

AMENDMENT 2

(Boulder City Airport Properties)

This Second Amendment Number 07-1141B ("Amendment 2") to Lease Agreement No. 07-1141B entered into on April 1, 2006 ("Lease"), between the City of Boulder City, Nevada, a Nevada municipal corporation ("Landlord"), and Boulder City Airport Properties, LLC, a Nevada State Limited Liability Corporation ("Tenant"), is hereby made and entered into as of this ____, day of _____, 2023 (hereinafter the "Effective Date").

WHEREAS, Landlord owns and operates Boulder City Municipal Airport (hereinafter "Airport"), located in the City of Boulder City, in the County of Clark, State of Nevada; and

WHEREAS, Tenant entered into an agreement with Landlord to lease land and provide aviation services as a Fixed Based Operator at the Airport; and

WHEREAS, on May 22, 2007, Tenant and Landlord entered into an Amendment to the Lease to amend Exhibit "E" as Boulder City Ordinance 1329 ("Amendment 1"); and

WHEREAS, the Federal Aviation Administration (hereinafter "FAA") requires the Airport to include certain contract provisions in all contracts imposed pursuant to 49 CFR Part 21, Title VI, Civil Rights Assurances; and

WHEREAS, Landlord and Tenant deem it necessary to enter into an amendment to include these FAA required provisions.

NOW THEREFORE, in consideration of the mutual promises made herein, Landlord and Tenant agree to amend the Agreement by adding Sections 28.16-28.19 as follows:

28.16 Civil Rights Tenant assures that it will 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, sexual orientation, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Tenant transfers its obligation to another, the transferee is obligated in the same manner as the Tenant. This provision obligates the Tenant for the period during which the property is owned, used or possessed by the Tenant and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

During the term of the Lease, the Tenant, for itself, assignees, and successors in interest (hereinafter referred to as the "Tenant") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- 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);
- 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);

- 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);
- 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;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- 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);
- 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);
- 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;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- 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;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

28.17 Non-Discrimination. During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

28.17.1 Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

28.17.2 Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, 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. The

Contractor 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.

28.17.3 Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor 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 the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

28.17.4 Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts 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, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

28.17.5 Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- (i) Withholding payments to the Contractor under the contract until the Contractor complies; and/or
- (ii) Cancelling, terminating, or suspending a contract, in whole or in part.

28.17.6 Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

28.18 Affirmative Action. Regardless of the applicability of 14 C.F.R. Part 152 to the airport, Tenant assures that it will undertake an affirmative action program as described in 14 C.F.R. Part 152, subpart E to assure that no person shall, on the grounds of race, creed, color, national origin, sex or sexual orientation be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, subpart E. Tenant 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. Tenant agrees that in the event facilities are constructed, maintained or otherwise operated on the Leased Premises for a purpose for which a DOT program or activity is extended, or for another purpose involving the provision

of similar service or benefits, Tenant shall maintain and operate such facilities and services in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs with the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 as said regulations may be amended from time to time.

28.19 Incorporation of Provisions. The Tenant will include the provisions of paragraphs 28.16 through 28.18 in every sublease.


The remainder of the Lease and Amendment 1 shall remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth herein above.

Tenant:

BOULDER CITY AIRPORT PROPERTIES, LLC

A Nevada Limited Liability Company

By:  Robert Fahnestock (Jan 14, 2023 08:29 PST)

Title: Manager

Landlord:

Date of Council Action: _____

CITY OF BOULDER CITY

Taylour R. Tedder
City Manager

Attest: _____
Tami McKay
City Clerk

Approved as to Form

Brittany Lee Walker, Esq.
City Attorney







BCAP Amendment 07-1141B

Final Audit Report

2023-01-14

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-  Signer t6bob@me.com entered name at signing as Robert fahnestock
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