessionaire hereby releases the City of any and all claims and liabilities whatsoever on account of the condition of the Assigned Area and any improvements and personal property or any failure to be in working order or because of any necessity of Concessionaire to repair or take corrective actions with respect thereto, or the necessity for obtaining any approvals from any governmental body.

3.04 Assigned Area. Subject to the provisions hereof, the City shall make available to Concessionaire Assigned Area, which is depicted on **Exhibit A**, in an AS-IS condition, except for existing movable items which will be removed by the City prior to the Effective Date of this Agreement. All Personnel required by the Concessionaire in addition to the Concession Equipment shall be provided by Concessionaire at its sole cost and expense.

3.05 Concession Equipment. Concessionaire shall have the right to use the Concession Equipment listed at **Exhibit C** to this Agreement for the purpose of operating its business in the Assigned Area in accordance with the terms and conditions of this Agreement, *provided*, in no event shall Concessionaire remove any Concession Equipment from the Elko Regional Airport without the written consent of the City; *further provided*, in the event Concessionaire should damage or destroy any Concession Equipment listed at **Exhibit B**, Concessionaire shall immediately upon written demand from the City pay to the City the full replacement value or the cost to repair the Concession Equipment, at the option of the City. The failure of Concessionaire to fulfill the terms of the preceding sentence within thirty (30) days of written demand from the City shall constitute an Event of Default.

ARTICLE 4

REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF CONCESSIONAIRE

Concessionaire represents, warrants and agrees that, as of the date of this Agreement (a) Concessionaire has the form of business organization indicated, and is and will remain duly organized and existing in good standing under the laws of the State of Nevada, and is duly qualified to do business wherever necessary to perform its obligations under the Agreement; (b) the Agreement (1) has been duly authorized by all necessary action consistent with Concessionaire's form of organization, (2) has been or will be executed by an individual that has been duly authorized to do so, (3) does not require the approval of, or giving notice to, any governmental authority; (4) does not contravene or constitute a default under any applicable law, Concessionaire's organizational documents, or any agreement, indenture, or other instrument to which Concessionaire is a party or by which it may be bound, and (5) constitutes legal, valid and binding obligations of Concessionaire enforceable against Concessionaire in accordance with the terms thereof; (c) there are no pending actions or proceedings to which Concessionaire is a party, and there are no other pending actions or proceedings of which Concessionaire has knowledge which, either individually or in the aggregate, would have a Material Adverse Effect. "Material Adverse Effect" shall mean a material impairment of the ability of Concessionaire to perform its obligations under or remain in compliance with this Agreement; (d) the Personalty is personal property and when subjected to use by Concessionaire will not be or become a fixture(s) under Nevada law; and (e) Concessionaire possesses or is licensed under all patents, trademarks, trade names or copyrights necessary for conducting business in the Assigned Area.

ARTICLE 5

DEPOSIT, PERCENTAGE FEES, CHARGES AND ACCOUNTABILITY

5.01 Deposit. Concessionaire shall pay to the City, coincidentally with the execution hereof, a security deposit in the amount of **Five Hundred Dollars and 00/100 (\$500.00)**. The City may claim of the security deposit such amounts as are reasonably necessary to remedy any default of the Concessionaire in the payment of Percentage Fees, to repair damages to the Assigned Area caused by the Concessionaire other than normal wear, to pay the reasonable costs of cleaning the Assigned Area and/or to compensate the City for any other breach of this Agreement by Concessionaire which results in pecuniary harm to the City. If all or any portion of such deposit is not required for the reasons set forth above, upon termination of this Agreement, the deposit or any unused portion shall be refunded to Concessionaire.

5.02 Percentage Fees. The Percentage Fees shall be calculated by multiplying Concessionaire's Gross Revenues, commencing on the Commencement Date, by the corresponding percentages as shown in the following table:

Monthly Gross Revenues	Percentage
\$0 to \$5,000.00	5%
\$5,001.00 to \$10,000.00	7 ½ %
\$10,000.00 and more	10%

5.03 Payment of Percentage Fees. Percentage Fees shall be due and payable within twenty (20) days after the beginning of each and every month throughout the Term of this Agreement.

5.04 Payment of Utilities. The City shall provide basic levels of water, sewer, lighting and electricity, Internet service, heating and air condition in the Terminal Area, to include the Assigned Area. Concessionaire shall obtain and pay for all other utilities consumed within the Assigned Area, to include enhanced or increased amounts of utilities over that which is supplied by the City; *provided*, Concessionaire shall first obtain the written consent of the City; *further provided*, where required by the City, Concessionaire shall maintain a separate utility meter.

5.05 Monthly Gross Revenue Report. Upon request by the City, Concessionaire shall deliver a report of Gross Revenues for the preceding month on a form supplied by the City to the City, which shall include separate totals for food products, beverages, and other items as required by the City.

5.06 Reports Property of the City. Any and all reports and other data and documents provided to the City by Concessionaire in connection with this Agreement are and shall remain the property of the City.

5.07 Cash Registers Standards. Concessionaire shall ensure that all locations have cash registers with tamper-proof cumulative totals and daily totals by category including separate totals for categories of "products," "credit card," "cash," "other" and "sales tax." All registers shall maintain records of each transaction with a paper receipt going to customer at time of service and an electronic journal shall be retained by Concessionaire for the period of time hereinafter required in Section 5.08(a).

5.08 Record Keeping. Concessionaire, its sublessees, subcontractors, and sublicensees, shall keep and maintain copies of all invoices, cash receipts, financial records, supporting records, supporting documents, statistical records, and all other documents pertinent to this Agreement (collectively, "Books and Records"). The Books and Records shall, among other things, show all sales made for cash, or credit, or otherwise, without regard to whether paid or not, the cost of all Personality, labor, overhead and sales taxes collected, together with the Gross Revenues of the business conducted at the Airport by Concessionaire and the aggregate amount of all sales and services and orders of all such business done upon or within the premises of, or in connection within the Airport. Concessionaire further agrees to keep its Books and Records in accordance with generally accepted accounting principles (GAAP) and agrees to maintain such other books and records as the City may request. Concessionaire its sublessees, subcontractors,

and sublicensees, shall keep separate Books and Records for each of its Airport operations (if more than one) and shall provide copies thereof to the City upon request.

a. Books and Records to be Retained. Concessionaire Books and Records shall be kept and maintained during the "Retention Period" (as hereinafter defined). The "Retention Period" is three (3) years following completion of each Contract Year, or if any audit has been initiated and audit findings have not been resolved at the end of the three (3) year period, the Books and Records shall be retained until resolution of the audit findings. If the Nevada Public Records Law is determined by the City to be applicable to any Books and Records, Concessionaire shall comply with all requirements thereof, Concessionaire shall make all Books and Records required to be maintained hereunder available to the City at the Airport, or at the corporate headquarters of Concessionaire or its sublessees, subcontractors, and sublicensees, as applicable and as may be directed by The City.

b. Understated Gross Revenues. If, as a result of any audit, it is established that Concessionaire understated the Gross Revenues it received from operations covered by this Agreement by three percent (3%) or more (after deductions and exclusions provided for herein) during the period covered by the audit, the entire expense of said audit shall be borne by Concessionaire. The provisions of this Section 5.08 shall survive the expiration of termination of this Agreement.

5.09 Audit by the City. Notwithstanding any provision in this Agreement to the contrary, the City or its representative(s) may at any time perform audits of all or selected operations performed by Concessionaire under the terms of this Agreement. In order to facilitate the audit performed by the City, Concessionaire agrees to make available to the City's representative(s) any and all working papers, reports and accounting records. The City or its representative(s) shall make available to Concessionaire a copy of the audit report prepared by or on behalf of the City. Concessionaire shall have thirty (30) calendar days from receipt of the audit report from the City or its representative(s) to provide a written response to the City regarding the audit report. Concessionaire agrees that failure of Concessionaire to submit a written response to the audit report in accordance with the requirements of this Article 5.09 shall constitute acceptance of the audit report as issued.

5.10 Unpaid Fees. Unless otherwise provided herein, if Concessionaire fails to make payment of any fees, charges or other amounts required to be paid to the City by his Agreement within ten (10) calendar days after same shall become due and payable, plus interest at the rate of one and one-half percent (1 ½ %) per month, shall accrue against the delinquent payments(s) from the date due until the date payment is received by the City. The foregoing shall in no way be construed as a waiver of any right granted the City in this Agreement, nor shall this provision be construed to prevent the City from terminating this Agreement for cause or from exercising any other right or from enforcing any other provision contained herein or provided by law.

5.11 Place of Payments. Payments required to be made by Concessionaire under this Agreement shall be made payable to:

City of Elko
Elko Regional Airport
Attention: Finance Department
1751 College Avenue
Elko, Nevada 89801

or to such other office or address as may be substituted therefore.

5.12 Licenses, Fees and Taxes. Concessionaire shall pay, on or before their respective due dates, all federal, state, city, county, and local taxes and fees, and all special assessments of any kind, which are now or may hereafter be levied upon any premises used by Concessionaire or the estate hereby granted, or upon Concessionaire, or upon the business conducted by Concessionaire, or upon any of Concessionaire's property used in connection therewith, or upon any sums payable hereunder, including, but not limited to any ad valorem, tangible property or intangible property taxes, and sales or excise taxes on any sums payable hereunder. Concessionaire shall maintain in current status all Federal, state, county, city and local licenses and permits required for the operation of the business conducted by Concessionaire. In addition, Concessionaire shall be responsible for any and all other taxes which are due, or which may become due pursuant to Chapter 212 of the Nevada Revised Statutes, as it may be amended from time to time, and any implementing regulations.

5.13 No Set Off. The Concessionaire acknowledges that it has no claims against the City with respect to any of the operations of the Concessionaire at the Airport, if any, or any other agreement it may have with the City, and it has no right of set off or counterclaims against any of the amounts payable by Concessionaire to the City.

5.14 Other Fees and Charges. Concessionaire acknowledges that the City has or will establish, from time-to-time, various fees and charges for the use of various facilities, equipment and services provided by the City and not leased to or specifically provided to Concessionaire hereunder, and the procedures relating to payment of same.

5.15 Additional Charges. If the City is required or elects to pay any sum or sums or incur any obligations or expense by reason of the failure, neglect or refusal of Concessionaire to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of any act or omission of the Concessionaire contrary to said conditions, covenants or agreements, Concessionaire agrees to pay the sum or sums so paid by the City or the expense so incurred by the City, including all interest, costs, damages and penalties, and the same may be added to any installment payment thereafter due hereunder, and each and every part of the same shall be and become recoverable by the City in the same manner and with like remedies as if it were originally a part of the Percentage Fees payable under this Agreement. All such sums of money shall be paid by Concessionaire within thirty (30) calendar days after written demand therefore.

5.16 Dishonored Check or Draft. If Concessionaire delivers a dishonored check or

draft to the City in payment of any obligation arising under this Agreement, Concessionaire shall incur and pay a service charge in the maximum amount permitted by law. In such event, the City may require that future payments be made by cashier's check or other means acceptable to the City.

5.17 Net Agreement. Except as otherwise specifically provided herein, this Agreement in every sense shall be without cost or expense to the City including without limitation, cost and expenses relating to the development, maintenance, improvements and operation of the Assigned Area.

5.18 Employee Parking Facilities. The City, while providing parking facilities to Concessionaire's employees in common with employees of other concessionaires and users of the Airport, retains the right, at the sole election of the City, to impose any restrictions it determines are necessary with respect to utilizing these parking facilities.

ARTICLE 6

OPERATIONAL STANDARDS

6.01 Equal Treatment of Customers. Concessionaire shall furnish its services and sales on a fair, equal, and non-discriminatory basis to all customers, and charge fair, reasonable, and non-discriminatory prices for all sales and services.

6.02 Quality of Service. Concessionaire shall provide good, prompt, efficient and courteous service to all users of the Airport. Concessionaire shall maintain close supervision over all its employees to ensure maintenance of a high quality of service and courtesy to the public.

6.03 Hours of Operation. The hours of business during which Concessionaire is to conduct its operations at the Assigned Area shall be such that two (2) meal services will be provided during predetermined hours which are pre-approved by the Airport Manager. "Meal services" are defined as breakfast, lunch or dinner. The Airport Manager or his designee reserves the right to order changes in the hours of operation to insure that such services are available. The business shall operate five (5) days a week, two hundred sixty (260) days per year; *provided*, Concessionaire may close for any unforeseeable reason for up to fifteen (15) additional calendar days during each one (1) year period; *further provided*, in the event Concessionaire remains closed in excess of the days permitted by this sentence, Concessionaire shall thereupon immediately pay to City the sum of **Fifty Dollars (\$50.00)** for each additional day of closure. Concessionaire may only change its hours of operation with the written approval of the Airport Manager.

6.04 Personnel. Concessionaire's personnel and/or representatives performing services hereunder shall be neat, clean and courteous. Concessionaire shall not permit its agents, servants, or employees to solicit tips, use improper language, or act in a loud, boisterous or otherwise improper manner. The City shall be the sole judge as to whether the conduct of

Concessionaire's representative, agents, servants, or employees is objectionable, and if so judged by the City, Concessionaire shall take all steps necessary to eliminate the conditions that occasioned such judgment. Concessionaire shall ensure that its employees are adequately trained and of sufficient number so as to properly conduct the operations of Concessionaire's businesses at the Airport.

6.05 Relationships with Other Concessionaires. Concessionaire shall maintain a friendly, professional, cooperative relationship with all other concessionaires and businesses at the Airport, and shall not engage in open or public disputes, arguments, disagreements, conflicts or actions tending to be incompatible to the best interest of the public of the City. Concessionaire shall conduct its operations in an orderly and proper manner so as not to commit any nuisance in the Assigned Area or annoy, disturb or be offensive to others in the Terminal Building and shall take all reasonable measures, using the latest known and practicable devices and means, to eliminate any unusual, nauseous or objectionable noise, gases, vapors, odors and vibrations and to maintain the lowest possible sound level in its operations.

6.06 Concessionaire's Manager. The management, maintenance and operation of the Assigned Area shall at all times be under the supervision and direction of an active, qualified, competent manager ("Manager") who shall at all times be subject to the direction and control of Concessionaire. Concessionaire further agrees to assign a qualified subordinate to be in charge of the Assigned Area and the products and facilities offered in this Agreement, and to be available in the absence of the Concessionaire Manager.

6.07 Wages. Concessionaire shall pay wages that are not less than the minimum wages required by Federal and state law.

6.08 Cash Handling. Concessionaire shall develop a policy outlining the rules, regulations, and operating procedures which apply to its employees within sixty (60) calendar days following the Effective Date which, upon request, shall be submitted to the City for its approval. Concessionaire agrees to demonstrate compliance with the rules, regulations and operating procedures contained within the policy. Concessionaire shall promptly provide the City with any changes, modifications or revisions to its rules, regulations and operating procedures.

6.09 Marketing and Management Plans. Concessionaire shall provide the City with updated Marketing and Management Plans (collectively, "Plans") on an annual basis if requested in writing by the City, which shall be subject to the approval of the City. Concessionaire agrees to implement such Plans and Concessionaire shall not modify or deviate from any of the submitted Plans without the prior written approval of the City. The burden of proving compliance with the Plans rests with Concessionaire, and a failure by Concessionaire to comply with the Plans approved by the City shall be an Event of Default under this Agreement.

6.10 Advertising, Contracts and Publicity. All contracts, advertising, solicitation and

publicity regarding Concessionaire shall be made in Concessionaire's lawful name and shall not in any manner misrepresent the relationship between the City and Concessionaire or the City's interest herein.

6.11 Solicitation. Concessionaire agrees that its employees shall not solicit business from any area of the Airport, including any area in front of the Assigned Area other than the normal conducting of business as contemplated hereunder from the Assigned Area.

6.12 Standard of Service. Concessionaire shall operate and maintain a standard of service and quality at least equal to that high standard provided at comparable airports and restaurants, while at the same time operating in a commercially reasonable and legally required manner. The City's determination as to the quality of service that is required shall be conclusive and shall be accepted and performed by Concessionaire.

6.13 Cleanliness. Concessionaire shall, at its sole cost and expense, ensure that the Assigned Area is maintained in a sanitary, clean, neat, attractive and orderly manner, free of debris and trash, and in compliance with all applicable State of Nevada requirements, to include the regulations applicable to "Food Establishments." **(Exhibit D)** In the event Concessionaire fails to comply with the preceding sentence, the City may, in its discretion, enter the Assigned Area and perform such maintenance and other work as is necessary to render the Assigned Area compliant and Concessionaire shall reimburse the City for the reasonable value of work performed or the actual cost incurred, as appropriate, an administrative charge in the amount of ten percent (10%) of the value or cost of the work. The foregoing amount shall be paid to the City within fifteen (15) days of receipt of an invoice from the City.

6.14 Cleanliness Inspections. The City may conduct Cleanliness Inspections of the Assigned Area every three (3) months to determine if the area is clean, orderly and otherwise compliant with this Agreement; *provided*, the City will provide Concessionaire with at least seven (7) calendar days' advance notice of the time and date of the next Cleanliness Inspection. Any discrepancies noted during a Cleanliness Inspection will be described in writing and promptly submitted to the Concessionaire in a Correction Notice. In the event one or more discrepancies are identified on a Correction Notice, the City may conduct such additional unannounced inspections as it deems appropriate until all such discrepancies have been corrected. Should the Concessionaire fail to maintain the Assigned Area in a clean, orderly and compliant manner for a period of thirty (30) or more calendar days during the Term, the Concessionaire will automatically be deemed an Event of Default.

6.15 Rules and Regulations. Concessionaire shall inform each of its employees of the pertinent rules and regulations of the Airport and the applicable provisions of this Agreement, and instruct such employees and representatives as to the methods and procedures used at the Airport.

6.15 Complaints. Concessionaire shall forward to the City upon request, a list of any complaints, whether verbal or written, accompanied by Concessionaire's response to or resolution of any such complaints. Questions or complaints regarding the quality of services or

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rates, whether raised by customers' complaints or on the City's own initiative or otherwise, may be submitted to Concessionaire for response by Concessionaire. Concessionaire shall provide a response to the City, upon request, within seven (7) calendar days following submission by customers or by the City of said questions, complaints or comments.

6.16 Contact Number. Concessionaire shall provide the City with emergency telephone numbers at which Concessionaire's manager may be reached on a 24-hour basis.

6.17 Conflict. Should a conflict arise between Concessionaire and other concession operators at the Airport regarding the scope of concession privileges, the Airport Manager's decision on the matter shall be final and conclusive. Concessionaire agrees to abide by the Airport Manager's decision.

6.18 Vandalism and Fraud. Concessionaire shall be required to resolve vandalism and fraud problems, all of which shall be at the sole risk and expense of Concessionaire. Concessionaire shall assume all financial responsibility for dishonored credit cards, fraudulent calls and loss of funds or non-collected funds. None of the foregoing costs shall permit or entitle Concessionaire to any deductions from or credits against the Percentage Fees payable to the City.

6.19 Credit Cards. The Concessionaire shall honor at least three (3) major credit cards.

6.20 Accessibility. Concessionaire shall not do or permit to be done anything which might interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof in the Assigned Area or elsewhere on the Airport, nor do or permit to be done anything which may interfere with free access and passage in the public areas adjacent thereto, or hinder police, firefighting or other emergency personnel in the discharge of their duties. Concessionaire shall not place any additional lock of any kind upon any window or interior or exterior door in the Assigned Area, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained in the Assigned Area, nor refuse, upon the expiration or sooner termination of this Agreement, to surrender to City any and all keys to the interior or exterior doors at the Assigned Area, whether the keys were furnished to or otherwise procured by Concessionaire. If any keys furnished to Concessionaire by the City are lost, Concessionaire shall promptly pay the City, on demand, an amount equal to the cost of replacement.

6.21 No Auction. Concessionaire shall not conduct or permit any sale by auction in the Assigned Area.

ARTICLE 7

MAINTENANCE STANDARDS

7.01 Maintenance and Repairs. Concessionaire is responsible for all maintenance and

repairs of and to the Assigned Area of any nature except:

- a. Cleaning exterior unit Terminal windows.
- b. Structural repairs to the roof, floor and exterior walls and windows of the Airport Terminal.
- c. All HVAC supply mains, and electrical power supply up to the point of connection to the Assigned Area.

7.02 Minimum Maintenance Costs. Except as otherwise specifically provided in this Agreement, Concessionaire agrees to bear the cost of all maintenance of the Assigned Area during the Term.

7.03 Water Leakage. The City shall not be liable to Concessionaire for any damage to food or beverage products or merchandise, trade fixtures or personal property of Concessionaire in the Assigned Area caused by water leakage from the roof, water lines, sprinkler, or heating and air conditioning equipment. Furthermore, the City shall not be liable to Concessionaire for any damage to persons or property of any kind caused by any other damage or disrepair to the structural or permanent portions of any Assigned Area, or the Terminal, due to water leakage unless (i) the City has had reasonable opportunity to perform repairs after being notified in writing of the need for same by Concessionaire; and (ii) any such damage or disrepair shall not have been due to any actions or negligence of Concessionaire or any of its agents, employees, representatives, or invitees.

7.04 Janitorial and Cleaning Services. Concessionaire shall provide at its expense such Janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of its Assigned Area.

7.05 Concessionaire's Responsibilities. Concessionaire shall maintain and make necessary repairs to the interior of its Assigned Area and the furniture, fixtures and equipment therein and appurtenances thereto.

7.06 Service Lines. Concessionaire shall keep and maintain in good condition all service lines and electrical equipment and fixtures located at or in its Assigned Area.

7.07 Quality of Repairs. All repairs done by the Concessionaire or on its behalf shall be of first class quality in both materials and workmanship. All repairs will be made in conformity with the rules and regulations prescribed from time-to-time by the City or by Federal, state and local authorities having jurisdiction over the work.

7.08 Inspection Right. In addition to Cleanliness Inspections, the City may inspect the Assigned Area at any time to determine whether Concessionaire has complied with and is complying with the terms and conditions of this Agreement. Upon written notice by the City to Concessionaire, Concessionaire shall perform any required maintenance or repair needed to meet

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the standards of this Agreement. The City shall reasonably judge Concessionaire's performance under this Article as to the quality of maintenance and repair.

7.09 Failure to Make Repairs or Undertake Maintenance. If, (i) within 10 calendar days in non-emergency situations, and (ii) within a reasonable time in emergency situations, Concessionaire refuses or neglects to undertake any maintenance, repair or replacements requested by representatives of the City, or if the City is required to make any repairs necessitated by the negligent acts or omissions of Concessionaire, its employees, agents, servants or licensees, the City shall have the right to make such repairs on behalf of and for Concessionaire. Such work shall be paid for by the Concessionaire within ten (10) calendar days following demand for said payment at the cost to the the City, plus twenty-five percent (25%) administrative overhead.

7.10 Trash and Garbage. Concessionaire will provide for timely and adequate sanitary handling and removal of all trash, garbage and other refuse caused as a result of Concessionaire's operations. Concessionaire agrees to provide and use suitable covered receptacles for all garbage, trash and other refuse in its Assigned Area. Piling of boxes, cartons, barrels or similar items shall not be permitted in a public area. Concessionaire shall maintain the Assigned Area in a neat, orderly and clean condition. There shall be no food, papers, or rubbish visible at any time. This requirement includes the regular cleaning of the grease traps to prevent stoppage of the outside sewer main.

7.11 Deliveries. All deliveries will be made in a manner, location, and at times established by the City. All vendors traveling on the apron must be escorted by an employee or agent of Concessionaire (and otherwise in accordance with the requirements of the City. Concessionaire and all its vendors must comply with the requirements of the TSA and with any applicable Airport Security Plan.

7.12 Rodents, Insects and Pests. Concessionaire agrees to provide adequate control of rodents, insects, and other pests in its Assigned Area. In the event that Concessionaire's rodent, insect and pest control program is not acceptable or sufficient, the City may seek to control such rodents, insects and pests by other means. Concessionaire agrees to reimburse the City no later than ten (10) calendar days following demand for any expenses incurred by the City due to conditions within Concessionaire's Assigned Area in violation of the preceding sentence. In the event Concessionaire fails to reimburse the City within ten (10) calendar days, Concessionaire shall reimburse the City for costs expended plus twenty-five percent (25%) administrative overhead.

7.13 Damage to Persons and Property. Except as otherwise provided herein, the City shall not be liable to Concessionaire for any damage to persons or property of any kind caused by damage or disrepair to the Assigned Area, unless the City has had reasonable opportunity to perform repairs after being notified in writing of the need for same by Concessionaire; and any such damage or disrepair was not due to negligence of Concessionaire or any of its agents, employees, representatives, or invitees.

7.14 Structural, Electrical or System Overloading. Concessionaire shall do nothing and shall make no improvements, changes, alterations, additions, maintenance or repairs to the Assigned Area which might impair the structural soundness of the Terminal Building, result in an overload of utility, plumbing, or HVAC systems serving the Terminal Building or interfere with electric, electronic, or other equipment at the Airport. In the event of a violation of this section, Concessionaire shall immediately remedy the violation at its sole cost and expense.

7.15 Interruption of Utility Services. The City shall not be liable for failure to supply any utility services. The City may temporarily discontinue utility services as may be reasonably necessary for maintenance, safety or any event constituting a Force Majeure. The City shall not be liable for damages to persons or property for any such discontinuance of utilities, nor shall such discontinuance in any way be construed as cause for abatement of any amount due from Concessionaire or release Concessionaire from any of its obligations hereunder.

7.16 Fire Hazards. Concessionaire shall do nothing and shall make no improvements, changes, alterations, additions, maintenance or repairs to the Assigned Area which might create a condition that is hazardous to persons or property, or which increases or has the potential to increase the amount of any premium paid for fire insurance. In the event of a violation of this section, Concessionaire shall immediately remedy the violation at its sole cost and expense.

7.17 Nuisances. Concessionaire shall conduct its business in such a manner as to prevent any and all nuisances, and so as to not annoy, disturb or offend the public or other occupants of the Terminal Building, to include preventing unpleasant odors and loud noises within and in the vicinity of the Assigned Area.

ARTICLE 8

CONSTRUCTION OF IMPROVEMENTS/ SIGNAGE

8.01 Required Improvements. In the event Concessionaire installs additional improvements, furniture, trade fixtures and/or equipment for the operation of the food and beverage concession within the Assigned Area, it shall do so at its sole cost and expense and in accordance with the requirements of this Agreement.

8.02 Alterations, Improvements or Additions. Concessionaire shall make no alterations, additions or improvements to the Assigned Area without the prior written approval of the City, which approval may be granted or withheld by the City in its sole discretion.

8.03 Construction Requirements. All improvements, alterations and additions made by Concessionaire to the Assigned Area shall be of high quality and meet applicable Federal, state and local laws, regulations, together with the City's rules and requirements. Prior to the commencement of construction, two (2) full and complete set of plans and specifications for all improvements, alterations and/or additions shall be submitted to the Airport Director for review and approval, which approval may be granted or withheld in the Airport Director's sole

discretion. All improvements shall be completed in accordance with construction standards established by the City, and the plans and specifications approved by the City.

8.04 Construction Requirements and Bonds. Concessionaire shall ensure that all improvements are constructed to completion in accordance with the approved plans and specifications and that all persons or entities performing work or providing materials relating to such improvements including, but not limited to, all contractors, subcontractors, sub-subcontractors, laborers, materialmen, suppliers and professionals, are paid in full for such services and materials. Concessionaire shall satisfy all applicable prevailing wage and any other Federal, state and local requirements. Concessionaire, at its sole cost and expense, shall cause to be made, executed and delivered to the City prior to commencement of any improvements to the Assigned Area, a performance bond and a payment bond, drawn in a form and substance acceptable to the City, and issued by a company approved by the City, guaranteeing compliance by Concessionaire of its obligations arising under this Article. Such payment and performance bonds shall comply with the form of financial guarantee required by Elko City Code Section 3-3-45(A). Concessionaire shall also require contractors to furnish satisfactory evidence of statutory Worker's Compensation insurance, comprehensive general liability insurance, comprehensive auto insurance and physical damage insurance on a Builder's Risk form with the interest of the City endorsed thereon, in such amounts and in such manner as the Airport Director may reasonably require. The Airport Director may require additional insurance for any alterations, additions or improvements approved pursuant to this Agreement in such amount(s) as the Airport Director reasonably determines to be necessary.

8.05 No Liens. Concessionaire covenants and agrees that nothing contained in this Agreement shall be construed as consent by the City to subject the City to liability under the lien laws of the State of Nevada. Concessionaire shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Concessionaire of this provision of this Agreement and the exemption applicable to political subdivisions of the state contained in NRS 108.22148(1). In the event that a construction lien is filed against the Assigned Area, or other the City property in connection with any work performed by or on behalf of Concessionaire, Concessionaire shall satisfy such claim, or transfer same to security within ten (10) calendar days, the City may do so in its sole discretion and thereafter charge Concessionaire, and Concessionaire shall promptly pay to the City upon demand all costs incurred by the City in connection with the satisfaction or transfer of such claim, including, but not limited to, attorney's fees.

8.06 Signage. Concessionaire has the right to install and maintain appropriate signs in the Assigned Area provided the design, installation and maintenance of such signs is consistent with the graphic standards of the Airport and has the written approval of the City prior to installation. The signage existing in the Assigned Area as of the Effective Date shall in no way establish the standard (or any precedent whatsoever) as to the type of signage that the City shall deem acceptable in the future in connection with any other improvements to the Assigned Area or upon any replacement of existing signage.

8.07 Construction by City. In the event the City engages in any construction activity in the Airport Terminal, such as remodeling, repair, expansion, relocation or maintenance activities, Concessionaire shall release and hold the City harmless from and against any claims based upon or in any manner related to or arising from loss of business, inconvenience or nuisance.

ARTICLE 9

TITLE TO IMPROVEMENTS.

9.01 Title to Improvements. All Improvements constructed or placed upon the Assigned Area, excluding furnishings, equipment and trade fixtures, shall become the absolute property of the City upon termination or expiration of this Agreement and the City shall have every right, title, and interest therein, free and clear of any liens, mortgages or encumbrances.

9.02 Evidence of Transfer of Ownership. Upon the request of the City, Concessionaire shall provide the City with a bill of sale or other evidence of the transfer of ownership of the Improvements together with evidence satisfactory to the City that the Improvements are free from liens, mortgages and other encumbrances.

9.03 Removal of Improvements. Notwithstanding anything in this Agreement to the contrary, the City shall be entitled, at its option, to have the Assigned Area returned to the City free and clear of some or all of the Improvements at Concessionaire's sole cost and expense. In such event, the City shall provide timely notification to Concessionaire of its election to require removal of all Improvements and, to the extent possible, the City shall notify Concessionaire of the foregoing at least sixty (60) calendar days prior to the expiration or termination of this Agreement. Concessionaire shall have sixty (60) calendar days from date of notice within which to remove the Improvements identified by the City. If Concessionaire fails to remove the Improvements, the City may do so. Concessionaire agrees that Concessionaire shall fully assume and be liable to the City for payment of all costs of removal of the Improvements (whether direct or indirect) incurred by the City, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee shall be due and payable to the City within thirty (30) calendar days from the date of the written notice provided by the City. The obligations arising under this Article shall survive the expiration or termination of this Agreement.

9.04 Removal of Concessionaire's Equipment. Concessionaire shall retain title to and shall remove, at its sole cost, prior to the expiration or termination of this Agreement, all of Concessionaire's Equipment, as distinguished from "Concession Equipment" and as hereinafter defined. "Concessionaire's Equipment" shall mean all equipment, apparatus, machinery, signs, furnishings and personal property installed by Concessionaire and used in the operation of the business of Concessionaire (as distinguished from the use and operation of the Assigned Area) which is listed on an annual inventory list submitted by Concessionaire and approved by the City. If such removal shall injure or damage the Concession Space, Concessionaire agrees, at its sole cost, at or prior to the expiration or terminal of this Agreement, to repair such injury or

damage in good and workmanlike fashion and to place the Assigned Area in the same condition as the Assigned Area would have been if such Concessionaire's Equipment had not been installed. If Concessionaire fails to remove any of Concessionaire's Equipment by the expiration or termination of this Agreement, the City may, in its discretion, keep and retain any of such Concessionaire's Equipment or dispose of the same and retain any proceeds therefrom, and City shall be entitled to recover from Concessionaire any costs of City in removing the same and in restoring the Assigned Area in excess of the actual proceeds, if any, received by City from disposition thereof.

ARTICLE 10

SECURITY

Concessionaire acknowledges and accepts full responsibility for the security and protection of the Assigned Area and any and all inventory and equipment now existing or hereafter placed on or installed at the Airport, and for the prevention of unauthorized access to its facilities and expressly agrees to comply with all rules and regulations of the City and of any and all other governmental entities that now or may hereafter have jurisdiction over such security. The foregoing includes compliance with the TSA regulations contained at 49 CFR Part 1520 (Protection of Sensitive Security Information).

ARTICLE 11

INSURANCE

11.01 Concessionaire shall, at its sole expense, maintain in full force and effect at all times during the Term of this Agreement, the insurance limits, coverages and endorsements required herein. Neither the requirements contained in this Article 11, nor the City's review, or acceptance of insurance shall in any manner limit or qualify the liabilities and obligations assumed by Concessionaire under this Agreement.

11.02 Concessionaire shall insure against the following risks at its own expense to the extent stated:

a. Worker's Compensation or Employer's Liability in the sum of \$1,000,000.00;

b. Commercial general liability insurance including blanket contractual liability, broad form property damage (including Concession Equipment), personal injury, premises medical payments, interest of employees as additional insureds, incidental medical malpractice and broad form general liability endorsement, covering as insured Concessionaire and City with not less than the following limits of liability: Bodily Injury and Property Damage \$1,000,000.00 combined single limit and \$2,000,000 per occurrence for bodily injury, property damage and personal injury;

c. Comprehensive automobile liability covering all owned, non-owned or hired automobiles to be used by Concessionaire in the amounts of \$500,000.00 combined single limit and \$1,000,000 per occurrence for bodily injury and property damage; and

d. Concessionaire shall provide not less than \$1,000,000.00 excess of the limits as noted in Subsection (b) comprehensive general liability insurance and (c) comprehensive automobile liability. These policies shall provide that the insurance company or an attorney approved by the insurance company shall defend any suit or proceeding against City or any member, officer, agent, attorney-in-fact or employee of City alleging an error, omission or act and seeking damages in relation to the Assigned Area or Concessionaire's business if the suit is groundless, false or fraudulent.

In addition to the above, the Concessionaire shall maintain such insurance as is reasonably required for the type and scope of work performed. Before beginning work, Concessionaire shall furnish insurance certificates to City and shall provide proof of coverage upon request by City at any time during the term of this Agreement.

11.03 All required insurance shall be maintained with responsible insurance carriers qualified to do business in the State of Nevada. As soon as practicable on execution of this Agreement and before commencing any performance under this Agreement, Concessionaire shall deposit certificates of insurance bearing notations or accompanied by other evidence satisfactory to City of coverage and the payment of premiums. Thereafter, certification of premium payment and certificates of insurance evidencing policy renewal shall be deposited with City not less than ten (10) days before the expiration dates of the expiring policies.

11.04 Riders providing substantially as follows shall be made a part of the insurance policies described above in this Agreement:

a. The insurance company agrees that it will give a thirty (30) day prior written notice of cancellation of any of the coverages shown in the certificate;

b. Notice of accident shall be given by Concessionaire to the insurance company as required under the terms of this policy, or notice of claim shall be given by the City to the insurance company as required under the terms of the policy. Notice to the insurance company by either party shall be deemed sufficient notice under the policy;

c. The presence of representatives of the City or other authorized persons in the Assigned Area shall not invalidate the policy;

d. Violation of any of the terms of any other policy issued by the insurance company shall not by itself invalidate the policy; and

e. Save and except for worker's compensation or employer's liability insurance, the City is named and recognized as additional insured to the insurance policies required by this Agreement.

11.05 The insurance policies described above in this Agreement shall be kept in force for the duration of the Term. The failure of Concessionaire to comply with any of the terms of this Article 11 shall, without limitation, be deemed an Event of Default.

ARTICLE 12

INDEMNIFICATION

To the fullest extent permitted by law, the Concessionaire agrees to indemnify, defend, release and hold harmless the City, its officers, agents, volunteers, and employees from and against all claims, damages, losses, and expenses, including all attorney fees and court costs arising out of, resulting from, or in any manner relating to the performance or furnishing of Concessionaire's work or services under this Agreement, or arising from claims brought by third parties in relation to Concessionaire's business or other activities at the Airport, to include the acts or omissions of Concessionaire's officers, employees, representatives, vendors and suppliers, invitees, contractors, subcontractors and agents.

ARTICLE 13

DAMAGE OR DESTRUCTION OF PREMISES/IMPROVEMENTS

13.01 Concessionaire's Obligations. Concessionaire hereby assumes full responsibility for the condition of the Assigned Area and character, acts and conduct of all persons admitted to the Assigned Area by or with the actual or constructive consent of Concessionaire or by or with the consent of any person acting for or on behalf of Concessionaire. If the Assigned Area improvements, or any part thereof, are damaged in any way whatsoever by the act, default or negligence of Concessionaire, or of Concessionaire's members, agents, employees, officers, representatives, guests, invitees, contractors, patrons, or any person admitted to the Assigned Area by Concessionaire or otherwise, Concessionaire shall, at its sole cost and expense, restore the Assigned Area to the condition existing prior to such damage. Concessionaire shall commence such restoration within thirty (30) calendar days and shall diligently pursue such restoration to completion. Such repairs, replacements or rebuilding shall be made by Concessionaire in accordance with the construction requirements contained herein and as established by the City. If Concessionaire fails to restore the Assigned Area as required above, the City shall have the right to enter the Assigned Area and perform the necessary restoration, and Concessionaire hereby expressly agrees that it shall fully assume and be liable to the City for payment of the costs therefor, plus twenty-five percent (25%) administrative overhead. Such restoration cost, plus the administrative cost, shall be due and payable within thirty (30) calendar days from date of written notice thereof.

13.02 Right to Cancel. If any of the improvements in the Assigned Area are damaged or destroyed in whole or in part by fire or other casualty, Concessionaire may, subject to approval of the City, be relieved of the obligation to repair, replace or rebuild the same and have the right to cancel this Agreement provided (i) Concessionaire shall provide the City written notice thirty (30) calendar days' notice prior to such proposed termination and (ii) the City

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approves such termination. All fees and other sums due hereunder payable under this Agreement shall be prorated and paid to the date of such termination. Concessionaire expressly agrees, covenants and warrants that nothing herein shall relieve Concessionaire of any liability it might have arising out of, or in any way resulting from any damage to the Assigned Area and Concessionaire further waives any claim against the City for damages or compensation, should this Agreement be so terminated.

13.03 Insurance Proceeds. The City shall be entitled receive any insurance proceeds made available on account of any fire or other casualty affecting the Assigned Area. Any insurance proceeds shall be deposited in an escrow account approved by the City so as to be available to pay for the cost of such repair, replacement or rebuilding. Such proceeds shall be disbursed during construction to pay the cost of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements, Concessionaire shall pay any additional sums required into the escrow account. If the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be remitted to Concessionaire.

13.04 Termination Upon Destruction or Other Casualty. In the event the Assigned Area, or any part thereof, shall be destroyed or damaged in whole or in part by fire, water or any other cause, or if unforeseen occurrence shall likewise render the fulfillment of this Agreement by the either party impossible, then either party may, at its sole option, terminate this Agreement upon thirty (30) days' written notice to the other party. Concessionaire shall pay all fees, rental, costs, and satisfy all of its obligations hereunder arising prior to the time of such termination, whereupon this Agreement shall terminate and the parties shall be relieved of all further obligation hereunder other than those which expressly survive expiration or termination of this Agreement. Concessionaire hereby waives any claim for damages or compensation should this Agreement be so terminated.

ARTICLE 14

DEFAULT AND TERMINATION

14.01 The City's Rights of Termination. The City, in addition to any other right of termination herein or any other rights to which it may be entitled by law or in equity or otherwise, may cancel this Agreement immediately after giving Concessionaire written notice upon or after the happening of any one or more of the following events ("Events of Default"):

a. Concessionaire fails to make due and punctual payment of any fees or charges payable hereunder on the date specified for such payments and such default shall continue for a period of fifteen (15) calendar days thereafter, *provided* however, upon the expiration of the fifteen (15) day period contained in this subsection, Concessionaire shall not be entitled to the additional thirty (30) day notice set forth above;

b. Concessionaire files a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or substantially all of Concessionaire's assets;

c. Appointment of a receiver or trustee of Concessionaire's assets by a court of competent jurisdiction or by a voluntary agreement with Concessionaire's creditors;

d. Abandonment by Concessionaire of the Assigned Area or the conduct of its business. Suspension of operations for a period of ten (10) consecutive calendar days, except as otherwise permitted under this Agreement, will be considered abandonment;

e. Concessionaire is prevented for a period of thirty (30) calendar days from conducting its business or it is so prevented from conducting any business at the Airport by reason of the United States, acting directly or indirectly, taking possession of, in whole or substantial part, the Assigned Area;

f. The failure of Concessionaire to take possession of the Assigned Area within ten (10) days following the Effective Date;

g. The commission of a crime in the Airport Terminal; or

h. The failure of Concessionaire within thirty (30) calendar days after receipt of written notice from the City to keep, perform or observe any other term, covenant or condition of this Agreement to be kept, performed or observed by Concessionaire; *provided*, however, that if by its nature such default cannot be cured within such thirty (30) calendar day period, then such default shall not constitute an Event of Default if Concessionaire commences to cure or remove such default within said thirty (30) calendar day period and thereafter pursues the curing or removal of such default with due diligence.

14.02 Payment after Default. The acceptance of rents, fees or charges by the City from Concessionaire after a default by Concessionaire shall not be deemed a waiver or estoppel of any right on the part of the City, to include the right to terminate this Agreement.

14.03 Termination and Reletting. In addition to any other remedies available to the City, in the event of an early termination of this Agreement for any reason, to include termination due to an Event of Default, the City shall have the right to reenter and take possession of the Assigned Area, removal Concessionaire's personal property, make any necessary repairs and enter into another agreement for use and/or occupancy of the Assigned Area, or any part thereof, for the remainder of the Term. In the event of such early termination, Concessionaire shall remain liable to the City for the full amount of all fees and charges due under this Agreement and shall continue to pay the same or such part thereof that remains unpaid, together with interest thereon at the rate of eighteen percent (18%) per annum. Concessionaire shall remain liable for such payments whether or not another agreement for the use and/or occupancy of the Assigned Area is entered into, subject to the City's duty to reasonably mitigate its damages.

ARTICLE 15

AIRPORT SECURITY

Concessionaire agrees to observe all security regulations and other requirements of any agency of the Federal government, including, but not limited to, the FAA and TSA, applicable to Concessionaire or Airport, as such regulations or requirements have been or may be amended, including without limitation, Title 14, Part 139 of the Code of Federal Regulations (Airport Certification) and Title 49, Part 1500 of the Code of Federal Regulations (pertaining to TSA rules). Concessionaire agrees to comply with such airport security rules and regulations as may be reasonably prescribed by the City, and to take such steps as may be necessary or directed by the City to insure that employees, invitees and guests observe these requirements.

Concessionaire shall conduct background checks of its employees and representatives to the extent required by any Federal, state or local law or if, to the extent permitted by law, required by the City. The City shall have the right to require the removal or replacement of any employee or representative of Concessionaire at the Airport that the City has reasonably determined may present a risk to public safety or the security of the Airport. Concessionaire agrees to rectify any security deficiency or other deficiency as may be determined by the City, the FAA or TSA. In the event Concessionaire fails to remedy any such deficiency, the City may do so at the cost and expense of Concessionaire. Concessionaire acknowledges and agrees that the City may take whatever action is necessary to rectify any security deficiency or any other deficiency identified by the City, the FAA or TSA.

ARTICLE 16

ASSIGNMENT

Concessionaire shall not assign, transfer or otherwise convey an interest in this Agreement, or sublet the Assigned Area or any portion thereof (hereinafter collectively referred to as "Assignment"), without the prior written consent of the City, approved by the City Council, which consent may be granted or withheld by the City in its sole discretion. Any such attempted Assignment without written approval by the City approval shall be null and void. In the event the City consents to an Assignment, the Assignment shall be subject to those terms and conditions set forth in the City's written consent, to include conditions imposed by any resolution of the City Council approving the Assignment. The City may freely assign this Agreement at any time without the consent of Concessionaire, and upon assumption by such assignee of the City's rights and obligations hereunder, the City shall be released from all liability and obligation arising hereunder after such assignment.

ARTICLE 17

COMPLIANCE WITH LAWS, REGULATIONS AND ORDINANCES

Concessionaire (including its officers, agents, servants, employees, contractors, sub-

operators, and any other person over which Concessionaire has the right to control) agree that throughout the Term of this Agreement, Concessionaire shall at all times be and shall remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature without limitation, as now or hereafter amended, including, but not limited to the City, the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA), FAA Advisory Circulars and Airport rules and regulations. Concessionaire shall submit to the City, upon request, any reports or other information which the City is required by law to obtain from Concessionaire, or which the Airport Manager determines is needed for Airport operations or management of this Agreement.

ARTICLE 18

AMERICANS WITH DISABILITIES ACT

Concessionaire shall comply with the requirements of the Americans with Disabilities Act (ADA) and all State of Nevada anti-discrimination laws pertaining to persons with disabilities, to include, without limitation, NRS Chapter 233 (Nevada Equal Rights Commission), with respect to Concessionaire's facilities and operations at the Airport.

ARTICLE 19

NO IMPAIRMENT OF BONDS

The parties to this Agreement acknowledge and agree that all property subject to this Agreement which was financed by the net proceeds of tax-exempt bonds is owned by the City, and Concessionaire agrees not to take any action that would impair, or omit to take any action required to confirm, the treatment of such property as owned by the City for purposes of Section 142(b) of the Internal Revenue Code of 1986, as amended. In particular, the Concessionaire agrees to make, and hereby makes, an irrevocable election (binding on itself and all successors in interest under this Agreement) not to claim depreciation or an investment credit with respect to any property subject to this Agreement which was financed by the net proceeds of tax-exempt bonds and shall execute such forms and take such other action as the City may request in order to implement such election.

ARTICLE 20

NON-DISCRIMINATION

Concessionaire, as a part of the consideration hereof, does hereby covenant and agree, that (1) no person on the grounds of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, marital status, military status, national origin or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Airport facilities; and (2) that Concessionaire shall use the Airport

Area in compliance with all requirements imposed 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. Concessionaire shall further comply with the requirements set forth in the document attached hereto at **Exhibit E** entitled "Civil Rights and Non-Discrimination." In the event of breach of any of the above nondiscrimination covenants, the City shall have the right to immediately terminate this Agreement.

ARTICLE 21

DISADVANTAGED BUSINESS ENTERPRISE IN AIRPORT CONCESSIONS

21.01 Applicability of Regulations. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, Title 49, Code of Federal Regulations, Part 23, Participation of Disadvantaged Business Enterprise in Airport Concessions. In addition to any other provisions contained or incorporated by reference in this Agreement, the Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The Concessionaire agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters into and that it will cause those businesses to similarly include the statements in further agreements.

21.02 Policy. It is the policy of the City to recognize the applicability of the United States Department of Transportation's Rules and Regulations governing Airport Concession Disadvantaged Business Enterprise (ACDBE)/DBE participation. The City is also fully committed to the implementation of these Rules and regulations through its approved Airport Concession Disadvantaged Business Enterprise (ACDBE) Program.

21.03 Certification (49 CFR Part 26.61-91, Part 23 Subpart C). The City will use the procedures and standards of Part 26.61-91 and 23.31, Subpart C for certification of ACDBE's to participate in its ACDBE program.

21.04 ACDBE Goal. The City encourages the inclusion of firms owned and controlled by minorities and women in contract awards and projects whenever feasible. This policy is consistent with the administrative mandate set out by the United States Department of Transportation Code of Federal Regulations in Title 49, Part 23 and Part 26. The City intends to meet or exceed the goals applicable to concessions other than car rentals set forth in 49 CFR 23.41, et seq, or make good faith efforts to do so. Concessionaire agrees to submit quarterly reports to the City as required concerning the participation of certified ACDBE firms.

21.05 Incorporation of Exhibit A (Disadvantaged Business Enterprise Participation). **Exhibit A** to this Agreement, entitled "Disadvantaged Business Enterprise Participation," is incorporated herein by this reference.

ARTICLE 22

RIGHTS RESERVED TO THE CITY

Rights not specifically granted to Concessionaire by this Agreement are expressly and independently reserved to the City. The City expressly reserve(s) the right to prevent any use of the described Assigned Area which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute an Airport hazard.

ARTICLE 23

RIGHT OF ENTRY

In addition to any other rights of entry contained herein, the City shall have the right to enter the Assigned Area for the purposes and to the extent necessary to protect the City's rights and interest, to provide for periodic inspection of said Assigned Area from the standpoint of safety and health, and to verify Concessionaire's compliance with the terms of this Agreement.

ARTICLE 25

PROPERTY RIGHTS RESERVED

This Agreement shall be subordinate to the provisions of any existing or future agreement between the City and the United States of America, or any of its agencies, 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 expenditure of federal funds for the development of the Airport, and to any terms or conditions imposed upon the Airport by any other governmental entity.

ARTICLE 26

SIGNS

No signs, posters, or similar devices shall be erected, displayed, or maintained by Concessionaire in view of the general public in, on, or about the Assigned Area or elsewhere on the Airport, without the prior written approval of the City, which approval may be granted or withheld by the City in its sole discretion. Any signs that are not approved by the City shall be immediately removed at the sole cost and expense of Concessionaire. All signs approved for Concessionaire's operations at the Airport shall be at the cost of Concessionaire.

ARTICLE 27

MORTGAGE RIGHTS OF CONCESSIONAIRE

Concessionaire may mortgage, pledge, or hypothecate its personal property provided Concessionaire as a condition precedent first provides to the City written evidence that the

priority rights of the City under this Agreement will not be adversely affected by such action, and obtains the City's consent thereto.

ARTICLE 28

PRIVILEGE FEES AS A SEPARATE COVENANT

Concessionaire shall not for any reason withhold or reduce Concessionaire's required payments of Percentage Fees and other fees and charges provided in this Agreement, it being expressly understood and agreed by the parties that the payment of fees and charges is a covenant by Concessionaire that is independent of the other covenants of the parties hereunder.

ARTICLE 29

NOTICES AND COMMUNICATIONS

All notices or other communications to the City or Concessionaire pursuant hereto shall be deemed validly given, served, or delivered, upon deposit in the United States mail, certified and with proper postage and certified fee prepaid, addressed as follows:

TO THE CITY:

Elko Regional Airport
Airport Manager
975 Terminal Way
Elko, Nevada 89801

TO CONCESSIONAIRE:

I Don't Know Cafeteria & Deli
Attn: Fernando A. Vargas, Partner
586 Lincoln Avenue
Elko, Nevada 89801

or to such other address as the addressee may designate in writing by notice to the other party delivered in accordance with the provisions of this article.

ARTICLE 30

TAXES, PERMITS, LICENSES

Concessionaire shall bear, at its own expense, all costs of operating its equipment and business, including any and all taxes assessed, whether tangible or intangible, against its interest in the Assigned Area, and including any sales tax imposed on the rental and concession fee payments, furnishings, equipment or stocks of merchandise and supplies, and Concessionaire

shall obtain and pay for all permits, licenses, or other authorizations required by the City in connection with the operation of its business at the Airport. Concessionaire shall have the right to challenge any and all taxes assessed against its interest in the Assigned Area at its own expense.

ARTICLE 31

SURRENDER OF ASSIGNED AREA

Concessionaire shall surrender and deliver its Assigned Area to the City upon termination of this Agreement in the same condition as existed at the commencement of the Agreement, ordinary wear and tear excepted. Provided the Concessionaire is not in default in the payment of rents, fees and charges required under this Agreement, Concessionaire, at the termination of this Agreement, shall remove all of its personal property from the Assigned Area forthwith. Failure on the part of Concessionaire to remove its personal property within five (5) business days of the date of termination shall constitute a gratuitous transfer of title thereof to the City for whatever disposition is deemed to be in the best interest of the City. Any costs incurred by the City in the disposition of such personal property shall be borne by the Concessionaire.

ARTICLE 32

NO ACCEPTANCE OF SURRENDER

No act or action done by the City during the term of this Agreement shall be deemed an acceptance of the surrender of this Agreement and no acceptance of a surrender shall be valid unless in writing.

ARTICLE 33

PERSONAL PROPERTY

Any personal property of Concessionaire or of others placed in the Assigned Area shall be at the sole risk of the Concessionaire or the owners thereof, and the City shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage, and Concessionaire hereby waives all rights of subrogation or recovery from the City for such damage, destruction or loss. The City shall not be liable for any damage or loss of any personal property placed or moved on to the Assigned Area.

ARTICLE 34

APPLICABLE LAW AND VENUE; PREVAILING PARTY

This Agreement shall be construed in accordance with the laws of the State of Nevada. Venue for any action brought pursuant to this Agreement shall be in Elko County, Nevada. Any action for breach of or enforcement of any provision of this Agreement shall be brought in the

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Fourth Judicial Circuit Court in and for the County of Elko, State of Nevada. In the event either party brings an action to enforce or interpret any provision in this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees and costs.

ARTICLE 35

INVALIDITY OF CLAUSES

The invalidity of any portion, article, paragraph, provision or clause of this Agreement shall have no effect upon the validity of any other part of portion thereof.

ARTICLE 36

FEDERAL RIGHTS TO RECLAIM

In the event a United States governmental agency shall demand and take over the portion of the Airport where the Assigned Area is located for a period in excess of thirty (30) calendar days, either party may terminate this Agreement by providing written notice of such termination to the other party and the parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof.

ARTICLE 37

RELATIONSHIP OF THE PARTIES

The relationship of the parties is contractual. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, or joint venture, or any business association between the City and Concessionaire.

ARTICLE 38

STATUS UPON EXPIRATION

If Concessionaire holds over and continues in possession of the Assigned Area after expiration or termination of this Agreement, other than with the written consent of the City, the relationship between the parties shall be one of licensor-licensee, and Concessionaire will be deemed to be occupying the Assigned Area at sufferance from month-to-month, without limitation on any of the City's rights or remedies, subject to all of the terms and conditions of this Agreement. The monthly license fee for the Assigned Area shall be based on the same formula as the last month of the Term of the Agreement prior to the hold over, but shall be two times that amount. It is agreed and understood that any holding over of Concessionaire after the expiration or termination of this Agreement shall not renew and extend same, but shall operate and be construed as a license from month-to-month. In addition, Concessionaire shall pay to the

Page 30 of 33

City any other charges required to be paid hereunder during any such holdover period. Concessionaire shall be liable to the City for all loss or damage on account of any such holding over against the City's will after the termination or expiration of this Agreement, whether such loss or damage may be contemplated at the execution of this Agreement or not. It is expressly agreed that acceptance of the foregoing payments by the City in the event that Concessionaire fails or refuses to surrender possession shall not operate or give Concessionaire any right to remain in possession nor shall it constitute a waiver by the City of its right to immediate possession of the premises. The foregoing month-to-month license during a period of holding over may be terminated at any time by either party upon thirty (30) days' written notice to the other party.

ARTICLE 39

EMINENT DOMAIN

In the event that the United States of America or the State of Nevada shall, by exercise of the right of eminent domain or any other power, acquire title in whole or in part of the Airport, including any portion assigned to Concessionaire, Concessionaire shall have no right of recovery whatsoever against the City but shall make its claim for compensation solely against the United States of America or the State of Nevada, as the case may be.

ARTICLE 40

FORCE MAJEURE

In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental law or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, the performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; *provided*, however, in no event shall the foregoing excuse the payment of any sums due under this Agreement. Either party desiring to rely upon such a cause shall, when the cause arises, give prompt notice thereof to the other party and, when the cause ceases to exist, shall give prompt notice thereof to the other party.

ARTICLE 41

WAIVERS

No waiver by the City at any time of any of the terms, conditions, covenants, or agreements of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant, or agreement herein contained, nor of the strict and prompt performance thereof by Concessionaire. No delay,

Page 31 of 33

failure or omission of the City to reenter the Assigned Area or to exercise any right, power, privilege, or option arising from any default nor subsequent acceptance of fees and charges then or thereafter accrued, shall impair any such right, power, privilege, or option or be construed to be a waiver of any such default or relinquishment thereof, or acquiescence therein. No notice by the City shall be required to restore or revive time as of the essence hereof after waiver by the City or default in one or more instances. No option, right, power, remedy, or privilege of the City shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, power, options, or remedies given to the City by this Agreement are cumulative and no one of them shall be exclusive of the other or exclusive of any remedies provided by law, and that the exercise of one right, power, option or remedy by the City shall not impair its rights to any other right, power, option or remedy.

ARTICLE 42

TIME OF THE ESSENCE

Time is expressed to be of the essence of this Agreement.

ARTICLE 43

CONSTRUCTION OF AGREEMENT

Neither party shall be considered the author of this Agreement. The terms of this Agreement shall not be strictly construed against one party as opposed to the other based upon who drafted it.

ARTICLE 44

MISCELLANEOUS

All of the terms and provisions hereof shall be binding upon and the benefits inure to the parties hereto and their heirs, personal representatives, successors and assigns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. This Agreement, and instruments or documents relating to same, shall be construed under Nevada law. This Agreement represents the complete agreement of the parties and any prior concession agreements or representations, regarding concession agreement, whether written or verbal, are hereby superseded. This Agreement may subsequently be amended only by written instrument signed by the parties hereto. The invalidity of any portion, article, paragraph, provision or clause of this Agreement shall have no effect upon the validity of any other part of portion thereof. Paragraph headings in this Agreement are for convenience in reference only and shall not define or limit the scope of any provision. There are no third-party beneficiaries to this Agreement. In the event of a conflict between the text of this Agreement and an exhibit or appendix hereto, the exhibit or appendix shall control.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of

///

the day and year first above written.

CITY OF ELKO:

CONCESSIONAIRE:

**I DON'T KNOW DELI & CAFETERIA,
A NEVADA GENERAL PARTNERSHIP**

REECE KEENER, MAYOR

FERNANDO A. VARGAS, PARTNER

ATTEST:

KELLY WOOLDRIDGE, CITY CLERK

MARCOS GIL, PARTNER

ENGRACIA GAMINO, PARTNER

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a Land Lease Agreement for Hangar (C7) with Aaron Lamb, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26,2021**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Aaron Lamb is the new owner of Hangar C7. The previous agreements had expired and a new lease is required. Additionally, airport ground leases of less than one-half an acre are no longer subject to appraisal/auction process for cities whose population is less than 25,000 (NRS 496.80) JF**
6. Budget Information:
 Appropriation Required: **NA**
 Budget amount available: **NA**
 Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Land Lease agreement C7**
9. Recommended Motion: **Move to approve a Land Lease Agreement with Aaron Lamb for Hangar C7.**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Aaron Lamb**
 alamb57@hotmail.com

LAND LEASE AGREEMENT
(Airport Hangar C7)

THIS LAND LEASE AGREEMENT is made and entered into this ____ day of _____, 2021 (the "Effective Date") by and between the CITY OF ELKO, a special charter municipal corporation and political subdivision of the State of Nevada, hereinafter referred to as "Lessor," and AARON LAMB, an individual, hereinafter referred to as "Lessee."

WHEREAS, pursuant to NRS 496.080(4) (Sale, lease or other disposal of municipal airports and related facilities and property), the governing body of a city whose population is less than 25,000 may rent or lease to a person a space that is less than one-half of an acre for the parking or storage of aircraft on the grounds of a municipal airport that is owned or operated by the city without conducting or causing to be conducted an appraisal or a public auction;

WHEREAS, Lessor desires to lease to Lessee and Lessee desires to lease from Lessor a space within a hangar located within the boundaries of the Elko Regional Airport for the purpose of parking and/or storing aircraft;

WHEREAS, the leased space is an area of land located within a structure containing a total of three aircraft hangars, referred to as "T-Hangars C7, C8 and D4," respectively;

WHEREAS, the parties hereto have determined that this Lease Agreement falls within the exemption contained in NRS 496.080(4);

NOW, THEREFORE, for and in consideration of the rents, covenants and agreements herein contained, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the following property at the Elko Regional Airport upon the terms and conditions described hereinafter.

SECTION 1
PROPERTY

1.01 Description. Lessor does hereby lease to Lessee, and the Lessee does hereby lease from Lessor, that certain land situate, lying and being at the Elko Regional Airport, State of Nevada, for placement of airplane hangars, known as "T-Hangar C7," which land (hereinafter "Leased Premises") is more particularly described at **Exhibit A** and shown on the map at **Exhibit B** attached hereto and made a part hereof by this reference.

SECTION 2

TERM OF LEASE

2.01 Term. This Lease Agreement shall begin _____, 2021 and end at midnight on _____, 2031 (hereinafter the "Initial Term"), unless sooner terminated as in this Lease Agreement provided.

2.02 Option to Extend. At the expiration of the Initial Term, if this Lease shall then be in full force and effect and the Lessee shall have fully and timely performed all of the terms and conditions, the Lessee shall have the option to extend this lease for one (1) additional ten (10) year term. The option to extend must be exercised in writing by the Lessee not later than sixty (60) days prior to the expiration of the Initial Term, and if the Lessor does not receive written notice of the exercise of this option on or before such date, this option shall terminate on that date, time being of the essence. Notwithstanding any other provision contained herein, all provisions of the Lease, including rental terms, will be subject to renegotiation at the expiration of the Initial Term; *provided*, in the event the parties are unable to renegotiate mutually-acceptable terms and conditions prior to the expiration of the Initial Term, the option to extend shall thereupon automatically expire and this Lease Agreement shall terminate.

SECTION 3

RENT

3.01 Annual Rent. Lessee agree to pay to Lessor as rent for the Leased Premises an annual rent payment computed as follows:

Hangar C-7: 1,050 square feet @ \$.28/square foot = \$294.00

3.02 Initial Payment of Rent. Upon execution of this Lease, Lessee agrees to pay to Lessor as rent for the premises an initial prorated sum of \$_____ for the first _____ months of the Lease.

3.03 Date Rent Due. After the initial term referenced in Section 3.02, said rent shall be paid annually in advance on or before June 30th of each year, beginning _____, 2021, in the sum of \$294.00. It is hereby agreed that said rental rate may be increased if the City adopts rental increases for other hangar leases at the Elko Regional Airport.

SECTION 4

USE OF LEASED PREMISES

4.01 Uses Prohibited. It is agreed between Lessor and Lessee that the Lessee

shall use the Leased Premises only for the placement of aircraft hangars and the parking and/or storage of aircraft. No other use, including the storage of personal property other than aircraft, shall be made of the Leased Premises.

SECTION 5

SERVICES TO BE PERFORMED BY LESSEE

5.01 Maintenance of Leased Premises. The Lessee shall maintain the Leased Premises in accordance with the highest standards for airport hangars at the Elko Regional Airport. The Lessee shall maintain the Leased Premises in a clean, neat and sanitary condition.

5.02 Cost of Maintenance. The Lessee shall bear all of the costs and expenses of maintaining the Leased Premises and, together with the other owners, the hangar thereon, and the Lessee shall pay, in addition to the rent, all other costs associated with the use and occupancy of the Leased Premises, including insurance, taxes, permits and licenses. Lessee is responsible for allocating the foregoing costs (not including rent) with the other owners of the structure in which the Leased Premises are located and shall hold the City of Elko harmless therefor.

5.03 Loss/Theft/Damage. The Lessee shall be responsible for the loss or theft of and damage to all of their property at the Elko Regional Airport. The City of Elko shall have no liability for the theft or loss of or damage to the Lessee's property, and as a material consideration for this Lease, the City of Elko, and its officers, supervisors, agents and employees are hereby released and discharged from all claims, demands and liability therefor.

SECTION 6

REMOVAL OF HANGAR

6.01 Termination Upon Removal of Hangar. In the event any airplane hangar located on the Leased Premises on the Effective Date is removed for a period of thirty (30) consecutive days, this Lease shall terminate without further notice.

SECTION 7

INTENTIONALLY OMITTED

SECTION 8

REMOVAL OF PROPERTY UPON TERMINATION OF LEASE

8.01 Lessee to Remove Personal Property. In the event of the termination of this Lease Agreement, Lessee shall have a reasonable time to remove from the Leased

Premises all personal property owned by Lessee and any structures placed thereon by Lessee or Lessee's predecessors-in-interest, provided that the removal of such structures and property can be accomplished without damage to the land and provided that Lessee repair and restore the land to the condition the land was placed by the Lessor.

SECTION 9 **INSURANCE**

9.01 Personal Property Insurance. The Lessee shall procure and keep in force, fire and extended coverage insurance upon their leasehold improvements, fixtures and equipment to the full insurance value thereof and shall furnish the Elko Regional Airport Director with evidence that such coverage has been procured and is being maintained in full force and effect.

9.02 Liability Insurance. The Lessee shall maintain with insurance underwriters, satisfactory to the City of Elko, a standard form policy or policies of insurance in such amounts as may from time to time be approved by the City of Elko protecting the City of Elko against public liability and property damage. The Lessee shall promptly, after the execution of this Lease Agreement, furnish such policy or policies for property damage arising out of any one accident or other cause in a sum of not less than \$1,000,000.00; for personal injuries/death arising out of any one accident or other cause with liability of not less than \$3,000,000.00. It is understood that the specified amounts of insurance in no way limits the liability of the Lessee and that the Lessee shall carry insurance in such amounts so as to indemnify and save harmless the City of Elko and the Lessor from all claims, suits, demands and actions.

9.03 Proof of Insurance to Lessor. The Lessee shall furnish a certificate from the insurance carrier or carriers showing such insurance to be in full force and effect during the term of this contract, or shall deposit copies of the policies which give this coverage with the Elko Regional Airport Director.

SECTION 10 **INDEMNIFICATION AND HOLD HARMLESS**

10.01 Indemnification of City. The Lessee does hereby covenant and agree to defend, indemnify and save harmless the City of Elko, its officers, supervisors, employees and agents from all fines, suits, claims, demands, expenses, fees, liabilities, defenses and actions of any kind and nature by reason of any and all of the Lessee's operations hereunder and any and all negligence, acts and omissions of the Lessee and their agents, employees, officers and directors and do hereby agree to assume all the risk and liability of the operation of their business hereunder.

SECTION 11
CONDUCT BY LESSEE

11.01 Compliance with Applicable Laws. Lessee shall conduct and handle the Leased Premises in a lawful and orderly manner and shall comply with all applicable city, county, state and federal laws, rules, regulations, ordinances and codes, as well as administrative rules and regulations governing the use of property and conduct of operations at Elko Regional Airport. A copy of the Elko Regional Airport Rules and Regulations is attached hereto as **Exhibit C**.

SECTION 12
WASTE

12.01 No Waste Permitted. Lessee will not commit or permit to be committed any waste upon the Leased Premises.

SECTION 13
UTILITIES

13.01 Lessee to Pay for Service. Lessee will pay all charges for light, power and/or water and any other utilities and services used upon or in connection with said Leased Premises.

SECTION 14
TAXES

14.01 Lessee to Pay Taxes/Fees. Lessee will pay all city, county, school district and state taxes levied or assessed against property placed upon the Leased Premises. Lessee will pay all necessary license fees.

SECTION 15
DEFAULT

15.01 Termination of Lease Upon Default. It is expressly understood and agreed that in case the Lessee, without the consent of the Lessor, shall sell, assign, or mortgage this Lease, or if default be made in the performance of any of the covenants and agreements in this Lease contained on the part of the Lessee to be kept or performed (to include the duty to pay rent), or if the Lessee makes an assignment for the benefit of creditors or takes advantage of any insolvency act, the Lessor may, if it so elects, at any time thereafter, declare all monies at once due and payable terminate this Lease and the term hereof, on giving the Lessee fifteen (15) days' notice, in writing, of the Lessor's intention so to do, and this Lease and the term hereof shall expire and come to an end on

the date fixed in such notice as if the said date were the date originally fixed in this Lease for the expiration hereof if such default or breach by Lessee shall have not then been corrected. Such notice shall be given as hereinafter set forth. Notwithstanding the foregoing, in the event Lessee commits a violation of Federal, state or local law on the Leased Premises that is punishable as a felony or gross misdemeanor, Lessor may immediately upon giving notice to Lessee, declare all monies at once due and payable terminate this Lease and the term hereof

15.02 Other Remedies. Lessor does hereby specifically retain any and all rights and remedies which may be provided to it by law, or in equity, for actual damage or loss to Lessor or to the Leased Premises sustained by reason of Lessee's use and operation of the Leased Premises.

15.03 No Waiver. The waiver by Lessor of any default or breach of any of the provisions, covenants or conditions hereof on the part of Lessee to be kept and performed shall not be a waiver of any preceding or subsequent breach of the same or any other provision, covenant or condition contained herein.

SECTION 16

QUIET POSSESSION

16.01 Lessee' Right to Occupy. The Lessee, upon making the payments herein provided for and in the manner provided, and complying with each, every and all of the terms, clauses and covenants of this Lease, shall have the sole right and option of occupying the Leased Premises under the terms of this Lease during the full term herein provided, without any let or hindrance by said Lessor.

SECTION 17

IMPROVEMENTS

17.01 Notification of Lessor. Lessee shall notify Lessor and obtain Lessor's written consent prior to making any improvements to the Leased Premises. All improvements to the property shall be made at Lessee' expense.

SECTION 18

AIRPORT MASTER PLAN

18.01 Termination of Lease. The Lessee understands that the Lessor may develop and adjust its master plan at the airport and that movement of buildings and structures may become necessary. Lessee, accordingly, covenants and agrees, notwithstanding any provisions of this Lease Agreement to the contrary, that if necessitated by a change to the master plan, the Lessor may terminate this Lease at any

time during the term of this Lease, or any renewable extension thereof, by written notice mailed or delivered to Lessee as provided in Section 22.04 hereof, and upon any such termination, the Lessee shall within thirty (30) days from the date of such notice of termination, vacate the Leased Premises, surrender this Lease in the premises, and remove from the Leased Premises all of Lessee's liens and improvements, the removal of which is requested by the Lessor.

SECTION 19

ASSIGNMENT

19.01 No Assignment. This Lease Agreement shall not be assigned, nor shall any or all of the Leased Premises be relet or sublet by the Lessee without the written consent of the Lessor first had and obtained. Lessee acknowledges and understands that any such consent by Lessor shall require the approval of the Elko City Council.

SECTION 20

LIENS / ENCUMBRANCES

20.01 Status of Lease. The Lessee shall not allow any encumbrances, liens or processes of law to attach against the Leased Premises, or Lessor's interest therein. Any attempted legal process levied against the Leased Premises, or Lessor's interest therein, if attempted in good faith, shall result in a complete termination of this Lease Agreement and a termination of Lessee's right in and to this Lease Agreement and the Leased Premises, subject to the right of Lessee to cause a discharge of any lien within sixty (60) days after filing or levy thereof, and in the event of such discharge, this Lease Agreement shall continue in full force and effect.

SECTION 21

CLOSURE OF AIRPORT

21.01 Rent Abated; Term Adjusted. During any period when the airport shall be closed by any lawful authority restricting the use of the airport in such a manner as to materially interfere with Lessee's use, the rent shall abate and the period of such closure shall be added to the term of this Lease Agreement so as to extend and postpone the expiration thereof.

SECTION 22

INSPECTION

22.01 Lessor's Right to Inspect. Lessor reserves the right to enter upon the Leased Premises at any reasonable time for the purpose of making any inspection it may deem appropriate for the proper enforcement of any of the covenants or conditions of this

Lease.

SECTION 23
ADDITIONAL TERMS

23.01 FAA Requirements. Lessee shall comply with all terms and conditions required by the FAA Safety/Compliance Inspector as set forth on **Exhibit D** attached hereto.

23.02 Abandonment. In the event the Lessee abandons the Leased Premises, the Lease Agreement shall immediately terminate without further notice and any of Lessee's personal property remaining on the Leased Premises shall become the property of Lessor.

23.03 Waiver. No waiver by the Lessor or default, violation of or non-performance of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default, violations or non-performance. The acceptance of rental or the performance of all or any part of this Lease Agreement by Lessor for or during any period or periods of default, violation or non-performance of any of these terms, covenants and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of the Lessor to cancel this Lease Agreement for failure of Lessee to so perform, keep or observe any of the items, covenants or conditions hereof.

23.04 Notices. All notices sent to the parties under this Lease shall be addressed as follows:

CITY OF ELKO: Elko Regional Airport Director
 City of Elko
 1751 College Avenue
 Elko, NV 89801

LESSEE: Aaron Lamb
 586 Wolf Creek Drive
 Spring Creek, NV 89815

23.05 Attorney Fees. In any dispute between the parties hereto resulting in legal action, the court will award to the prevailing party reasonable attorney fees and court costs.

23.06 Binding Effect. This Lease shall be binding upon and inure to the benefit of the Lessor, its successors and assigns, and upon the Lessee and the Lessee's heirs,

successors and assigns, subject to the restrictions against subletting and assignments.

23.07 Time. Time is of the essence of this Lease Agreement. In the event that any date specified in this Lease falls on Saturday, Sunday or a public holiday, such date shall be deemed to be the succeeding day on which the public agencies and major banks are open for business.

23.08 Governing Law. The validity, construction and enforceability of this Lease Agreement shall be governed in all respects by the law of Nevada applicable to agreements negotiated, executed and performed in Nevada by Nevada residents, whether one or more of the parties shall now be or hereafter become a resident of another state.

23.09 Captions. The captions of this Lease do not in any way limit or amplify the terms and provisions of this Lease.

23.10 Severability. Each provision of this Lease is severable from any and all other provisions of this Lease. Should any provision(s) of this Lease be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

23.11 Title VI Compliance. Lessee shall comply with the requirements set forth in the document attached hereto at **Exhibit E** entitled "Civil Rights and Non-Discrimination."

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be executed on the day and year first above written.

LESSOR:

LESSEE:

CITY OF ELKO

By: _____
REECE KEENER, Mayor

AARON LAMB

ATTEST:

KELLIE WOOLDRIDGE, City Clerk

EXHIBIT A

LEGAL DESCRIPTION OF LEASE AREA FOR HANGAR C7

A portion of the Elko Regional Airport parcel, located in the southeast quarter of Section 16, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Elko County, Nevada, containing one hangar in a portion of a three hangar building, more particularly described as follows;

Beginning at a point that bears South 77°05'54" East, a distance of 1,638.97 feet from the Elko Regional Airport survey control monument "Cessna";
Thence, North 44°11'00" East, a distance of 30.00 feet;
Thence, South 45°49'00" East, a distance of 15.00 feet;
Thence, North 44°11'00" East, a distance of 10.00 feet;
Thence, South 45°49'00" East, a distance of 15.00 feet;
Thence, South 44°11'00" West, a distance of 40.00 feet;
Thence, North 45°49'00" West, a distance of 30.00 feet, more or less, to the point of beginning.

Said Hangar C7 contains an area of $\pm 1,050$ square feet.

The basis of bearings for this description is the Nevada State Plane Coordinate System, East zone. Ground coordinates are given for the following monuments, with a grid to ground scale factor of 1.000357:

Elko Regional Airport survey control monument "Cessna"

N 2847077.14

E 599834.56

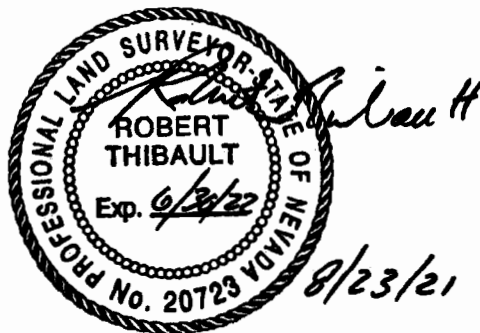
Elko Regional Airport survey control monument "Piper"

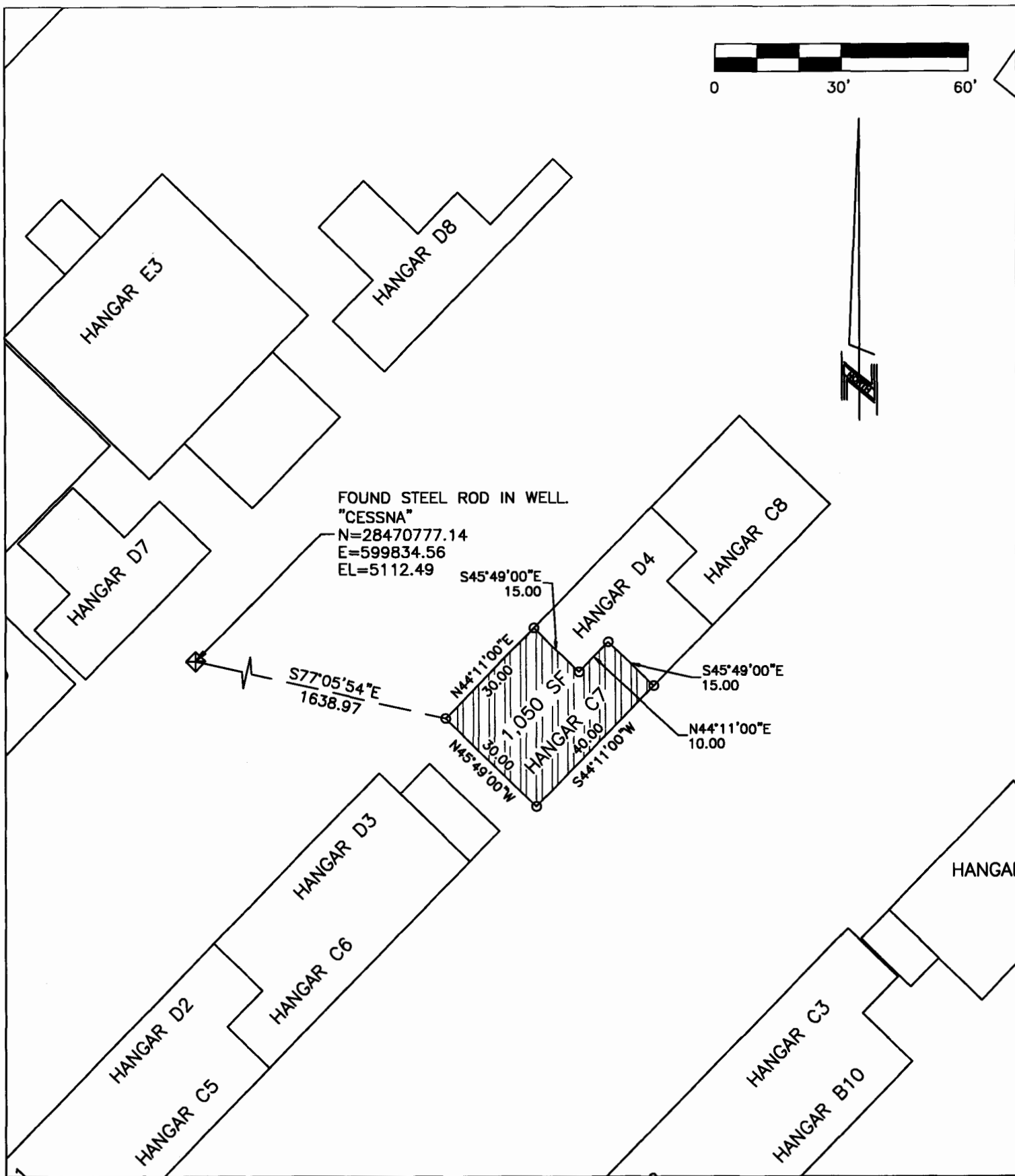
N 28469096.94

E 599075.75

With a bearing of South 24°18'17" West and distance of 1,843.60 feet from Cessna to Piper.

Description prepared by:
Robert Thibault, PE, PLS
City of Elko Civil Engineer





CITY OF ELKO
1701 COLLINS AVE
ELKO, NEVADA 89801
775-777-7210

SCALE
HORIZ 1"=30'
VERT _____
JOB No _____

EXHIBIT B
MAP OF LEASE AREA FOR HANGAR C7
FOR THE ELKO REGIONAL AIRPORT

DESIGNED BY _____
DRAWN BY ACD CSD 2020
CHECKED BY _____
DATE 8/23/2021

IN SECTION 16, T 34 N,
R 55 E, M.D.B.&M.

U:\Reports\2018-Lease-Working Files\2018-LEASE-MAP12B-DRAWING.dwg

Exhibit C

Elko Regional Airport Rules and Regulations

RULES AND REGULATIONS
Exhibit C

CHAPTER I
GENERAL PROVISIONS

SECTION 1. Definitions

As used in these Rules and Regulations, unless the text otherwise requires:

1. Airport means the Elko Regional Airport and all of the area, building facilities, and improvements within the exterior boundaries of such airport as it now exists or as it may hereafter be extended or enlarged.

2. Airport Director means the person hired by the City, whose job duties are outlined in Section 2.

3. Council means the Elko City Council of the City of Elko, Nevada.

4. City means the City of Elko, Elko County, Nevada.

5. F.A.A. means the Federal Aviation Administration.

6. Person means any individual, firm, partnership, corporation, company, association, joint-stock association or body politic, and includes any trustee, receiver assignee or other similar representative thereof.

7. Advisory Board means the Elko Regional Airport Advisory Board established by the Elko City Council.

SECTION 2. Airport Director

The Airport Director shall be hired by the City. He shall report to the City Manager. The Airport Director's duties include, but are not limited to:

1. Develop and implement policies and procedures related to airport operations, safety and maintenance, drafts and revises airport policy and procedure manuals regarding emergency procedures, minimum safety standards and operating procedures in accordance with FAA operation rules.

2. Coordinates the development and negotiation of airport leases, contracts and

agreements, including those with private companies, commercial air carriers and government agencies for the rental of airport facilities including hangars, building space, airport service and concessions.

3. Initiates the FAA grant priorities and monitors the major construction resulting from those grant projects. Plans, organizes, coordinates, supervises and evaluates programs, plans, services, staffing, equipment and infrastructure of the airport, including airport development and improvement projects.

4. Supervises and monitors use of the airport facilities by tenants, concessionaires and patrons, including ground operations, passenger and baggage screening, emergency operations, maintenance and related activities. Supervises grounds and facilities maintenance, coordination of improvements or changes to facilities or equipment. Inspects airport grounds, facilities and equipment, and notes maintenance needs, safety hazards and other problems, initiates corrective action and follows-up as necessary.

5. Interprets flight safety and other flight and airport use regulations for the public, enforces airport regulations and assures compliance with a variety of local, State, and Federal laws and regulations related to airport operations.

6. Assesses a variety of emergency situations requiring airport closure or altered operations, such as snow-plowing, ice removal or other extreme weather conditions, bomb threats, fire, crashes or other emergencies, coordinates fire, crash and rescue procedures.

SECTION 3. Rules and Regulations

All aeronautical activities at the airport, all operation and flying of aircraft at the airport, and all business and other activities on the airport shall be conducted in conformity with these rules and regulations, and all amendments, supplements, attachments, changes, and additions hereto which may hereafter be adopted by the City Council, and further in conformity with all pertinent rules, regulations, orders and rulings of the F.A.A., which are made a part of these rules by this reference. Provided, however, that nothing herein contained shall affect or impair any existing agreement. In the event of any conflict between these rules and regulations and any law, rule, regulation or order of the F.A.A. or other governmental agency exercising the same or similar jurisdiction, the latter shall prevail.

SECTION 4. Special Events

Special events, such as air shows, air races, fly-ins, sky diving and all events requiring the general use of the airport, other than normal or routine airport traffic, shall be held only

upon the prior approval of the Airport Director, and on such dates, in such areas and upon such terms and conditions as shall be specified by the Airport Director.

SECTION 5. Public Use

The airport shall be open for public use at all hours of the day, subject to regulation or restriction due to conditions of the landing area, the presentation of special events and like causes, as may be determined by the Airport Director and revocation of the right to use for violation of these rules and regulations as herein provided.

SECTION 6. Common Use Area

All runways for landing and take-off, all, all runway markers, guidance, signal, and beacon light used to guide operating aircraft, and wind information, for signaling, for radio-direction finding, or for any other structure, equipment or mechanism having a similar purpose for guiding or controlling flight in the air or landing and take-off of aircraft, and together with such aprons, ramps, turn-offs, taxiways, tie down areas and other areas of the airport as the airport director shall specify or designate as common use areas available for use, in common, by all persons flying or operating aircraft on the airport and shall be kept clear and available for aircraft traffic. No person or entity shall use any common use area for the parking or storing of inoperative aircraft, the repair, servicing, or fueling of aircraft or for any other purpose other than the flying and operation of aircraft without the prior consent and authorization of the Airport Director. Common use areas shall be subject to change by the Airport Director.

SECTION 7. Vehicular Traffic

The traffic laws of the City shall apply to the streets, roads, and parking areas on the airport, unless restricted by the Airport Director. Vehicular access to aircraft in the General Aviation area is permitted for the purpose of loading and unloading only. Except for fire fighting equipment, ambulances, emergency vehicles, and aircraft maintenance vehicles, no person shall take or drive any vehicle on the airport, other than on established streets, roads and automobile parking facilities, unless permission has been first obtained from the Airport Director.

SECTION 8. Advertising

No signs or other advertising shall be placed on constructed upon the airport without the prior approval of the Airport Director. Any building, structure or improvement must also obtain prior approval of the Airport Director.

SECTION 9. Acceptance Of Rules By Use

The use of the airport or any of its facilities in any manner shall constitute an assumption by the user of these rules and regulations and shall create an obligation on the part of the user to abide by and obey these rules and regulations.

SECTION 10. Operators To Keep Rules Available

All persons licensed to do business on or conduct operations of any kind on the airport shall keep a current copy of these rules and regulations in its office or place of business and make it available to all persons.

CHAPTER II

AIRPORT OPERATIONS AND AIRPORT TRAFFIC

SECTION 1. General

1. Every person operating an aircraft shall comply with and operate such aircraft in conformity with these Rules and Regulations, and all pertinent rules, regulations, or orders of the FAA.

2. The taxing, traffic, and landing rules will be managed by the Elko Regional Airport Control Tower, if operating.

3. In the event any aircraft is wrecked or damaged to the extent that it cannot be moved under its own power, the Airport Director shall be immediately notified by the pilot. Subject to governmental investigations and inspection of the wreckage, the owner or pilot of the wrecked or damaged aircraft, must obtain the necessary permission for the removal of the aircraft and shall promptly remove such aircraft and debris from all landing areas, taxiways, ramps, tie-downs areas, and all other traffic areas. The owner or pilot must place or store the aircraft in an area designated by the Airport Director. In the event the owner of the aircraft fails for any reason to comply with this regulation, the Airport Director may cause the removal and storage, or disposal of such wrecked or damaged aircraft at the expense of the aircraft owner.

SECTION 2. Ground Rules

1. No person shall park, store, tie-down, or leave any aircraft on any area of the airport other than that designated by the Airport Director, or his duly authorized agent.

2. No aircraft shall be parked or stored at the Elko Regional Airport unless it is

properly tied down and secured in place. It shall be the sole responsibility of the aircraft owner or pilot to tie down or secure said aircraft at all times required by these rules and regulations or as requested by the Airport Director. Owners of all aircraft shall be held solely responsible for any damage or loss resulting from the failure of such owner or pilot of such aircraft to comply with this rule.

3. No person shall take or use any aircraft anchoring or tie-down facilities when said facilities are already in use by another person.

4. All repairs to aircraft or engines shall be made in the spaces or areas designated for this purpose by the Airport Director and not on any part of the landing area, taxiways, ramps, fueling, or service areas of a fixed base operator, unless mutually agreed upon by the fixed base operator and the Airport Director. Prior approval for minor repairs to aircraft located on parking areas may be obtained from the Airport Director.

5. No aircraft engine shall be started on an aircraft unless a competent operator is in control of the aircraft and the parking brakes have been set or the wheels have been set with blocks that are equipped with ropes or other suitable means for removing said blocks.

6. No aircraft engine shall be started, run, or run-up, unless the aircraft is in such a position that the propeller or jet blast clears all hangars, shops, or other buildings, persons, other aircraft, vehicles, and the flight and taxi path of other aircraft.

SECTION 3. Fire Regulations

1. No aircraft shall be fueled or drained while the engine is running, or while in a hangar or other enclosed area. Fueling shall be done in such a manner and with such equipment that adequate connections for bonding for static electricity shall be continuously maintained during fueling operations.

2. All persons using, in any way, the airport area or the facilities of the airport shall exercise the utmost care to guard against fire and injury to persons or property.

3. No person shall smoke or ignite any matches, flares, lighters, or other objects of which produce an open flame anywhere within a hangar, shop, building or flammable structure in which any aircraft is or may be stored, or in which any gas, oil or flammable substance is stored or within 50 feet of any aircraft or any fueling facilities.

CHAPTER III
AIRPORT OPERATORS, LEASES, AND CONCESSIONS

SECTION 1. Business Activities.

Subject to applicable orders, certificates or permits of the Federal Aviation Administration, or its successors, no person shall use the airport, or any portion thereof, or any of its improvements or facilities for revenue producing commercial, business, or aeronautical activities, who has not first complied with these rules and regulations and obtained the consent and all appropriate permits and licenses for such activities from the City Council and entered into such written leases and other agreements prescribed by the City Council, or agreed upon by the City Council and such person or business entity.

SECTION 2. Application.

Applications for leases of ground on the airport, or for permission to carry on any commercial, business or aeronautical activity on the airport, with the necessary permits and licenses, shall be made to the Airport Director. This includes, but is not limited to Request for Proposals. The Airport Director shall present the application to the City Council by at least its next regular meeting. The City Council may, if it deems it advisable, have a public hearing upon the application. The applicant shall submit all information and material necessary, or requested by the RFP or the City Council, to establish to the satisfaction of the City Council that the applicant can qualify and will comply with these rules and regulations. The application shall be signed and submitted by every party owning an interest in the business, those who will be managing the business, every partner of a partnership, and each Director, and officer of a corporation.

SECTION 3. Action on Application.

The City Council may deny any application if, in its opinion, it finds any one or more of the following:

1. The applicant, for any reason, does not meet the qualifications, standards and requirements established by these rules and regulations; or
2. The applicants proposed operations or construction will create a safety hazard on the airport; or
3. The granting of the application will require the City to spend City funds, or to supply labor or materials in connection with the proposed operations to an extent which or at a time the City Council is unwilling to enter into such arrangement; or the operation

will result in a financial loss to the City: or

4. There is no appropriate, adequate or available space or building on the airport to accommodate the entire activity of the applicant at the time of the application; or

5. The proposed operation or airport development or construction does not comply with the master plan of the airport; or

6. The development or use of the area requested by the applicant will result in depriving existing fixed base operators of portions of the area in which they are operating; or will result in a congestion of aircraft or buildings; or will result in unduly interfering with the operations of any present fixed base operator on the airport through problems in connection with aircraft traffic or service, or preventing free access to the fixed base operators area: or

7 Any part applying or interested in the business has supplied the City Council with any false information or has misrepresented any material fact in his application or in supporting documents; or has failed to make full disclosure on his application; or in supporting documents; or

8. Any party applying, or interested in the business has a record of violating these rules and regulations, or the rules and regulations of any other airport, or the Federal Aviation Regulations, or any other rules and regulations applicable to the Elko Regional Airport.

9. Any part applying, or interested in the business has defaulted in the performance of any lease or other agreement with the City of Elko, or

10. Any party applying, or interested in the business has a credit report which contain derogatory information and does not appear to be a person of satisfactory business responsibility and reputation; or

11. The applicant does not appear to have, or have access to the finances necessary to conduct the proposed operation for a minimum of six months; or

12. Any party applying, or interested in the business has been convicted of any crime or violation of any City ordinance of such a nature that it indicates to the City Council that the applicant would not be a desirable operator on the Elko Regional Airport;

13. The protection of the health, welfare, or safety of the inhabitants of the City of Elko requires such denial.

14. Nothing contained herein shall be construed to prohibit the City Council from granting or denying, for any reason it deems sufficient, an application to do business on the airport for the purpose of selling, furnishing or establishing non-aviation products and supplies or any service or business of a non-aeronautical nature, or the application by a person for an area on the airport for the personal non-profit use of such person.

SECTION 4. Supporting Documents

If requested by the City Council, the applicant shall submit the supporting documents itemized in an Appendix (if applicable) to the City Council, together with such other documents and information as may be requested by the City Council.

SECTION 5. Airport License and Leases Non-Transferable

No right, privilege, permit or license to do business on the Elko Regional Airport, or any lease of any area of the airport shall be assigned, sold, or otherwise transferred or conveyed in whole or part without the prior express consent of the City Council.

SECTION 6. Tie-down Rates

Daily and Monthly tie down rates shall be administered by the Airport Director.

SECTION 7. Refuse

No person shall throw, dump, or deposit any waste, refuse or garbage on the Elko Regional Airport. All waste, refuse, or garbage shall be placed and kept in closed garbage cans or containers and all operating areas shall be kept in a safe, neat, clean, and orderly manner at all times, and in such a manner as to minimize any hazards.

SECTION 8. Approval of Construction

No buildings, structures, tie-downs, ramps, paving, taxi areas, or any other improvement or addition on the airport shall be placed or constructed on the airport, or altered or removed without the prior approval of the City Council *and/or Airport Director*. In the event of any construction, the City Council may, in its discretion, require the appropriate bond to guarantee the completion of the construction in accordance with City Council approval.

SECTION 9. Operation Area.

No person authorized to operate on or conduct business activities on the airport shall conduct any of its business or activities on any area except those specified by the City Council, or the Airport Director, and the leased areas.

SECTION 10. Fixed Base Operator

No person shall use the Elko Regional Airport as a fixed base operator until such person has applied for and received from the City Council a fixed base operator's license and has met the qualifications, standards and requirements of these rules and regulations. These standards, requirements, rules and regulations pertaining to FBOs, and a list of the services of a fixed base operator is contained in the Elko Regional Airport's Minimum Standard Requirements for Airport Aeronautical Services.

SECTION 11. Waiver of Chapter III

The City Council may in its discretion, waive all or any of Chapter III, or the requirements listed in the Appendix (if applicable), for the benefit of any Government or Government Agency or Department or person performing non-profit public services to the aircraft industry, or performing air search and rescue operations, or performing fire prevention or fire fighting operations.

SECTION 12. Business Name

No person shall conduct business operations on the airport under a business name the same as or deceptively similar to the business name of any other fixed base operator.

SECTION 13. Damage Repair By The City

Nothing contained in these rules and regulations shall be construed as requiring the City to maintain, repair, restore or replace any structure, improvement or facility which is substantially damaged or destroyed due an act of God or other condition or circumstance beyond the control of the City.

CHAPTER IV PENALTIES

SECTION 1. General

In addition to any penalties otherwise provided by City Ordinance, law, the F.A.A., or other

governmental agency, any person violating or failing or refusing to comply with these rules and regulations or those issued by the Airport Director may be promptly removed or ejected from the airport by or under the authority of the Airport Director. Upon the order of the City Council or Airport Director, such person may be deprived of further use of the airport and its facilities pending appeal or presentation of the matter to the City Council.

SECTION 2. Appeals

Such matters shall be presented to the City Council as expeditiously as practicable. By request of the City Council, the accused violator will be asked to show cause for reinstatement of airport use.

SECTION 3. Enforcement

In addition to any civil or criminal penalties, upon order of the City Council, such person may be deprived of further use of the airport and its facilities for such time as may be deemed necessary and appropriate by the City Council to insure the safeguarding of the airport, its operations, the public use thereof and the City's interest therein.

CHAPTER V

GOVERNMENT AGREEMENTS

SECTION 1. War or National Emergency

During time of war or national emergency the City shall have the right to lease the airport, or the landing areas, or any part thereof to the United States Government for military use, and any license or authority granted under these rules and any lease and agreement executed pursuant hereto shall be subject to such government lease and the provision of the government lease.

Exhibit D

Additional Terms Required by FAA Safety/Compliance Inspector

1. The Lessee, for itself, its 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 said property described in the attached Lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, 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, DOT, 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.

2. The Lessee, for itself, its 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, or national origin shall 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 grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

3. That in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to reenter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

4. Lessee shall furnish its accommodations and/or services on a fair, equal and no unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, THAT the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach thereof and in the event of such non-compliance the Lessor shall have the right to terminate this Lease and the estate hereby created without liability therefor or at the election of the Lessor or the United States. Either or both said governments shall have the right to judicially enforce such provisions.

6. Lessee agrees that it shall insert the above five provisions in any Lease agreement, contract, etc. by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

7. 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, or sex be excluded from participating 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 programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E, to the same effort.

8. The Lessor reserves the right to further develop or improve the landing area of the Elko Regional Airport as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

9. The Lessor reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the Elko Regional Airport and all publicly-owned facilities of the Elko Regional Airport, together with the right to direct and control all activities of the Lessee in this regard.

10. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States, relative to the development, operation or maintenance of the Elko Regional Airport.

11. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Elko Regional Airport .

12. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

13. The Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above the mean sea level elevation of 5,075 feet. In the event the aforesaid covenants are breached, the Lessor reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.

14. The Lessee, by accepting this Lease, agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from , or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the premises hereby leased, and cause the abatement of such interference at the expense of the Lessee.

15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

16. This Lease and all provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of or the exclusive or non-exclusive use of the Elko Regional Airport by the United States during the time of war or national emergency.

EXHIBIT E
CIVIL RIGHTS AND NON-DISCRIMINATION

TITLE VI COMPLIANCE ADDENDUM
TO
LAND LEASE AGREEMENT
(Airport Hangar C7)

THIS TITLE VI COMPLIANCE ADDENDUM TO THE LAND LEASE AGREEMENT (Airport Hangar C7) (hereinafter "Addendum") was made and entered this ____ day of _____, 2021 (the "Effective Date"), by and between the CITY OF ELKO, a municipal corporation and political subdivision of the State of Nevada (the "City") and AARON LAMB, hereinafter "Lessee."

R E C I T A L S

WHEREAS, on _____, 20____, the City and Lessee entered into a Land Lease Agreement (Airport Hangar C7) (hereinafter the "Agreement");

WHEREAS, compliance with certain Federal statutes and regulations prohibiting discrimination is a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Aviation Administration (FAA);

NOW, THEREFORE, for and in consideration of the above recitals and for other good and valuable consideration, the parties agree as follows:

1. **Compliance with Applicable Statutes and Other Requirements:** Lessee 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 Lessee transfers or assigns the Agreement to another, or in the event of a successor in interest, the transferee, assignee or successor is obligated in the same manner as Lessee. This provision obligates Lessee for the period during which the property is used or possessed by Lessee and the Elko Regional Airport (the "Airport") remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. Nothing herein shall be interpreting as limiting or modifying any restrictions on transfers, assignments or successors in interest set forth in the Agreement.

2. **Specific Anti-Discrimination Statutes and Authorities:** During the performance of the Agreement, Lessee for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities (the "Nondiscrimination Acts and Authorities"):

A. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat.

252) (prohibits discrimination on the basis of race, color, national origin);

B. 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);

C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

D. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

E. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);

F. 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);

G. 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);

H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

I. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

K. 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 the parties' programs (70 Fed. Reg. at 74087 to 74100); and

L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

3. **Covenant:** Lessee, including transferees, 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 Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the list of Nondiscrimination Acts and Authorities, as enumerated in the preceding subsection. In the event of a breach of any of the above nondiscrimination covenants, the City will have the right to terminate the Agreement and, if applicable, enter or re-enter and repossess any land leased from the City and the facilities thereon, and hold the same as if the Agreement had never been made or issued.

4. **Subcontracts:** During the performance of the Agreement, Lessee, for itself, its transferees, assignees and successors in interest, agrees as follows:

A. **Nondiscrimination:** Lessee, with regard to the work performed by it during the term of the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

B. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Lessee of contractor's obligations under the Agreement and the Nondiscrimination Acts and Authorities.

C. **Information and Reports:** Lessee will provide all information and reports required by the Nondiscrimination Acts and Authorities, 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 City or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Lessee will so certify to the City or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

D. **Sanctions for Noncompliance:** In the event of Lessee's noncompliance with the non-discrimination provisions of the Agreement, the City will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to, cancelling, terminating, or suspending the Agreement, in whole or in part.

E. **Incorporation of Provisions:** Lessee will include the provisions of this subsection in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto. Lessee will take action with respect to any subcontract or procurement as the City or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, if Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Lessee may request the City to enter into any litigation to protect the interests of the City. In addition, Lessee may request the United States to enter into the litigation to protect the interests of the United States.

5. **Subordination:**

A. The Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between the City and the United States relative to the operation or maintenance of the Airport or to the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, the Federal Aid to Airport Act, the Airport and Airway Development Act of 1970 and the Airport and Airway Improvement Act of 1982, as such acts have been amended or replaced from time-to-time.

B. The Agreement is subordinate to any bond ordinance, indenture or covenant made by CITY with respect to the Airport prior to or during the term thereof and, in the event of a conflict, the requirements of the ordinance, indenture or covenant shall control.

C. The Agreement and all the provisions thereof shall be subject to whatever right the United States Government now has or in the future may have or require affecting the control, operation, regulation, and taking over of the Airport.

6. **Protection of the Airport:**

A. The City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

B. Lessee shall comply with the notice requirement contained in 14 C.F.R. Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace), as the same may be amended from time to time ("FAR Part 77"). If the CITY provides notice to the FAA pursuant to FAR Part 77 in connection with the Agreement, Lessee shall cooperate fully by, for example and without limitation, providing all relevant information as may be

required by the CITY or FAA in connection with the notice.

C. Lessee shall not construct, erect or install any structure or equipment determined by the FAA pursuant to FAR Part 77 to constitute an obstruction or hazard to air navigation. Lessee acknowledges that an obstruction or hazard may be found based on the height of structures and also based on, for example and without limitation, aeronautical effects on air traffic control radar, direction finders, air traffic control line-of-sight visibility, and physical or electromagnetic effects on air navigation, communication facilities, and other surveillance systems. Lessee shall comply with any conditions, limitation, supplemental notice requirements, and marking and lighting recommendations issued by the FAA pursuant to FAR Part 77.

D. The City reserves for the use and benefit of the public the right of flight for the passage of aircraft in the airspace above the leased premises. This public right of flight shall include the right to cause noise, vibration and other impacts inherent in the operation of aircraft. Lessee agrees that the normal operation of the Airport and aircraft shall not constitute interference with Lessee's rights hereunder.

E. Lessee, by accepting the Agreement, expressly agrees for itself, its transferees, successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the Leased Premises and cause the abatement of such interference at the expense of the Lessee.

5. **General Provisions.** Except as modified by this Addendum, the Agreement and all previous amendments, extensions and/or assignments shall remain in full force and effect, and the foregoing are hereby ratified and confirmed by the parties. In the event of a conflict between the terms of this Addendum, and the terms of the Agreement or any previous amendments, extensions and/or assignments, the terms of this Addendum shall control. Defined terms used in this Addendum which are not defined herein shall have the meanings set forth in the Agreement. This instrument may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

(Signatures on next page)

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the Effective Date.

LESSOR:

LESSEE:

CITY OF ELKO

By: _____
REECE KEENER, Mayor

AARON LAMB

ATTEST:

KELLIE WOOLDRIDGE, City Clerk

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, discussion, and possible adoption of Resolution No. 29-21, a resolution approving a Memorandum of Understanding and Form Contract to be utilized for Cold Weather Shelters during Cold Weather Emergencies, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2021**
3. Agenda Category: **RESOLUTION**
4. Time Required: **10 Minutes**
5. Background Information: **As a possible means of providing shelter to homeless persons during periods of extreme cold weather Staff is proposing the adoption of a Memorandum of Understanding and a Form Contract that could be utilized to rent hotel/motel rooms under NRS 332.112 on an as-available basis. SAW**
6. Budget Information:

Appropriation Required: N/A
Budget amount available: N/A
Fund name: N/A
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution No. 29-21**
9. Recommended Motion: **Adopt Resolution No. 29-21**
10. Prepared by: **Scott Wilkinson, Assistant City Manager**
11. Committee/Other Agency Review: **Legal**
12. Council Action:
13. Council Agenda Distribution:

**CITY OF ELKO
RESOLUTION NO. 29-21**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING AND
FORM CONTRACT WITH HOTELS, MOTELS AND OTHER COMMERCIAL
LODGING FACILITIES FOR THE PROVISION OF EMERGENCY SHELTER TO
HOMELESS PEOPLE DURING COLD WEATHER EMERGENCIES**

Upon introduction and motion by Councilman _____ seconded by Councilman _____, the following Resolution was passed and adopted:

WHEREAS, the terms "homeless person," "homeless persons" and "homeless people," as used in this Resolution, shall refer to an individual or individuals who lack a fixed, regular and adequate nighttime residence, and who uses or use as a primary nighttime residence a location that is a public or a private place not meant for human habitation, or a person or persons who is or are living in a publicly or privately operated shelter;

WHEREAS, the City has been and continues to be proactive in providing various forms of assistance to homeless people in the community;

WHEREAS, the Elko City Council has identified a community need to provide short-term emergency shelter to homeless people during extremely cold weather;

WHEREAS, owners and/or operators of local hotels, motels and other commercial lodging facilities have expressed a desire to let rooms for use by homeless people during cold weather emergencies;

WHEREAS, to enhance the level of cooperation between the City and Shelter Providers, and to improve effectiveness, the City has developed a program for providing emergency cold weather emergency shelter to homeless people (the "Program"), described more fully in a memorandum of understanding (the "MOU");

WHEREAS, owners and/or operators of local hotels, motels and other commercial lodging facilities that sign the MOU are herein referred to as "Shelter Providers;"

WHEREAS, the Program shall be implemented through individual Cold Weather Emergency Homeless Shelter Service Agreements with Shelter Providers (hereinafter referred to as "Emergency Contracts");

WHEREAS, the City intends to utilize the provisions of NRS 332.112 (Emergency Contracts) to let Emergency Contracts with Shelter Providers following the declaration of extreme cold weather events that may lead to impairment of the health, safety or welfare of homeless people if not immediately attended to ("Cold Weather Emergencies");

WHEREAS, NRS 332.112 permits the City Council to appoint authorized representatives to determine that an emergency exists affecting the public health, safety or welfare, and to let a contract or contracts necessary to contend with the emergency without complying with the requirements of NRS Chapter 332.

WHEREAS, the City intends to continue the Program through April 2022;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE ELKO CITY COUNCIL that the MOU appended to this Resolution and the form Emergency Contact attached thereto are hereby approved;

IT IS FURTHER RESOLVED that the MOU shall promptly be signed by the Mayor and attested to by the City Clerk;

IT IS FURTHER RESOLVED that any owner and/or operator of a local hotel, motel or other commercial lodging facilities desiring to participate in the Program shall first sign the MOU;

IT IS FURTHER RESOLVED that authorized representatives shall be appointed by the City Council to declare Cold Weather Emergencies and to execute individual Emergency Contracts with Shelter Providers upon the occurrence of Cold Weather Emergencies;

IT IS FURTHER RESOLVED that all Emergency Contracts with Shelter Providers let pursuant to this Resolution shall be in a form previously approved by the City Council;

IT IS FURTHER RESOLVED that this Resolution shall be effective and shall be in force immediately upon adoption, and that upon adoption of this Resolution by the Elko City Council it shall be signed by the Mayor and attested to by the City Clerk.

PASSED AND ADOPTED this __th day of October, 2021.

CITY OF ELKO

By: _____
REECE KEENER, MAYOR

ATTEST:

KELLY WOOLDRIDGE, CITY CLERK

VOTE:

AYES:

NAYS: None

ABSENT: None

ABSTAIN: None

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Resolution No. 30-21, to adopt and allocate funds for an outdoor fitness court as part of the 2022 National Fitness Campaign and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 14, 2021**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information: **Council Authorized Staff to pursue the installation of outdoor fitness equipment at Angel Park on June 8, 2021. Subsequently, Council authorized Staff to apply for a grant through the National Fitness Campaign on August 24, 2021. Resolution No. 30-21 formally accepts the award of a grant in the amount of \$50,000 from the NFC and State Partners as part of the 2022 National Fitness Campaign. JW**
6. Budget Information:

Appropriation Required: \$90,000
Budget amount available: \$100,000
Fund name: Recreation Fund
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution No. 30-21**
9. Recommended Motion: **Approve Resolution No. 30-21 to adopt and allocate funds for an outdoor fitness court as part of the 2022 National Fitness Campaign.**
10. Prepared by: **James Wiley, Director of Parks and Recreation**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

RESOLUTION 30-21

**RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF ELKO, NEVADA TO ADOPT
AND ALLOCATE FUNDS FOR AN OUTDOOR FITNESS COURT® AS PART OF THE
2022 NATIONAL FITNESS CAMPAIGN.**

Upon introduction and motion by Councilmember _____ and seconded by
Councilmember _____ the following Resolution and Order was passed
and adopted:

WHEREAS, the City of Elko has submitted a Grant Application to National Fitness Campaign (NFC) for participation in their 2022 initiative to install and activate outdoor Fitness Courts® in 200 cities and schools across the country, and;

WHEREAS, the City of Elko will accept a \$50,000 National Grant from our NFC Grant Committee and Statewide Partners, and provide a local match in the amount of \$90,000 to promote and implement a free-to-the-public outdoor Fitness Court®, and;

WHEREAS, the City of Elko will secure supplemental funding as needed through community sponsors, which will be made available and committed to this program for the purchase of the outdoor Fitness Court®, and;

WHEREAS, the City of Elko will commit to construction and launch of the outdoor Fitness Court® by the end of the 2022 calendar year, and;

WHEREAS, the Elko City Council believes the outdoor Fitness Court® is an important wellness ecosystem that supports healthier communities, commits to funding/fundraising to participate in NFC's 2022 Campaign, and will earn local and national recognition as a leader in providing affordable health and wellness.

IT IS FURTHER RESOLVED, that the Elko City Council will collaborate with NFC to implement the outdoor Fitness Court® and make fitness free to community residents and visitors.

PASSED this _____ day of _____, 2021.

Signed:

REECE KEENER, MAYOR

ATTEST:

Kelly Wooldridge, City Clerk

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

**National Fitness Campaign LP**

For all questions regarding this quote, contact: info@nfchq.com

Created Date 10/6/2021
Expiration Date 12/31/2021
Quote Number 00000042

QUOTE

Bill To Name Elko, NV
Bill To 1751 College Avenue Elko, Nevada 89801
Elko, NV 89801

Product	Quantity	List Price	Total Price
2022 Campaign	1.00	\$138,000.00	\$138,000.00
NFC / Renown Grant	1.00	(\$50,000.00)	(\$50,000.00)
Shipping & Handling	1.00	\$2,000.00	\$2,000.00
Standard Art Collection	1.00	\$0.00	\$0.00
Subtotal		\$90,000.00	
Grand Total		\$90,000.00	

Terms**1. PAYMENT TERMS**

Purchaser will pay Seller 100% of the Purchase Price upon receipt of delivery. Purchaser is responsible for payment of shipping costs, including packing, insurance and freight. These payment terms will apply unless other approved payment terms have been agreed to by both parties

2. TAX EXEMPTION

This quoted total is based upon Purchaser's tax exempt status, for which verifying documentation must be provided to Seller. If Purchaser is not tax exempt, sales tax will be applied before Purchase Price is to be considered final or binding.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of issuing a revised Packaged Liquor License to Airport Phillips 66 / Conrad & Bishoff, modifying the current Packaged Liquor License for a change in business entity, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2021**
3. Agenda Category: **PETITION**
4. Time Required: **5 Minutes**
5. Background Information: **N/A**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **N/A**
9. Recommended Motion: **Approve the issuance of a revised Packaged Liquor License to Airport Phillips 66/Conrad & Bishoff, modifying the current Packaged Liquor License for a change in business entity.**
10. Prepared by: **Ty Trouten, Police Chief**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

Doug Haugh #100 27th Street NE Minot, ND 58703	Dan Dunstan #100 27th Street NE Minot, ND 58703
Danny Armstrong #100 27th Street NE Minot, ND 58703	Michelle Andreasen 2251 N Holmes Avenue Idaho Falls, ID 83401



ELKO POLICE DEPARTMENT

Ty Trouten
Police Chief

1448 Silver Street
Elko, Nevada 89801
775.777.7310
775.738.1415 Fax
www.elkocity.com

DATE: October 11, 2021

TO: Curtis Calder, City Manager

FROM: Ty Trouten, Police Chief

SUBJECT: Retail Liquor License Application in the name of Airport Phillips 66, 1415 Mountain City Hwy, Elko, NV 89801.

On September 24, 2021, Doug Haugh, Dan Dunstan, Danny Armstrong, and Michelle Andreasen made application to amend the current Packaged Liquor License to make a change of business entity to the license.

Mr. Haugh, Mr. Dunstan, Mr. Armstrong, and Ms. Andreasen have successfully completed the required background investigation.

I am requesting the Elko City Council approve the request to amend the current retail Liquor License, adding Phyllis Gilland and Stephen Arcana to the current Packaged Liquor License to make a change of business entity, in the name of Airport Phillips 66, 1415 Mountain City Hwy, Elko, NV 89801.

TT/tle

CC: Mayor Reece Keener

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration of bids and public auction for the lease of approximately 2.262 (98,526 sq) acres of City-owned property located on the Elko Regional Airport, identified as Lease Area N2, pursuant to NRS 268.062, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 26, 2021**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **15 Minutes**
5. Background Information: **City Council adopted resolution No. 25-21 at its meeting on September 28, 2021, finding that it is in the best interest of the City to lease the property, and setting forth the conditions of public auction for City owned property identified as Lease Area N2. The Council previously accepted the annual market rent value of the property of \$29,558.00, in accordance with the appraisal of Jason Buckholz of CRBE, Inc., appraiser. JF**
6. Budget Information:

Appropriation Required: NA
Budget amount available: NA
Fund name: NA
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution No. 25-21, Affidavit of Posting, Notice of Adoption and Lease Agreement**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review: **City Attorney**
12. Council Action:
13. Agenda Distribution: **Tom Liebman**
Northern Nevada Regional Director
Thomas.liebman@gmr.net

EXHIBIT A

LEGAL DESCRIPTION OF LEASE AREA N2

A portion of the Elko Regional Airport parcel, located in the west half of Section 16, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Elko County, Nevada, more particularly described as follows;

Beginning at a point that bears North 10°32'16" East, a distance of 493.25 feet from the Elko Regional Airport survey control monument "Cessna";
Thence, North 45°49'00" West, a distance of 399.90 feet;
Thence, North 44°11'00" East, a distance of 247.07 feet;
Thence, South 45°37'09" East, a distance of 399.90 feet;
Thence, South 44°11'00" West, a distance of 245.69 feet, more or less, to the point of beginning.

Said Lease Area N2 contains an area of $\pm 98,526$ square feet, or ± 2.262 acres.

The basis of bearings for this description is the Nevada State Plane Coordinate System, East zone. Ground coordinates are given for the following monuments, with a grid to ground scale factor of 1.000357:

Elko Regional Airport survey control monument "Cessna"

N 2847077.14

E 599834.56

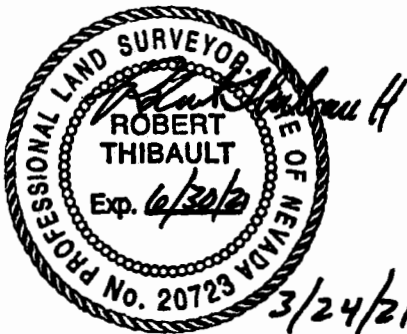
Elko Regional Airport survey control monument "Piper"

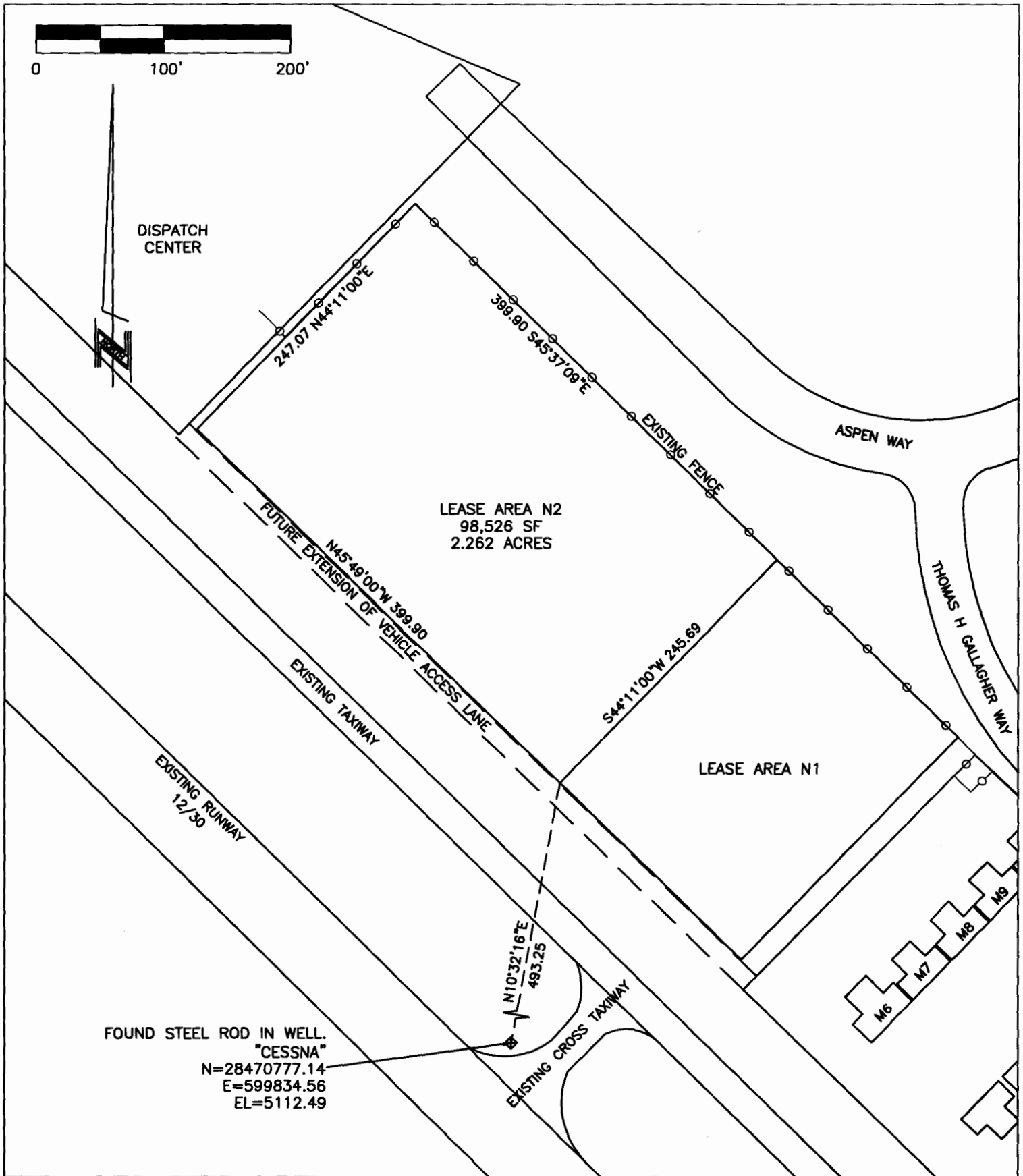
N 28469096.94

E 599075.75

With a bearing of South 24°18'17" West and distance of 1,843.60 feet from Cessna to Piper.

Description prepared by:
Robert Thibault, PE, PLS
City of Elko Civil Engineer





LEASE AGREEMENT
(Ground Lease for Commercial Aeronautical Uses)

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 2021 (the "Effective Date") by and between the CITY OF ELKO, a special charter municipal corporation and political subdivision of the State of Nevada, hereinafter referred to as "Lessor," and REACH Air Medical Services, LLC, a California limited-liability company, hereinafter referred to as "Lessee."

W I T N E S S E T H :

That for and in consideration of the rents, covenants and agreements herein contained, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the herein-described property located on West Idaho Street in the Elko County, Nevada, upon the terms and conditions described hereinafter.

SECTION 1
PROPERTY

1.01 **Description.** Lessor does hereby lease to Lessee, and the Lessee does hereby lease from Lessor, that certain parcel of land situate, lying and being on a Portion of the Elko Regional Airport, City of Elko, Elko County, State of Nevada (APN 001-660-106), consisting of 2.262 acres, more or less, and which parcel (hereinafter "Leased Premises") is more particularly described on **Exhibit A** attached hereto and shown on the map as **Exhibit B** (identified as "Lease Area N2," which are made a part hereof by this reference.

SECTION 2
TERM OF LEASE

2.01 **Term.** This Lease Agreement shall begin _____, 202__ (which date shall be thirty (30) days after the public auction at which the Lessee was the successful bidder on this Lease) and shall continue for a period of twenty (20) years thereafter, ending at midnight on _____, 202__ (hereinafter the "Initial Term"), unless sooner terminated as in this Lease Agreement provided.

2.02 **Option to Extend.** At the expiration of the Initial Term, if this Lease shall then be in full force and effect and the Lessee shall have fully and timely performed all of the terms and conditions, the Lessee shall have the option to extend this Lease for five (5) additional years subject to the same terms and conditions. The option to extend must be exercised in writing by the Lessee not later than sixty (60) days prior to the expiration of

the Initial Term, and if the Lessor does not receive written notice of the exercise of this option on or before such date, this option shall terminate on that date, time being of the essence. The Initial Term and any extension thereto are collectively referred to herein as the "Term."

SECTION 3

RENT

3.01 Annual Rent. Lessee agrees to pay to Lessor as rent for the Leased Premises for the sum of **\$29,558.00 per year** (calculated on the basis \$0.30 per square foot per year).

3.02 Initial and Monthly Payment of Rent. Thirty (30) calendar days after the public auction at which the Lessee was the successful bidder on this Lease, Lessee agrees to pay to Lessor as rent for the premises an initial prorated sum of \$_____ for the corresponding fraction of the first month of the Lease and, on the first day of each month thereafter, equal payments of **\$2,463.17** per month with the final payment of the year adjusted for all amounts due as set forth in Section 3.01 thereafter, subject to annual increases as set forth in Section 3.03, below, payable on the first day of each and every month during the Term.

3.03 Annual Rent Increases. During the Term, the rental amount shall be increased annually on each anniversary of the Effective Date by two percent (2%) over the rental amount in effect in the month immediately preceding such anniversary date.

SECTION 4

LIMITATION ON OCCUPANCY OF LEASED PREMISES

4.01 Occupancy After Thirty (30) Days. Lessee shall not occupy the Leased Premises for a period of thirty (30) days after the public auction at which the Lessee was the successful bidder on this Lease..

SECTION 5

USE OF LEASED PREMISES

5.01 Uses Prohibited. It is agreed between Lessor and Lessee that the Lessee shall use the Leased Premises only for commercial aeronautical purposes (e.g., moving aircraft between hangars and available airport infrastructure, taxiways and runway) and no other use shall be made of the Leased Premises without the prior approval of the Lessor.

SECTION 6
LESSEE'S RESPONSIBILITIES

6.01 Maintenance of Leased Premises. The Lessee shall maintain the Leased Premises in accordance with the highest standards applicable to its use. The Lessee shall maintain the Leased Premises in a clean, neat and sanitary condition.

6.02 Loss/Theft/Damage. The Lessee shall be responsible for the loss or theft of and damage to all of its property on the Leased Premises. The City of Elko shall have no liability for the theft or loss of or damage to the Lessee's property, and as a material consideration for this Lease, the City of Elko, and its officers, supervisors, agents and employees are hereby released and discharged from all claims, demands and liability therefor.

6.03 Access. Lessee shall be responsible for access to and from the Leased Premises, and Lessor shall have no responsibility therefor.

SECTION 7
REMOVAL OF PROPERTY UPON TERMINATION OF LEASE

7.01 Lessee to Remove Personal Property. In the event of the termination of this Lease, Lessee shall have a reasonable time (but in any event no less than thirty (30) days) to remove from the Leased Premises all personal property owned by Lessee.

SECTION 8
INDEMNIFICATION AND HOLD HARMLESS

8.01 Indemnification of City. The Lessee does hereby covenant and agree to defend, indemnify and save harmless the City of Elko, its officers, supervisors, employees and agents from all fines, suits, claims, demands, expenses, fees, liabilities, defenses and actions of any kind and nature by reason of any and all of the Lessee's operations hereunder and any and all negligence, acts and omissions of the Lessee and its agents, employees, officers and directors and does hereby agree to assume all the risk and liability of the operation of its business hereunder.

SECTION 9
CONDUCT BY LESSEE

9.01 Compliance with Applicable Laws. Lessee shall conduct and handle the Leased Premises in a lawful and orderly manner and shall comply with all city, county,

state and federal laws, rules, regulations, ordinances and codes, as well as administrative rules and regulations governing the use of property and conduct of operations at Elko Regional Airport. A copy of the Elko Regional Airport Rules and Regulations is attached hereto as **Exhibit C**.

SECTION 10

WASTE

10.01 No Waste Permitted. Lessee will not commit or permit to be committed any waste upon the Leased Premises.

SECTION 11

DEFAULT AND TERMINATION

11.01 Termination of Lease Upon Default. In the event that the rent herein provided for, in any part or portion thereof shall be in arrears or shall be unpaid on the date when the same is provided to be paid, and for ten (10) days thereafter, it shall be and may be lawful for the City of Elko, its agents or legal representatives to go to and upon the Leased Premises, and to again repossess itself thereof, and to hold and enjoy the Leased Premises without let or hindrance by Lessee, anything herein to the contrary notwithstanding. Such repossession of the Leased Premises by the City of Elko shall constitute a termination of this Lease.

11.02 Breach. In the event of default of any of the payments herein provided for, or any breach of any one or all of the clauses, covenants and agreements contained in this Lease, City of Elko shall have the right and option of declaring all monies at once due and payable and repossess itself of the Leased Premises without suit, either at law or in equity.

SECTION 12

QUIET POSSESSION

12.01 Lessee's Right to Occupy. The Lessee, upon making the payments herein provided for and in the manner provided, and complying with each, every and all of the terms, clauses and covenants of this Lease, shall have the sole right and option of occupying the Leased Premises under the terms of this Lease during the full term herein provided, without any let or hindrance by said Lessor, except as otherwise provided herein.

SECTION 13

IMPROVEMENTS

13.01 Improvements Prohibited. Lessee shall not place any structures on or make improvements to the Leased Premises without the prior written consent of Lessor.

SECTION 14

AIRPORT MASTER PLAN

14.01 Termination of Lease. The Lessee understands that the Lessor has a master plan at the airport, that the master plan is subject to amendment, and that changes to the matters set forth in this lease may become necessary as a result. Lessee, accordingly, covenants and agrees, notwithstanding any provisions of this Lease to the contrary, that if necessitated by an amendment to the master plan, the Lessor may terminate this Lease at any time during the term of this Lease, or any renewable extension thereof, by written notice mailed or delivered to Lessee as provided in Section 18.04 hereof, and upon any such termination, the Lessee shall within thirty (30) calendar days from the date of such notice of termination, vacate the Leased Premises, surrender this Lease in the premises, and remove from the Leased Premises all of Lessee's property.

SECTION 15

ASSIGNMENT

15.01 No Assignment. This Lease shall not be assigned, nor shall any or all of the Leased Premises be relet or sublet by the Lessee without the written consent of the Lessor first had and obtained.

SECTION 16

LIENS / ENCUMBRANCES

16.01 Status of Lease. The Lessee shall not allow any encumbrances, liens or processes of law to attach against the Leased Premises, or Lessor's interest therein. Any attempted legal process levied against the Leased Premises, or Lessor's interest therein, if attempted in good faith, shall result in a complete termination of this Lease and a termination of Lessee's right in and to this Lease and the Leased Premises, subject to the right of Lessee to cause a discharge of any lien within sixty (60) days after filing or levy thereof, and in the event of such discharge, this Lease shall continue in full force and effect.

SECTION 17 **INSPECTION**

17.01 Lessor's Right to Inspect. Lessor reserves the right to enter upon the Leased Premises at any reasonable time for the purpose of making any inspection it may deem appropriate for the proper enforcement of any of the covenants or conditions of this Lease.

SECTION 18 **ADDITIONAL TERMS**

18.01 FAA Requirements. Lessee shall comply with all terms and conditions required by the FAA Safety/Compliance Inspector as set forth on **Exhibit D** attached hereto.

18.02 Abandonment. In the event the Lessee abandons the Leased Premises, the Lease shall immediately terminate without further notice and any personal property remaining on the Leased Premises shall become the property of Lessor. For purposes of this Section 18.02, "abandonment" shall occur when either Lessee notifies Lessor that it has abandoned the Leased Premises or Lessee does not use the Leased Premises for commercial aeronautical purposes for a period of ninety (90) days.

18.03 Waiver. No waiver by the Lessor or default, violation of or non-performance of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default, violations or non-performance. The acceptance of rental or the performance of all or any part of this Lease Agreement by Lessor for or during any period or periods of default, violation or non-performance of any of these terms, covenants and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of the Lessor to cancel this Lease Agreement for failure of Lessee to so perform, keep or observe any of the items, covenants or conditions hereof.

18.04 Notices. All notices sent to the parties under this Lease shall be addressed as follows:

CITY OF ELKO:	Elko Regional Airport Manager City of Elko 1751 College Avenue Elko, NV 89801
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LESSEE: REACH Air Medical
801 Murray Way
Elko, NV 89801

18.05 Attorney Fees. In any dispute between the parties hereto resulting in legal action, the prevailing party shall be entitled to reasonable attorney fees and court costs.

18.06 Binding Effect. This Lease shall be binding upon and inure to the benefit of the Lessor, its successors and assigns, and upon the Lessee, their heirs, successors and assigns, subject to the restrictions against subletting and assignments.

18.07 Time. Time is of the essence of this Lease. In the event that any date specified in this Lease falls on Saturday, Sunday or a public holiday, such date shall be deemed to be the succeeding day on which the public agencies and major banks are open for business.

18.08 Governing Law. The validity, construction and enforceability of this Lease shall be governed in all respects by the law of Nevada applicable to agreements negotiated, executed and performed in Nevada by Nevada residents, whether one or more of the parties shall now be or hereafter become a resident of another state. Any disputes arising hereunder shall be resolved in the Fourth Judicial District Court in and for the County of Elko, State of Nevada.

18.09 Captions. The captions of this Lease do not in any way limit or amplify the terms and provisions of this Lease.

18.10 Severability. Each provision of this Lease is severable from any and all other provisions of this Lease. Should any provision(s) of this Lease be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

18.11 Non-Discrimination. Lessee shall comply with the requirements set forth in the document attached hereto at **Exhibit E** entitled "Civil Rights Non-Discrimination."

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the day and year first above written.

LESSOR:

CITY OF ELKO, NEVADA

LESSEE:

**REACH AIR MEDICAL SERVICES,
LLC**

By: _____
REECE KEENER, MAYOR

By: _____

ATTEST:

Its: _____

**KELLY WOOLDRIDGE,
CITY CLERK**

EXHIBIT A

EXHIBIT B

EXHIBIT C

RULES AND REGULATIONS

CHAPTER I GENERAL PROVISIONS

SECTION 1. Definitions

As used in these Rules and Regulations, unless the text otherwise requires:

1. Airport means the Elko Regional Airport and all of the area, building facilities, and improvements within the exterior boundaries of such airport as it now exists or as it may hereafter be extended or enlarged.

2. Airport Director means the person hired by the City, whose job duties are outlined in Section 2.

3. Council means the Elko City Council of the City of Elko, Nevada.

4. City means the City of Elko, Elko County, Nevada.

5. F.A.A. means the Federal Aviation Administration.

6. Person means any individual, firm, partnership, corporation, company, association, joint-stock association or body politic, and includes any trustee, receiver assignee or other similar representative thereof.

7. Advisory Board means the Elko Regional Airport Advisory Board established by the Elko City Council.

SECTION 2. Airport Director

The Airport Director shall be hired by the City. He shall report to the City Manager. The Airport Director's duties include, but are not limited to:

1. Develop and implement policies and procedures related to airport operations, safety and maintenance, drafts and revises airport policy and procedure manuals regarding emergency procedures, minimum safety standards and operating procedures in accordance with FAA operation rules.

2. Coordinates the development and negotiation of airport leases, contracts and agreements, including those with private companies, commercial air carriers and government agencies for the rental of airport facilities including hangars, building space, airport service and concessions.

3. Initiates the FAA grant priorities and monitors the major construction resulting from those grant projects. Plans, organizes, coordinates, supervises and evaluates programs, plans, services, staffing, equipment and infrastructure of the airport, including airport development and improvement projects.

4. Supervises and monitors use of the airport facilities by tenants, concessionaires and patrons, including ground operations, passenger and baggage screening, emergency operations, maintenance and related activities. Supervises grounds and facilities maintenance, coordination of improvements or changes to facilities or equipment. Inspects airport grounds, facilities and equipment, and notes maintenance needs, safety hazards and other problems, initiates corrective action and follows-up as necessary.

5. Interprets flight safety and other flight and airport use regulations for the public, enforces airport regulations and assures compliance with a variety of local, State, and Federal laws and regulations related to airport operations.

6. Assesses a variety of emergency situations requiring airport closure or altered operations, such as snow-plowing, ice removal or other extreme weather conditions, bomb threats, fire, crashes or other emergencies, coordinates fire, crash and rescue procedures.

SECTION 3. Rules and Regulations

All aeronautical activities at the airport, all operation and flying of aircraft at the airport, and all business and other activities on the airport shall be conducted in conformity with these rules and regulations, and all amendments, supplements, attachments, changes, and additions hereto which may hereafter be adopted by the City Council, and further in conformity with all pertinent rules, regulations, orders and rulings of the F.A.A., which are made a part of these rules by this reference. Provided, however, that nothing herein contained shall affect or impair any existing agreement. In the event of any conflict between these rules and regulations and any law, rule, regulation or order of the F.A.A. or other governmental agency exercising the same or similar jurisdiction, the latter shall prevail.

SECTION 4. Special Events

Special events, such as air shows, air races, fly-ins, sky diving and all events requiring the general use of the airport, other than normal or routine airport traffic, shall be held only upon the prior approval of the Airport Director, and on such dates, in such areas and upon such terms and conditions as shall be specified by the Airport Director.

SECTION 5. Public Use

The airport shall be open for public use at all hours of the day, subject to regulation or restriction due to conditions of the landing area, the presentation of special events and like causes, as may be determined by the Airport Director and revocation of the right to use for violation of these rules and regulations as herein provided.

SECTION 6. Common Use Area

All runways for landing and take-off, all, all runway markers, guidance, signal, and beacon light used to guide operating aircraft, and wind information, for signaling, for radio-direction finding, or for any other structure, equipment or mechanism having a similar purpose for guiding or controlling flight in the air or landing and take-off of aircraft, and together with such aprons, ramps, turn-offs, taxiways, tie down areas and other areas of the airport as the airport director shall specify or designate as common use areas available for use, in common, by all persons flying or operating aircraft on the airport and shall be kept clear and available for aircraft traffic. No person or entity shall use any common use area for the parking or storing of inoperative aircraft, the repair, servicing, or fueling of aircraft or for any other purpose other than the flying and operation of aircraft without the prior consent and authorization of the Airport Director. Common use areas shall be subject to change by the Airport Director.

SECTION 7. Vehicular Traffic

The traffic laws of the City shall apply to the streets, roads, and parking areas on the airport, unless restricted by the Airport Director. Vehicular access to aircraft in the General Aviation area is permitted for the purpose of loading and unloading only. Except for firefighting equipment, ambulances, emergency vehicles, and aircraft maintenance vehicles, no person shall take or drive any vehicle on the airport, other than on established streets, roads and automobile parking facilities, unless permission has been first obtained from the Airport Director.

SECTION 8. Advertising

No signs or other advertising shall be placed on constructed upon the airport without the prior approval of the Airport Director. Any building, structure or improvement must also

obtain prior approval of the Airport Director. **SECTION 9. Acceptance of Rules By Use**

The use of the airport or any of its facilities in any manner shall constitute an assumption by the user of these rules and regulations and shall create an obligation on the part of the user to abide by and obey these rules and regulations.

SECTION 10. Operators to Keep Rules Available

All persons licensed to do business on or conduct operations of any kind on the airport shall keep a current copy of these rules and regulations in its office or place of business and make it available to all persons.

CHAPTER II
AIRPORT OPERATIONS AND AIRPORT TRAFFIC

SECTION 1. General

1. Every person operating an aircraft shall comply with and operate such aircraft in conformity with these Rules and Regulations, and all pertinent rules, regulations, or orders of the FAA.

2. The taxing, traffic, and landing rules will be managed by the Elko Regional Airport Control Tower, if operating.

3. In the event any aircraft is wrecked or damaged to the extent that it cannot be moved under its own power, the Airport Director shall be immediately notified by the pilot. Subject to governmental investigations and inspection of the wreckage, the owner or pilot of the wrecked or damaged aircraft, must obtain the necessary permission for the removal of the aircraft and shall promptly remove such aircraft and debris from all landing areas, taxiways, ramps, tie-downs areas, and all other traffic areas. The owner or pilot must place or store the aircraft in an area designated by the Airport Director. In the event the owner of the aircraft fails for any reason to comply with this regulation, the Airport Director may cause the removal and storage, or disposal of such wrecked or damaged aircraft at the expense of the aircraft owner.

SECTION 2. Ground Rules

1. No person shall park, store, tie-down, or leave any aircraft on any area of the airport other than that designated by the Airport Director, or his duly authorized agent.

2. No aircraft shall be parked or stored at the Elko Regional Airport unless it is properly tied down and secured in place. It shall be the sole responsibility of the aircraft owner or pilot to tie down or secure said aircraft at all times required by these rules and regulations or as requested by the Airport Director. Owners of all aircraft shall be held solely responsible for any damage or loss resulting from the failure of such owner or pilot of such aircraft to comply with this rule.

3. No person shall take or use any aircraft anchoring or tie-down facilities when said facilities are already in use by another person.

4. All repairs to aircraft or engines shall be made in the spaces or areas designated for this purpose by the Airport Director and not on any part of the landing area, taxiways, ramps, fueling, or service areas of a fixed base operator, unless mutually agreed upon by the fixed base operator and the Airport Director. Prior approval for minor repairs to aircraft located on parking areas may be obtained from the Airport Director.

5. No aircraft engine shall be started on an aircraft unless a competent operator is in control of the aircraft and the parking brakes have been set or the wheels have been set with blocks that are equipped with ropes or other suitable means for removing said blocks.

6. No aircraft engine shall be started, run, or run-up, unless the aircraft is in such a position that the propeller or jet blast clears all hangars, shops, or other buildings, persons, other aircraft, vehicles, and the flight and taxi path of other aircraft.

SECTION 3. Fire Regulations

1. No aircraft shall be fueled or drained while the engine is running, or while in a hangar or other enclosed area. Fueling shall be done in such a manner and with such equipment that adequate connections for bonding for static electricity shall be continuously maintained during fueling operations.

2. All persons using, in any way, the airport area or the facilities of the airport shall exercise the utmost care to guard against fire and injury to persons or property.

3. No person shall smoke or ignite any matches, flares, lighters, or other objects of which produce an open flame anywhere within a hangar, shop, building or flammable structure in which any aircraft is or may be stored, or in which any gas, oil or flammable substance is stored or within 50 feet of any aircraft or any fueling facilities.

CHAPTER III

AIRPORT OPERATORS, LEASES, AND CONCESSIONS

SECTION 1. Business Activities.

Subject to applicable orders, certificates or permits of the Federal Aviation Administration, or its successors, no person shall use the airport, or any portion thereof, or any of its improvements or facilities for revenue producing commercial, business, or aeronautical activities, who has not first complied with these rules and regulations and obtained the consent and all appropriate permits and licenses for such activities from the City Council and entered into such written leases and other agreements prescribed by the City Council, or agreed upon by the City Council and such person or business entity.

SECTION 2. Application.

Applications for leases of ground on the airport, or for permission to carry on any commercial, business or aeronautical activity on the airport, with the necessary permits and licenses, shall be made to the Airport Director. This includes, but is not limited to Request for Proposals. The Airport Director shall present the application to the City Council by at least its next regular meeting. The City Council may, if it deems it advisable, have a public hearing upon the application. The applicant shall submit all information and material necessary, or requested by the RFP or the City Council, to establish to the satisfaction of the City Council that the applicant can qualify and will comply with these rules and regulations. The application shall be signed and submitted by every party owning an interest in the business, those who will be managing the business, every partner of a partnership, and each Director, and officer of a corporation.

SECTION 3. Action on Application.

The City Council may deny any application if, in its opinion, it finds any one or more of the following:

1. The applicant, for any reason, does not meet the qualifications, standards and requirements established by these rules and regulations; or
2. The applicants proposed operations or construction will create a safety hazard on the airport; or
3. The granting of the application will require the City to spend City funds, or to supply labor or materials in connection with the proposed operations to an extent which or at a time the City Council is unwilling to enter into such arrangement; or the operation will result in a financial loss to the City: or

4. There is no appropriate, adequate or available space or building on the airport to accommodate the entire activity of the applicant at the time of the application; or

5. The proposed operation or airport development or construction does not comply with the master plan of the airport; or

6. The development or use of the area requested by the applicant will result in depriving existing fixed base operators of portions of the area in which they are operating; or will result in a congestion of aircraft or buildings; or will result in unduly interfering with the operations of any present fixed base operator on the airport through problems in connection with aircraft traffic or service, or preventing free access to the fixed base operators area; or

7 Any part applying or interested in the business has supplied the City Council with any false information or has misrepresented any material fact in his application or in supporting documents; or has failed to make full disclosure on his application; or in supporting documents; or

8. Any party applying, or interested in the business has a record of violating these rules and regulations, or the rules and regulations of any other airport, or the Federal Aviation Regulations, or any other rules and regulations applicable to the Elko Regional Airport.

9. Any part applying, or interested in the business has defaulted in the performance of any lease or other agreement with the City of Elko, or

10. Any party applying, or interested in the business has a credit report which contain derogatory information and does not appear to be a person of satisfactory business responsibility and reputation; or

11. The applicant does not appear to have, or have access to the finances necessary to conduct the proposed operation for a minimum of six months; or

12. Any party applying, or interested in the business has been convicted of any crime or violation of any City ordinance of such a nature that it indicates to the City Council that the applicant would not be a desirable operator on the Elko Regional Airport;

13. The protection of the health, welfare, or safety of the inhabitants of the City of Elko requires such denial.

14. Nothing contained herein shall be construed to prohibit the City Council from granting or denying, for any reason it deems sufficient, an application to do business on the airport for the purpose of selling, furnishing or establishing non-aviation products and supplies or any service or business of a non-aeronautical nature, or the application by a person for an area on the airport for the personal non-profit use of such person.

SECTION 4. Supporting Documents

If requested by the City Council, the applicant shall submit the supporting documents itemized in an Appendix (if applicable) to the City Council, together with such other documents and information as may be requested by the City Council.

SECTION 5. Airport License and Leases Non-Transferable

No right, privilege, permit or license to do business on the Elko Regional Airport, or any lease of any area of the airport shall be assigned, sold, or otherwise transferred or conveyed in whole or part without the prior express consent of the City Council.

SECTION 6. Tie-down Rates

Daily and Monthly tie down rates shall be administered by the Airport Director.

SECTION 7. Refuse

No person shall throw, dump, or deposit any waste, refuse or garbage on the Elko Regional Airport. All waste, refuse, or garbage shall be placed and kept in closed garbage cans or containers and all operating areas shall be kept in a safe, neat, clean, and orderly manner at all times, and in such a manner as to minimize any hazards.

SECTION 8. Approval of Construction

No buildings, structures, tie-downs, ramps, paving, taxi areas, or any other improvement or addition on the airport shall be placed or constructed on the airport or altered or removed without the prior approval of the City Council *and/or Airport Director*. In the event of any construction, the City Council may, in its discretion, require the appropriate bond to guarantee the completion of the construction in accordance with City Council approval.

SECTION 9. Operation Area.

No person authorized to operate on or conduct business activities on the airport shall

conduct any of its business or activities on any area except those specified by the City Council, or the Airport Director, and the leased areas.

SECTION 10. Fixed Base Operator

No person shall use the Elko Regional Airport as a fixed base operator until such person has applied for and received from the City Council a fixed base operator's license and has met the qualifications, standards and requirements of these rules and regulations. These standards, requirements, rules and regulations pertaining to FBOs, and a list of the services of a fixed base operator is contained in the Elko Regional Airport's Minimum Standard Requirements for Airport Aeronautical Services.

SECTION 11. Waiver of Chapter III

The City Council may in its discretion, waive all or any of Chapter III, or the requirements listed in the Appendix (if applicable), for the benefit of any Government or Government Agency or Department or person performing non-profit public services to the aircraft industry, or performing air search and rescue operations, or performing fire prevention or firefighting operations.

SECTION 12. Business Name

No person shall conduct business operations on the airport under a business name the same as or deceptively similar to the business name of any other fixed base operator.

SECTION 13. Damage Repair by The City

Nothing contained in these rules and regulations shall be construed as requiring the City to maintain, repair, restore or replace any structure, improvement or facility which is substantially damaged or destroyed due an act of God or other condition or circumstance beyond the control of the City.

CHAPTER IV PENALTIES

SECTION 1. General

In addition to any penalties otherwise provided by City Ordinance, law, the F.A.A., or other governmental agency, any person violating or failing or refusing to comply with these rules and regulations or those issued by the Airport Director may be promptly removed or ejected from the airport by or under the authority of the Airport Director. Upon the order of the

City Council or Airport Director, such person may be deprived of further use of the airport and its facilities pending appeal or presentation of the matter to the City Council.

SECTION 2. Appeals

Such matters shall be presented to the City Council as expeditiously as practicable. By request of the City Council, the accused violator will be asked to show cause for reinstatement of airport use.

SECTION 3. Enforcement

In addition to any civil or criminal penalties, upon order of the City Council, such person may be deprived of further use of the airport and its facilities for such time as may be deemed necessary and appropriate by the City Council to insure the safeguarding of the airport, its operations, the public use thereof and the City's interest therein.

CHAPTER V

GOVERNMENT AGREEMENTS

SECTION 1. War or National Emergency

During time of war or national emergency the City shall have the right to lease the airport, or the landing areas, or any part thereof to the United States Government for military use, and any license or authority granted under these rules and any lease and agreement executed pursuant hereto shall be subject to such government lease and the provision of the government lease.

EXHIBIT D

Additional Terms Required
by FAA Safety/Compliance Inspector

1. The Lessee, for itself, its 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 said property described in the attached Lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, 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, DOT, 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.

2. The Lessee, for itself, its 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, or national origin shall 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 grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

3. That in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to reenter and repossess said land and the facilities thereon and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

4. Lessee shall furnish its accommodations and/or services on a fair, equal and no unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, THAT the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach thereof and in the event of such non-compliance the Lessor shall have the right to terminate this Lease and the estate hereby created without liability therefor or at the election of the Lessor or the United States. Either or both said governments shall have the right to judicially enforce such provisions.

6. Lessee agrees that it shall insert the above five provisions in any Lease agreement, contract, etc. by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

7. 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, or sex be excluded from participating 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 sub organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR 152, Subpart E, to the same effort.

8. The Lessor reserves the right to further develop or improve the landing area of the Elko Regional Airport as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

9. The Lessor reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the Elko Regional Airport and all publicly-owned facilities of the Elko Regional Airport, together with the right to direct and control all activities of the Lessee in this regard.

10. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States, relative to the development, operation or maintenance of the Elko Regional Airport.

11. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Elko Regional Airport.

12. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

13. The Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above the mean sea level elevation of 5,075 feet. In the event the aforesaid covenants are breached, the Lessor reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.

14. The Lessee, by accepting this Lease, agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from, or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of the Lessee.

15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

16. This Lease and all provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of or the exclusive or non-exclusive use of the Elko Regional Airport by the United States during the time of war or national emergency.