WORK SESSION AGENDA

Monday, January 11, 2021 at 1:00 PM

Mayor Ken Miyagishima

Mayor Pro Tem Kasandra Gandara

Councilors
Tessa Abeyta-Stuve
Gabe Vasquez
Johana Bencomo
Gill Sorg
Yvonne Flores

City of Las Cruces
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Council Work Session Summary

Meeting: Work Session - Jan 11 2021

TITLE: LAS CRUCES INTERNATIONAL AIRPORT LEASE AND RATES ANALYSIS

PURPOSE(S) OF DISCUSSION: ☒ Inform/Update ☒ Direction/Guidance ☐ Legislative Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

As part of the ongoing improvements at the Las Cruces International Airport (LRU), a comprehensive review and analysis of the Airport's leases, rates, and fees began during 2020. The Economic Development department contracted services with airport consultant DuBois & King (D&K) to conduct an evaluation of all leases and rates at LRU. This research included reviewing existent leases and rates for facilities, land, commercial landing, among others. The evaluation included the review with several airports in New Mexico and throughout the region. D&K also interviewed several airport managers on a wide range of factors such as airport facilities and characteristics as well as services offered. Finally, D&K provided recommendations on lease language, rates, and user fees. The results and recommendations from the report will be presented and reviewed. This process included a public input period, including a presentation of this work before the Airport Advisory Board and a public input meeting.

SUPPORT INFORMATION:

20201209_DraftLRULeaseAnalysis

PLAN(S):

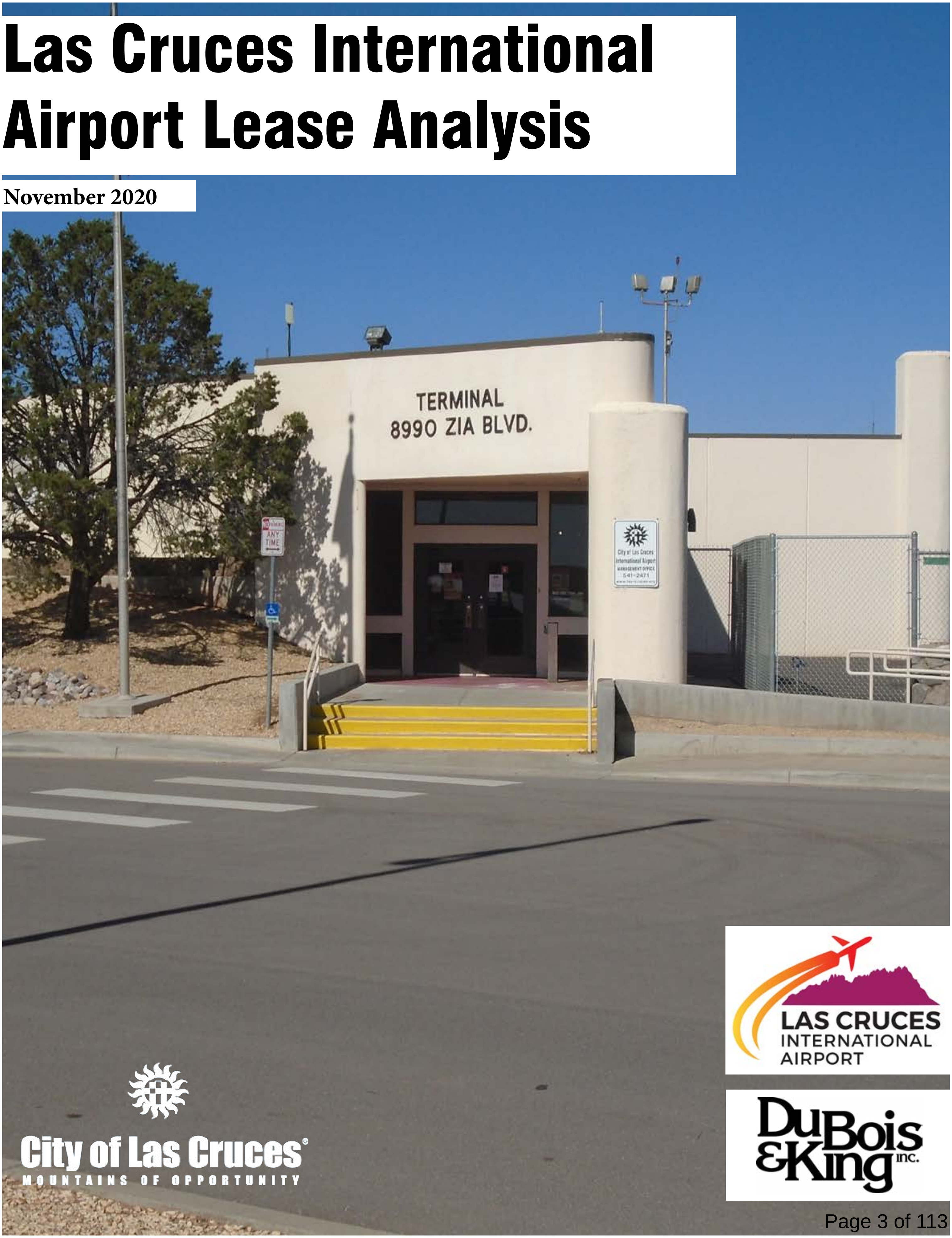
None

COMMITTEE/BOARD REVIEW:

Airport

Las Cruces International Airport Lease Analysis

November 2020



LAS CRUCES INTERNATIONAL AIRPORT

DuBois & King inc.

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Contents

Introduction & Summary

This document has been developed to help the City of Las Cruces (the City) and Las Cruces International Airport (LRU) to evaluate and analyze existing leases, research comparable airports and develop a lease rate schedule and property management program that will enable City and Airport management to reasonably generate revenue while fairly and equitably implementing a new lease rate for private, commercial and military operations.

In order to develop an equitable and ground-truthed lease rate recommendation, comparable airports facilities and lease rates were researched, documented, and placed into a lease rate analysis matrix.

This matrix, coupled with a detailed review of LRU's existing leases allowed the development of a property management plan that will ultimately support the development and growth of aeronautics revenues at Las Cruces International Airport. Therefore, this document is broken into two phases. Phase I: Lease Rate Analysis and Proposed Lease Rate Schedule. Phase II: Lease Review and Property Management Plan.

Future Devvelopment Opportunities

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Executive Summary

This document was developed by Las Cruces International Airport to provide a thorough and holistic overview of current lease rates at the airport.

By conducting detailed research into comparable airports and an in-depth review of current lease rates and documentation, this document supports the City and Airport to make lease adjustments that support a commercial and private use environment at Las Cruces International Airport that is more equitable and sustainable than current conditions.

This lease analysis is built upon a review of existing Las Cruces lease documentation for both hangar and land leases, research into 13 comparable airport operations, services, facilities, and lease details, and development of a lease rate analysis matrix. Interviews and research were conducted during the Summer of 2020. The lease rate analysis matrix gives each airport facility, service, or lease detail a weighted score. Weighted scores were developed to reflect how a potential lessee might pay more or less for various airport facilities or services.

The research into comparable airports illustrated that though Las Cruces International Airport maintains facilities and services that rank in the 80th percentile among its peers, the current average lease rate at LRU ranks in the 45th percentile of these same peers. This research is detailed in the Lease Rate Analysis chapter of this document.

Existing private, commercial, aeronautical and non-aeronautical leases at LRU have been reviewed for consistency, compatibility, and uniformity between leases. Multiple discrepancies are identified and discussed in the LRU Lease Rate Review chapter of this document. This review and associated findings and recommendations were provided. The research of comparable airports will provide the Airport with documentation that supports the proposed lease rate schedule that complies with FAA Compliance Order 5190.6b, is fair and equitable, and considers the Airport's need to be as self-sustaining as possible.

This lease rate schedule does not only propose new lease rates for LRU, but also identifies those private or commercial activities currently taking place on the airport that have leases not favorable to the airport in its pursuit of fiscal sustainability. In fact, it was discovered that no rent, perpetual leases exist of which the FAA would find to be in non-compliance. The risks associated with non-compliance include the suspension of FAA Airport Improvement Program (AIP) funding.

The research conducted provides evidence that the airport would be justified to begin charging proposed lease rates. The airport and city may choose to set rates between those proposed and the current rates.

In addition to the documented research of existing lease details, comparable airport leases and operations, and property management plans, this document provides Las Cruces International Airport with a sample template lease and related documents that can be utilized to implement the changes recommended herein.

Lease Rate Analysis

Comparable Airports

As part of the Las Cruces Lease Analysis, initial research was undertaken to select a group of comparable airports to provide a range of facilities that can be utilized to better understand the range of markets offered by similar airports both within the Las Cruces region and throughout the United States.

This memo outlines the initial proposed airports that, once verified, will be further researched to develop the lease analysis matrix.

New Mexico Airports

Airports were selected within New Mexico whose National Plan of Integrated Airport Systems (NPIAS) Service level was General Aviation, and FAA GA Asset Service Levels of Regional, Local or Unclassified.

Elevations vary from 3544' (Artesia Municipal) to 6814' (Sierra Blanca Regional). Runways were limited to those airports with 2 or 3 runways, with the exception of Doña Ana County Jetport, which has only 1. Eleven New Mexico airports in total are currently proposed as part of this list.

Of this list, only one airport manager was unresponsive to repeated requests for interview, which has caused Santa Fe to be excluded from the rate analysis.

Non-New Mexico Airports

To provide a more broad comparison beyond the state of New Mexico, five airports were selected based on comparable runway dimensions, elevations, and surrounding community characteristics. Two were selected from Colorado (Grand Junction Regional and Fort Collins-Loveland), two from Texas (Lubbock Preston Smith Intl. and Ruck Husband Amarillo Intl.) and Rutland Regional from Vermont.

The table that follows provides basic comparables for these airports, including NPIAS service level, FAA GA Asset Service Level, elevation, number and lengths of runways, Part 139 classification, and airport communications systems.

FAA Part 139 Classification

The Federal Aviation Administration (FAA) issues certification to airports that serve scheduled and unscheduled air carrier aircraft with more than 10 seats. These part 139 classifications are as follows:

Table –1 - FAA Part 139 Classification Types

Type of Air Carrier Operation	*Class I*	*Class II*	*Class III*	*Class IV*
Scheduled Large Air Carrier Aircraft (30+ seats)	*X*			
Unscheduled Large Air Carrier Aircraft (30+ seats)	*X*	*X*		*X*
Scheduled Small Air Carrier Aircraft (10-30 seats)	*X*	*X*	*X*	

Table –2 - Comparable Airport Details

Name	State	Airport ID	NPIAS Service Level	GA Asset Service Level	Elev.	Runways			Part 139	AWOS/ ASOS
							low	high		
Las Cruces International Airport	NM	LRU	GA	Regional	4457	3	6009	7506	Class IV	AWOS-3
NM Comparables:										
Artesia Municipal	NM	ATS	GA	Regional	3544	2	6800	6853		AWOS-3
Alamogordo White Sands	NM	ALM	GA	Regional	4200	2	3549	9205		AWOS-3
Clovis Municipal	NM	CVN	GA	Regional	4216	3	2442	7200	Class III	AWOS-3
Deming Municipal	NM	DMN	GA	Local	4314	2	5675	8018		ASOS
Moriarty Municipal	NM	OEO	GA	Local	6204	2	6200	7700		AWOS-3PT
Sierra Blanca Regional	NM	SRR	GA	Regional	6814	2	6309	8120	Class IV	AWOS-3
Lea County	NM	E26	GA	Unclassified	3118	2	2604	4704	Class I	
Santa Fe Municipal	NM	SAF	P	Unclassified	6349	3	6301	8366		ASOS
Double Eagle II	NM	AEG	R	Regional	5837	2	5993	7398		AWOS
Doña Ana County Jetport	NM	DNA	GA	Regional	4113	1	9550	9550		
Roswell International Air Center	NM	ROW	P	Unclassified	3671	2	9999	13001	Class I	ASOS
Other States Comparables:										
Grand Junction Regional	CO	GJT	P	Primary	4861	2	5501	10503	Class I	AWOS-3
Fort Collins-Loveland Municipal	CO	FNL	P	Regional	5016	2	2273	8500		AWOS-3
Lubbock Preston Smith International	TX	LBB	P	Primary	3282	3	2891	11500	Class I	ASOS
Rick Husband Amarillo International	TX	AMA	P	Primary	3606.7	2	7901	13502	Class I	ASOS
Rutland Southern Vermont Regional	VT	RUT	CS	Regional	787	2	3169	5304		AWOS-3

Analysis Methodology

Response Rates

Of the 15 Airports selected as comparables, all save 1 (Santa Fe) were responsive to interview requests and followup inquiry.

Comparable Airport Scores

Once comparable airports were selected, research was conducted through online resources such as AirNav and multiple direct phone interviews with airport managers and staff.

Research findings were divided into the following categories, listed with reference to relevant tables. Scores and details for each score category are listed below. For a full review of these findings, please see Appendix Exhibit D

- Funding
  - » **FAA Categorization**: *Primary = 3 points, Regional = 2 points, Local = 1 point, Unclassified = 0 points*
  - » Funding score was given a 2x multiplier to indicate its significant value in future facilities development.
- Facilities
  - » **Elevation:** *Higher scores for elevations lower than LRU, lower scores for elevations higher than LRU.*
  - » **Runways:** *3 or more runways = 1 point + Adequate Runway lengths per state plan = 1 point*
  - » **Taxiways:** *Full Parallel = 3 points, Partial Parallel = 1 point*
  - » **WX Weather Access:** *AWOS-3pt/ASOS = 2 points, AWOS-3/AWOS = 1 point, None = 0 points*
  - » **Navaids:** *ILS = 2 points, Non-Precision = 1 point, None = 0 points.*
  - » **Runway Obstructions:** *No Obstruction = 1 point, Obstructions = 0 points.*
  - » **Night Approach Restrictions:** *No Restrictions = 1 point. Restrictions = 0 points.*
- Services
  - » **Distance to Terminal:** *Parking Access adjacent to terminal = 2 points, ~100' from terminal = 1 point, >100' parking to terminal = 0 points.*
  - » **Part 139 Classification:** *Class I = 4 points, Class II, 3 points, Class III, 2 points, Class IV = 1 point, Unclassified, 0 points*

FBO Service:

- » **Fuel Sales:** *24/7 Service = 2 points, Call out = 1 point, None = 0 points*
- » **Aircraft Maintenance Services:** *Major (airframe/powerplant) Service = 2 points, Minor Service = 1, Mix = 1 point, None = 0 points*
- » **Flight Training:** *1 point if extant.*
- » **Aircraft Rental:** *1 point if extant.*
- » **Pilot Facilities & Amenities:** *Pilot's Lounge, Bathrooms, Flight Planning, Rest Quarters, Restaurant, Museum, 1 point ea.*

- Lease Elements
  - » **Hangars and Storage Meet NPIAS Criteria:** *Yes = 1 point, No = 0 points*
  - » **Hangar Occupancy:** *Not full = 1 point, Full = 0 points*
  - » **Waiting List:** *No Waiting list = 1 point, Waiting list = 0 points.*
  - » **Hangar Development Plan:** *Plan = 1 point, No Plan = 0 points.*
  - » **Development Permitting:** *Pre permitted = 1 point, Environmental Permits required for development = 0 points*
  - » **Non-Aeronautical Leases:** *Aeronautical only: 1 point, Mixed uses: 0 points*
  - » **Private/Commercial Leases:** *Private and Commercial available = 1 point, Private only = 0 points.*
  - » **Snow Removal:** *No snow or full Airport responsibility = 2 points, Mixed responsibilities = 1 point, Lessee responsibility = 0 points*
  - » **Vegetation Management:** *Fully Airport Maintained = 2 points, Mixed responsibility = 1 point, Lessee responsibility, 0 points.*

   » **Pavement Maintenance:** *Full Airport Responsibility = 1 point, Lessee pays = 0 points.*

- Lease Details
   » Land Lease Rates
   » Hangar Lease Rates
   » Tie Down Rates
   » Vehicle Parking Rates
   » Fuel Flowage Fees
   » Commercial Lease Rates

Scores increased in value to indicate a more desirable condition for a potential lessee. By combining scores from each of the Funding, Facilities, Services and Lease Detail matrices, an overarching airport score was created. Lease Details were utilized to benchmark existing lease rates against comparable airports.

LRU scored highly through this methodology and received a score of 35, which ranks as the 80th percentile among these scores.

Lease Ranges and Findings

The following figures outline average, maximum and minimum lease rates for researched airports.

- Average Parcel Lease Rates
   » Average $0.17 psf / yr.
   » Max: $0.384 psf/yr. (Fort Collins/ Loveland)
   » Min: $.10 psf/yr. (Artesia)
   » 14 airports provided parcel lease rates, one airport (Amarillo) has no average lease rate and appraises each lease as part of their negotiation process.
- Average Tie Down Rates
   » Average: $32/night
   » Max: $60/night (Roswell)
   » Min: $0 (multiple)
   » 7 airports charged for tie-down rentals on a per night basis. Others did not charge for this service or did not provide this information.

- Average Hangar Lease Rates
   » Average: $295/mo
   » Max: $1200/mo (Lubbock)
   » Min: $100/mo (Clovis/Deming)
   » 10 Airports provided information on hangar lease rates. Others do not own hangars or did not provide this information.

- Average Vehicular Parking Rate
   » Average: $103/mo
   » Max: $210/mo
   » Min: $0/mo
   » 5 Airports charged for parking on a daily or monthly basis. 8 airports did not charge for parking and 2 did not provide this information.

- Fuel Flowage Fees
   » Average: $.07/gallon
   » Max: $0.10/gallon (Ruidoso/Lubbock)
   » Min: $0.00 (Rutland)
   » Nine airports charge fuel flowage fees. Rutland VT as a state-run airport does not have fuel flowage fees, and five airports did not provide this information.

- Commercial Lease Rates
   » Average: $.89 psf/mo
   » Max: $2.52 psf/mo (Grand Junction)
   » Min: $.037 psf/mo (Moriarty)
   » Only 3 Airports provided commercial lease rate details. Numerous airports either had no commercial space available or were not able to provide this information.

Percentile Rankings

This survey of comparable airports serves to illustrate the range peer facilities and related lease details. One method of comparison is to divide both airport rankings and comparable lease rates into percentile scores.

Las Cruces International Airport receives a 35 point score through this analysis, which places it at the 80th percentile among peer airports.

However, the average land lease rate of $0.14 psf/py at Las Cruces international ranks much lower, at the 45 percentile.

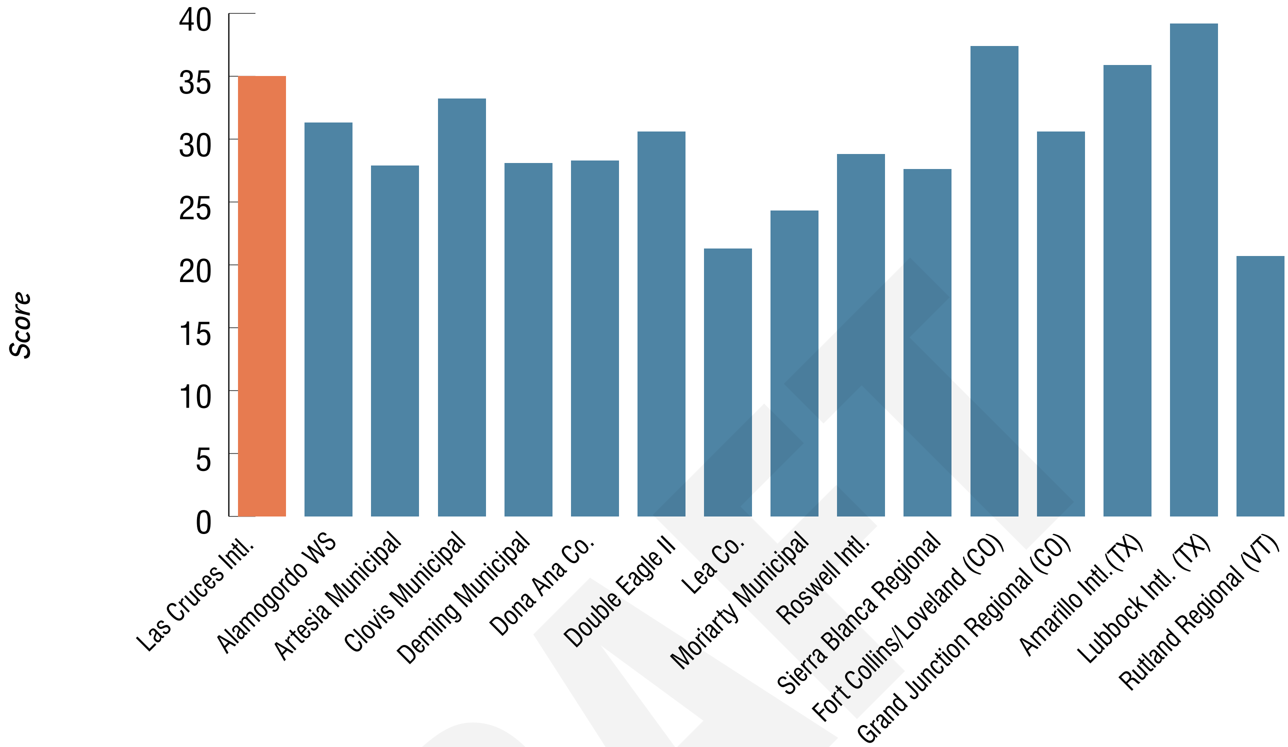
Though final recommendations for lease rate adjustments incorporate more factors than a percentile comparison, and are discussed further in chapter 4, these findings illustrate some valid reasons that Las Cruces International can and should consider raising lease rates in the future.

Table –3 - LRU Percentile Rankings

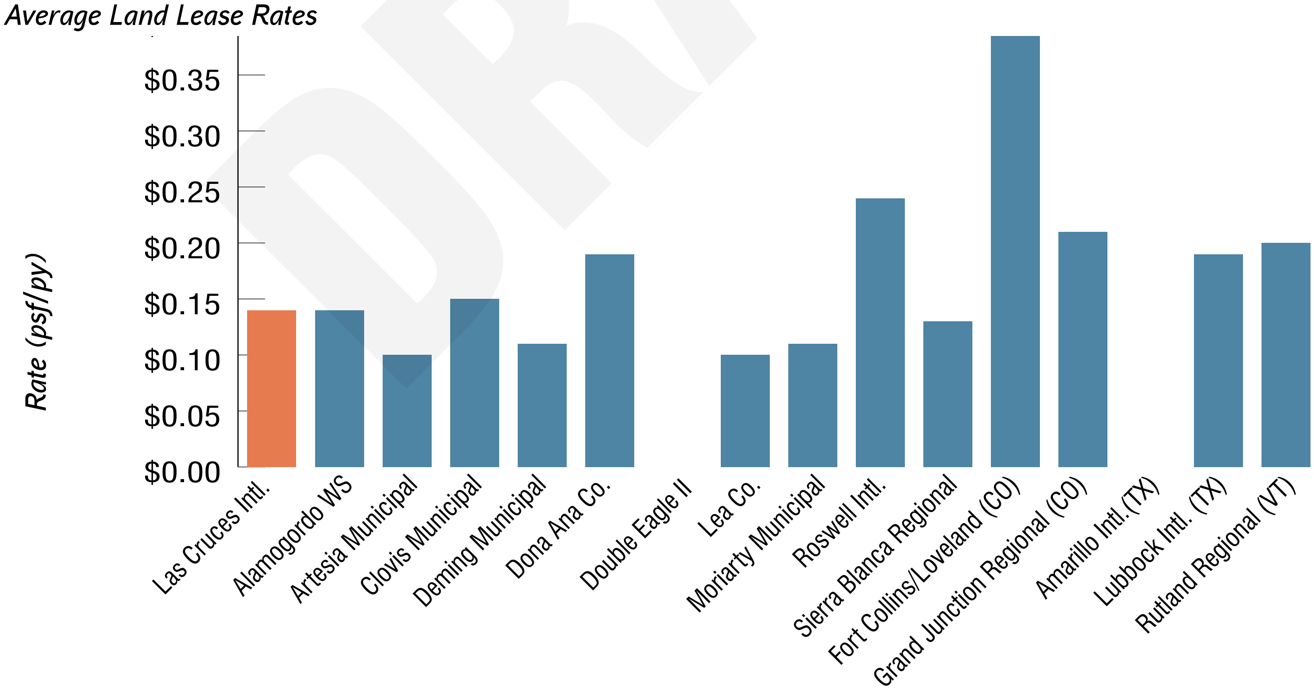
Airport Score	Peer Percentile
36.65	90
35.00	80
32.95	70
31.30	60
30.60	50
28.90	40
28.55	30
28.10	20
25.95	10

Airport Lease Rates (psf/py)	Peer Percentile
$0.23	90
$0.20	80
$0.19	70
$0.18	60
$0.15	50
$0.14	40
$0.13	30
$0.11	20
$0.10	10

Lease Anaysis Scores



Average Land Lease Rates



Proposed Lease Rate Schedule

Building upon the lease rate analysis and research into peer airports across the region, an updated lease rate is proposed in this chapter. Where research was lacking or not found to be an ideal basis for decision making, Consumer Price Index rate of inflation increases were applied.

This chapter includes a document crosswalk table that compares 2003 adopted lease rates and categories to the currently proposed lease rates. This table also illustrates how some lease categories were removed from and others added to the categories developed in the 2003 rates.

A driving factor in adjusting lease rate categories is to create a more predictable and legible lease rate environment. This standardized approach with fewer outlier categories is intended to create an improved administrative and economic environnment at Las Cruces International Airport.

Table –4 - Adopted to Proposed Lease Rate Document Crosswalk

Lease Type	2003 LRU Lease Rate		2020 Proposed Rate		Notes
FBO/SASO Parking					
One vehicular parking space	*$0.70*	*per month*	*$0.98*	*per month*	*Increased per CPI*
Public Parking					
One vehicular Parking Space - Short Term			*$33.00*	*per month*	*Fee developed based on research and 80th percentile of peer airports*
One vehicular Parking Space - Long Term			*$363.00*	*annual*	*Fee developed based on monthly rate x 11 to encourage annual rate.*
Fuel Flowage Fee					
City Owned Facility	*$0.06*	*per gallon*	*$0.09*	*per gallon*	*Fee developed based on research and 80th percentile of peer airports*
Non City Owned Facility	*$0.04*	*per gallon*	*$0.06*	*per gallon*	*Fee developed based on 2003 relationship between city and non-city owned facilities & peer research*
Land Lease					
One time closing / processing fee (commercial)	*$500.00*	*One time*	*$500.00*	*one time*	*Maintained at 03 rates to encourage business development*
One time closing / processing fee (private)	*$500.00*	*One time*	*$250.00*	*one time*	*Reduced to encourage private use of airport*
Unimproved land (no taxiway or paved street access within 100 ft)	*$0.15*	*psf / per year*	*$0.16*	*psf / per year*	*Fee developed based on 2003 relationship between improved and unimproved land & peer research*
Improved land (private)	*$0.20*	*psf / per year*	*$0.20*	*psf / per year*	*Fee developed based on research and 80th percentile of peer airports*
Improved land (commercial)		*psf / per yea*	*$0.30*	*psf / per year*	*New category developed for 2020 to simplify process, rather than 2003 approach of FBO service comparisons*
Non-Aeronautical land	*$0.35-.60*	*psf / per year*	*FAIR MARKET VALUE*		*Adjusted to FMV to better reflect local economic conditions.*

Table 4 - Adopted to Proposed Lease Rate Document Crosswalk (2 of 3)

Lease Type	2003 LRU Lease Rate		2020 Proposed Rate		Notes
Facility Lease					
Hangar Lease (private)			*$0.20*	*psf/ per year*	*New category added to work in conjunction w/ land lease*
Hangar Lease (commercial)			*$0.30*	*psf/ per year*	*New category added to work in conjunction w/ land lease*
Terminal Building Counter Space	*$10.00*	*psf / per year*	*$15.00*	*psf / per year*	*Increased per CPI*
Office Space in City-owned Office Building & Terminal	*$10.00*	*psf / per year*	*$15.00*	*psf / per year*	*Increased per CPI*
Operations, Storage Space, Baggage Claim Areas	*$10.00*	*psf / per year*	*$15.00*	*psf / per year*	*Increased per CPI*
Kiosk Space in Terminal	*$75.00*	*per month*	*$105.00*	*per month*	*Increased per CPI*
Airport Advertising	*$25.00*	*per 3'x4' wall space or display rack*	*$35.00*	*per month 50" or greater TV screen.*	*Increased per CPI*
Parking Apron rented by an FBO	*$0.03*	*psf / per year*	*$0.035*	*psf / per year*	*Increased per CPI*
Parking Apron rented by SASO	*$0.05*	*psf / per year*	*$0.07*	*psf / per year*	*Increased per CPI*
Daily Sunshade	*$20.00*	*per 24 hours*	*$25.00*	*per day*	*Increased per CPI*
Monthly Sunshade	*$75.00*	*per month*	*$75.00*	*per month*	*Maintained 2003 Rate*
Annual Sunshade	*$825.00*	*per year*	*$825.00*	*per year*	*Maintained 2003 Rate*
Commercial Lease Fees					
Similar Services ARE available from FBO	*$25.00*	*per day*	*n/a*		*These categories have been removed in favor of the reduced complexity approach of lease per land / facility as listed above*
	$100.00	*per week*	*n/a*		
	$1,000.00	*per year*	*n/a*		
Similar Services ARE NOT available from FBO	*$5.00*	*per day*	*n/a*		
	$20.00	*per week*	*n/a*		
	$125.00	*per year*	*n/a*		
Rental Car Operators	*2%*	*of time & mileage charges*	*n/a*		

Table 4 - Adopted to Proposed Lease Rate Document Crosswalk (3 of 3)

Lease Type	2003 LRU Lease Rate		2020 Proposed Rate		Notes
Landing Fees					
Commercial Aircraft <18500, no ARFF	*$2.50*	*per landing*	*$4.00*	*per landing*	*Increased per CPI*
Commercial Aircraft >18500, <30 passengers, no ARFF)	*$5.00*	*per landing*	*$7.00*	*per landing*	*Increased per CPI*
Commercial Aircraft >30 passengers, require/request ARFF	*$100.00*	*per landing*	*$140.00*	*per landing*	*Increased per CPI*
- Apron Use Fee	*$100.00*	*per 24 hours*	*$140.00*	*per 24 hours*	*Increased per CPI*
- Fire Dept Standby	*$100.00*	*per hour*	*$140.00*	*per hour*	*Increased per CPI*
- Terminal Use Fee (flight processing charter flights only)	*$100.00*	*per use*	*$140.00*	*per use*	*Increased per CPI*
Aircraft Parking Fees (City Controlled Tie Down)					
Daily Tie Down	*$10.00*	*per 24 hours*	*$6.00*	*per 24 hours*	*Reduced based on research into peer airport rates*
Monthly Tiedown	*$37.50*	*per month*	*$60.00*	*per month*	*Daily rate multiplied by 10 to encourage monthly rate*
Annual Tie Down	*$412.50*	*per year*	*$660.00*	*per year*	*Monthly rate multiplied by 11 to encourage annual rate*
Monthly Tiedown - large aircraft	*$50.00*	*per month*	*$80.00*	*per month*	*Increased per CPI, rounding lower based on peer airport rates*

PROPOSED RATES AND CHARGES

(REVISED 2020)

1. Vehicle Parking Space Fee	
a. FBO/SASO/Non-Aeronautical	$0.98 / month
b. Public Parking Short Term	$33.00 / month
c. Public Parking Long Term	$363.00 / year
2. Fuel Flowage Fee	
a. City Owned Facility	$0.09 / gallon
Non-City Owned Facility	$0.06 / gallon
3. Land Lease	
a. 1 time processing fee (commercial)	$500.00
b. 1 time processing fee (private)	$250.00
c. Unimproved Land (no txwy/street access within 100 ft)	$0.16 psf / py
d. Private Improved Land (w/ txwy or paved street access)	$0.20 psf / py
e. Commercial Improved	$0.30 psf / py
f. Non-Aeronautical Land	Fair Market Value
4. Facility Lease	
a. Private Hangar Lease	$0.20 psf / py
b. Commercial Hangar Lease	$0.30 psf / py
c. Terminal Building Counter Space	$15.00 psf / py
d. Office Space in City-owned Office Building & Terminal	$15.00 psf / py
e. Operations, Storage Space, Baggage Claim Areas	$15.00 psf / py
f. Kiosk Space in Terminal	$105.00 / month
g. Airport Advertising (50” Television Displays)	$35.00 / month
h. Parking apron rented by an FBO	$.035 / psf / py
i. Parking apron rented by a SASO	$.07 / psf / py
j. Sunshades	
i. Daily	$25
ii. Monthly	$75
iii. Annual	$825

PROPOSED RATES AND CHARGES

(REVISED 2020)

5. **Landing Fees (Part 91k, 135 and 121 commercial aircraft only)**
   a. Commercial Aircraft ≤ 18,500 lbs, no ARFF req. $4.00
   b. Commercial Aircraft ≥18500, ≤30 pax, no ARFF req. $7.00
   c. Commercial Aircraft ≥ 30 passengers and/or req. ARFF
      i. Landing Fee $140.00
      ii. Apron Use Fee $140.00
      iii. Fire Department Standby /hr $140.00
      iv. Terminal Use Fee $140.00
6. **Tie Downs / Aircraft Parking (commercial and non-commercial aircraft)**
   a. Wingspan or rotor width ≥ 39 feet and ≤ 60 feet
      i. Daily $6.00
      ii. Monthly $60.00
      iii. Annually $660.00
   b. Wingspan or rotor diameter ≥ 60’
      i. Monthly $80.00

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Lease Review

Introduction

The Airport desires to establish a more refined airport leasing program with strong direction in planning for airport development. Until recently (2020), the Airport Administrator was facilitating the airport leasing program as well as the development of the airport. Each of these tasks can be daunting and require a significant amount of time and resources. City staff have now been assigned to assist the Administrator with the facilitation of the airport leases. To assist City staff with improving the program, it is important that LRU understands the current status of the airport's lease program. A well defined program will assist the airport in maximizing lease revenues while minimizing the administration required to maintain each lease.

This Chapter will provide the airport with a review of its current leases and provide necessary tools for the City staff that will be supporting the Airport Administrator. Tools such as a lease matrix listing all of the leases the airport is responsible for, diagrams of the subject lease area tied to Airport Geographic Information Systems (AGIS) with point and click capabilities and a line by line review of each lease for form and content as well as relevant findings and corrective recommendations.

LRU is required to comply with Federal grant assurances that are associated with FAA funding. The lease review will consider each of the following relevant grant assurances and FAA Compliance Order:

Grant Assurance 5 - Preserving Rights and Powers
Airport sponsor won't take or permit any action which would operate to deprive it of any of the rights and powers to perform any or all of the terms, conditions, and assurance in grant agreement without the written approval of the Secretary.

Airport sponsor will act promptly to acquire, extinguish or modify any outstanding rights or claims of rights of others which would interfere with such performance of the sponsor.

Grant Assurance 6 - Community Considerations
Project consistent with existing local public agency plans for the development of the area surrounding the airport.

Grant Assurance 7 - Consideration of Local Interest
Airport sponsor must give fair consideration to the interests of communities in or near where the project may be located.

Grant Assurance 8 - Consultation with Users
Airport sponsor must undertake reasonable consultation with affected parties using the airport where the project is proposed.

Grant Assurance 22 - Economic Nondiscrimination
Airport Sponsor will make airport available for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities offing services to public at airport.

Grant Assurance 24 - Fee and Rental Structure
Airport sponsor must set rates, charges and leasehold rents in a manner that will ensure financial self-sustainability of the airport.

Airport sponsor will maintain a fee and rental structure for the facilities and services at the airport so it can be self-sustaining. Federal funds can't be included in the rate basis for fees, rates and charges to airport users.

Grant Assurance 39 - Competitive Access
The airport shall report to the FAA when access is not accommodated. A report must (1)

describe requests; (2) provide an explanation as to why requests could not be accommodated; and (3) provide a time frame for the airport to be able to accommodate the requests, if at all.

Grant Assurance 23 - Exclusive Rights
Airport sponsor can't grant any single commercial enterprise exclusive rights to conduct aeronautical activities or be the sole provider of services. Prohibition granting exclusive rights does not apply to services provided by the airport sponsor itself. Airport sponsor may elect to be sole provider of services such as fueling or maintenance, but must use own staff and management (i.e., the services and management of the enterprise cannot be contracted out to a third-party provider).

FAA Compliance Order 5190.6b
Order 5190.6b sets forth policies and procedures for the FAA Airport Compliance Program. It provides basic guidance for FAA personnel in interpreting and administering the various continuing commitments airport owners make to the United States as a condition of the grant assurances or the conveyance of federal property for airport purposes. The Order discusses the obligations set forth in the standard airport sponsor assurances, addresses the application of the assurances in the operation of public-use airports, and facilitates interpretation of the assurances by FAA personnel.

The review will also include reference to critical documents such as Airport Minimum Standards for Commercial Aeronautical Activity and Airport Rules and Regulations. These foundational documents were recently updated by LRU and should be referenced in lease agreements and updated periodically.

Sections of this Compliance Order, specific to Las Cruces International Airport are highlighted below:

18.9. Permitted Airfield Costs.
Costs properly included in the rate base for an airfield cost center are generally limited to the following:

- Operating Costs. All operating and maintenance expenses directly and indirectly associated with providing airfield aeronautical facilities and services are operating costs. This includes direct personnel, maintenance, equipment, and utility costs, as well as indirect allocated costs such as police, fire/ crash rescue, administrative and managerial overhead, roads and grounds, and utility infrastructure.

- Capital Costs. Capital costs consist of costs to service debt and debt coverage for the airfield direct and indirect capital costs, including reserve and contingency funds.

17.15. Exception for Community Use.
The following are the circumstances where the FAA will consider community use to be consistent with the self-sustaining requirement. Agreements for community use of airport land should incorporate the following requirements as conditions of use.

- Acceptance. The local community must use the land in a way that enhances the community's acceptance of the airport; the use may not adversely affect the airport's capacity, security, safety, or operations. Acceptable uses include public parks and recreation facilities, including bike or jogging paths.

- When the use does not directly support the airport's operations, a sponsor may not provide land at less than fair market value rent. Accordingly, the airport must generally be reimbursed at fair market rent for airport land used for road maintenance or equipment-storage yards or for use by police, fire, or other government departments.

17.16. Exception for Not-for-Profit Aviation Organizations.

- Reduced Rent. A sponsor may charge reduced rental rates to aviation museums and aeronautical secondary and post secondary education programs conducted by accredited education institutions to the extent that civil aviation receives reasonable tangible or intangible benefits from such use. A sponsor may also charge reduced rental rates to Civil Air Patrol units operating aircraft at the airport.

- In-kind Services. The FAA expects sponsors to charge police or fire fighting units that operate aircraft at the airport reasonable fees for their aeronautical use. However, the airport may offset the value of any services that the units provide to the airport against the applicable airport fees.

The review will also include reference to critical documents such as Airport Minimum Standards for Commercial Aeronautical Activity and Airport Rules and Regulations. These foundational documents were recently updated by LRU and should be referenced in lease agreements and updated periodically.

Organization

This Chapter will be organized in three sections. The first section will include a Lease Matrix. The matrix will include a summation of all LRU leases and cataloging key attributes for the City. The overall lease review will utilize this matrix as baseline material.

The second section will provide LRU with a graphical depiction of each lease, their location as well as critical information that can be displayed through an AGIS Portal. City support staff will be given access to this portal and will be provided training on how to maintain this important tool.

The last section of this Chapter will provide the Airport Administrator with critical line by line review of each lease for Form and Content. To do this, it is important that the individual components that comprise the entire lease are broken down and examined in detail. Every lease, regardless of type, consists of essentially the same core elements. This section will provide the Airport with an educational piece for each core element; the Anatomy of the Lease. The section will then evaluate each core element for compliance with the Grant Assurances and Compliance Order along with the findings and associated recommendations. Some of the findings may constitute a compliance issue in which a recommendation to immediately mitigate the issue will be provided. Other findings may simply be documented with a recommendation for the Airport's consideration. The Chapter will Summarize with a recapitulation of all findings and recommendations. The findings and recommendations to mitigate the issues will be prioritized in order of importance.

GIS Portal - LRU Leases

A geographic information system (GIS) is a computer program that provides the ability to capture and analyze spatial and geographic data. As part of this process, a LRU specific GIS was developed to allow airport and city administration to review lease information through an interactive online map. This tool will allow Las Cruces City staff and others responsible for updating LRU leases, to create interactive queries, store and edit spatial and non-spatial data, and share the results of these operations by presenting them as maps.

The consolidated leasing data provided in the previous section, Lease Matrix, was utilized to generate a graphic overview of the location of each lease.

As the user interfaces with the online map, they will access critical lease information such as:

- Lease Identification (Hangar, Space and Parcel #)
- Leaseholder
- Annual rent
- Annual tax
- Area in Square feet
- Location Address
- Lease Expiration

In addition, the user can access a hyperlink to the most current lease and any other information the City would like to have available. In essence, the interface information can be formatted any way the City of Las Cruces would like. Training for City staff will include interface use and updating data such as importing a new lease.

Form and Content - Line by Line Lease Review

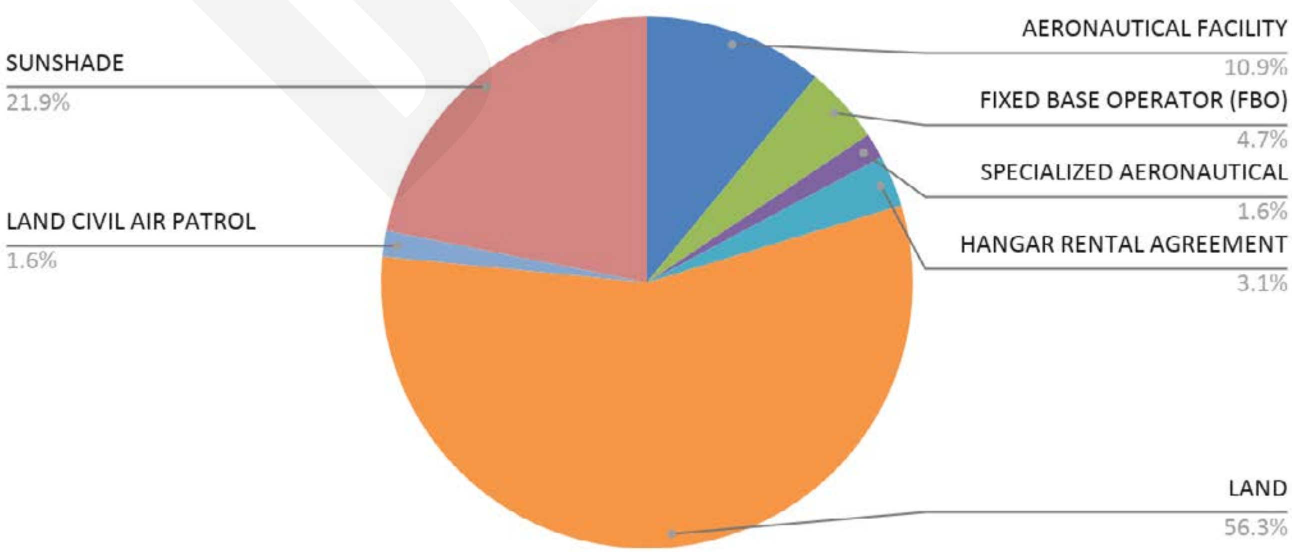
A critical line by line review of each lease was conducted. Each lease was physically reviewed for Form and Content. The individual components that comprise the entire lease were broken down and examined in detail. 64 leases were reviewed and the leases were categorized by type. Types of leases were be further defined later in this section and to put these leases into context, the type and percentage of lease types are as follows:

- Land Lease 56.3%
- Sunshade 21.9%
- Aeronautical Facility 10.9%
- Fixed Base Operator 4.7%
- Hangar Rental 3.1%
- SASO 1.6%
- Land Civil Air Patrol 1.6%

Every lease, regardless of type, consists of essentially the same core elements. This section will provide the Airport with a definition for each type of lease typically found on an airport and the core elements of each lease. The essential lease elements of common leases will be defined and following each definition, will be the discovered findings in table format. The findings will be based on potential issues related to compliance with the Grant Assurances and FAA Compliance Order 5190.6b. With each finding an associated recommendation will be provided.

Anatomy of a Lease

While a lease is often considered a complex and daunting document, it can be easily understood and digested if the individual components that comprise the whole are broken down and examined in detail. Every lease, regardless of type, consists of essentially the same core elements. To assist the City of Las Cruces and assigned leasing staff, an understanding



of the individual components of a lease will provide the necessary building blocks needed to construct and execute a successful airport lease agreement.

The first section will address the basic types of leases at an airport and the core elements included in each. The type of airport lease applicable to each agreement will vary based upon the tenant and anticipated use of the land or facility (i.e., private versus commercial venture). These general lease types can be broken down into the following broad categories:

- Aeronautical versus non aeronautical leases,
- Land leases,
- Fixed-base operator (FBO) leases,
- Specialized aeronautical service operator (SASO) leases,
- Hangar rental leases,
- Subleases, and
- Airline leases or licenses.

Subsequent sections in this chapter will list and detail the core and optional lease elements that comprise a complete lease agreement. How these elements fit into the overall lease, the key considerations of each, and their potential impact on the airport sponsor and tenant are examined.

Airport Lease Types

There are various lease agreements, each with unique characteristics, which are in effect at any given airport. The variance between lease structures is dependent upon the type of tenant (i.e., commercial versus private individual), the location of the leasehold (i.e., airside versus landside), and the type of activity to take place within the leasehold. The structure of the lease, as indicated by the lease elements included in the agreement should always reflect the activity, tenant type, and location of the leasehold in order to protect the financial, development, and regulatory needs of the airport. The following sections will present an overview of the characteristics of differing lease types, and the considerations an airport sponsor should take into account before executing a lease agreement.

Aeronautical Versus Non aeronautical

(Aeronautical Facilities - 10.9% of Total LRU Leases)

Many airports have aeronautical tenants, users, and lessees, as well as non-aeronautical tenants who lease property from the airport but do not necessarily depend on, nor require, the airport itself for the fulfillment of their business activities. This document focuses primarily on aeronautical activity, which is most consistent with the core mission of the airport sponsor. However, non-aeronautical airport development is often an important component of the business mix, providing non-aeronautical or nontraditional revenue streams that can help sustain the operating requirements of the public airport. The airport sponsor often welcomes non-aeronautical uses. Examples include excess property as the result of buffers put in place to ensure compatible development or the acquisition of property under a noise mitigation program. In such instances where the airport sponsor has excess property that is not required for aeronautical use, the FAA is generally supportive of non-aeronautical uses on airport property. Such support typically requires that the airport sponsor receives fair market value for the land, and the non-aeronautical use does not preclude or restrict the aeronautical development of airport lands as demand for aeronautical property occurs.

To achieve a balance of aeronautical and non-aeronautical uses, it is important to properly plan the development of the airport. The central consideration is to determine when the property will be needed for aeronautical purposes. If good forecasting and planning tools are employed and property is not foreseen to be needed for aeronautical purposes for an extended period of time such as 50 years, then the airport sponsor may justifiably pursue non-aeronautical development on that property. Property furthest from airfield infrastructure may have greater potential for non-aeronautical development than property closer to aeronautical surfaces that may have forecasted aeronautical needs in the next 10 to 20 years. In this example, the airport sponsor would be wise to refrain from considering new non-aeronautical development on the property that is forecast to be needed for aeronautical development in as soon as 10 years. New development is likely to require a land lease that would extend beyond 20 years. For this reason, the property furthest from airfield infrastructure may actually have a higher value for non-aeronautical development and should be considered first.

The key is that non-aeronautical development is an important tool for the airport sponsor to employ, but it should be carefully balanced with the core mission of the airport sponsor in developing airport land for aeronautical purposes. In addition, proper planning of non-aeronautical development should be complete and the Airport Layout Plan (ALP) should identify non-aeronautical development areas with FAA approval. Recall, the FAA will approve an ALP, either conditionally or fully.

Land Lease

(56.3% of Total LRU Leases)

With the possible exception of terminal leases at commercial service airports, land leases are the most common type of airport lease. A land lease is simply an agreement whereby the airport sponsor leases a parcel of land for a stated period of time (term) and the tenant, or the tenant's developer, is responsible for making improvements on that land. Long-term leases of land are most commonly used for the purpose of erecting buildings and/or making improvements. At the end of the lease term, the airport provides two options. One, the lessee may renew the lease, typically at the airport's current rate structure. Or, two, the land and all structures and enhancements will either revert to the owner. A revisionary clause means that the airport will now own the property. This has some benefit however, arguably, the detriment is that the airport now loses the rent, the tax revenue and needs to maintain the structures. This may be cost prohibitive.

Land leases should follow the basic format of facility leases and include all of the same references to the Airport Rules and Regulations, and Airport Minimum Standards. The land lease price per square foot (rent) may vary by location on the airport and possibly by the length of the term. The value of a land lease is also dependent on permitted uses. The site for an FBO, for example, will likely have a greater value than the site for privately-owned aircraft storage hangars because the revenue generation potential is typically much higher on the site where FBO activities are permitted.

Depending upon the type of tenant, facility, and anticipated activity that will take place on the leased land, differing elements and stipulations may need to be included in the lease agreement. Leases for commercial operations may include elements beyond typical core lease elements that are addressed in a standard airport lease policy. These considerations may include stringent insurance requirements, limitations on the types of activity that can take place, revenue sharing agreements, and minimum levels of service that must be offered. These elements are addressed in greater detail in the subsequent lease elements section of this chapter.

FBO Lease

(4.7% of Total LRU Leases)

At most airports, FBO leases represent an area of significant interest and reasonable complexity involving the assembly of exclusive and nonexclusive as well as public and private attributes. The majority of general aviation airports require an FBO to provide a variety of services that are identified in advance by the airport sponsor, typically through a Minimum Standards document. In return for providing this full complement of identified services, the FBO is granted the ability to sell fuel. Fuel sales are typically a significant component of an FBO's business model and income.

An airport's Minimum Standards should define a "Full-Service" FBO. A "Full-Service" FBO provides, at a minimum, the following five (5) services:

- Fuel Sales
- Aircraft Line Service
- Aircraft Maintenance
- Flight Instruction
- Aircraft Rental

If an entity does not prove all five (5) services, either entirely or through sub-agreements, then the entity is considered a SASO, discussed in the next section. **A Full-Service FBO should not be allowed to provide fuel sales or aircraft line service through the use of a sub-agreement.** Aircraft maintenance, flight instruction and aircraft rental may be provided through a sub-agreement. Additional services an FBO might provide include, but are not limited to, aircraft storage, ground handling, maintenance and repair, flight instruction, aircraft rental, and aircraft sales.

Because the FBO serves as a quasi-public portal to the community, often adjacent to a public ramp, and often tasked with collecting fees on behalf of the airport, FBO leases typically contain as much airport-use agreement terminology as commercial real estate language. The added complexity of an FBO lease dictates that FBO leases be negotiated individually based upon the FBO service levels desired by the airport sponsor

For business and recreational general aviation travelers, the FBO will provide the first impression of an airport and its community. The quality of the FBO's facilities, services, and aesthetics is critical in making that positive first impression. Many airports will partner with the Airport's existing FBO, local business leaders and private investors to construct newer FBO facilities, when the existing FBO is somewhat lacking.

SASO Lease

(1.6% of Total LRU Leases)

While an FBO provides fueling service and engages in one or more aviation related services, a SASO provides specialized products and services in one or more of the aviation-related service areas such as flight training or aircraft maintenance, excluding the retail sale of fuel. A SASO may operate under a direct lease agreement with the airport or through a sub-agreement with the FBO.

A corporate hangar lease may constitute a SASO lease since its underlying purpose is a commercial enterprise whereby in-house maintenance and fueling activity may be taking place. The lease agreement may allow for these functions taking place in-house but limit these operations to based aircraft only in order to financially protect other on-airport FBO and SASO operators and preclude a SASO from servicing transient or third-party aircraft. Considering a corporate hangar lease as a SASO, the airport may charge a different rate than a privately owned and operated leaseholder.

Hangar Rental Agreement

(3.7% of Total LRU Leases)

A hangar lease is typically flexible enough to accommodate all hangar types, sizes, and tenants, from small T-hangars to large conventional hangars. The variable in these leases is usually the rental price. The rental price of the building may vary based on size, amenities, location, access, and condition or type of door-operating mechanism. It is not uncommon for the same size hangar to have different prices based on amenities. This type of lease generally specifies that hangars are for aircraft storage only. Hangars leased for a business purpose should be covered under an FBO or SASO lease. Storage hangar leases generally prevent a tenant from using the property for conducting a business or for storing other items because aircraft storage hangars typically do not have safety or public amenity attributes required for a proper business venture. The lease should require compliance with Airport Rules and Regulations and Minimum Standards and is generally short in term length to allow for market adjustments in rent. Adjustments in rent can be accommodated by adding a reasonable CPI-U adjustment. Many airports utilize 5 years for adjustments while others don't wait 5 years to make rent adjustments, rather they reduce the interval to 2 years, providing rent increases more frequently.

Sublease (Subletting)

Many agreements include language governing the tenant's ability to sublease (sublet) all, or a portion of, the leased property at the airport sponsor's discretion. Typically, the sublease is for a defined portion of the improvements and may include space in a conventional hangar or office space in an FBO building. The ability and extent to which an airport tenant can sublease a facility must be clearly stated in the primary lease document between the airport sponsor and tenant. Depending on the type and function of the facility, the airport may require a formal approval process for any potential subtenants, a process that mandates the primary tenant submit written notification of the lessee's intent to sublease a portion of a facility. The submission should provide the following information to the airport:

• Location and size of the proposed sublease,
• Description of proposed use,
• Sub-lessee organization and authorized users, and
• Terms of the proposed sublease agreement.

It is the responsibility of both the airport and primary tenant to ensure that any sublease agreements conform to Airport Minimum Standards policy. The airport has the role of ensuring compliance with policy in its dealing with the primary tenant, as specified in the lease agreement. However, the oversight of sublease compliance can fall equally to both the airport and primary lessee. Since real estate values typically appreciate over time, it is not uncommon for the lessee to have a net profit when subletting space. In cases where the tenant pays a known amount for space and sublets for a greater amount, it's not uncommon for the airport sponsor in a commercial leasing scenario to receive a percentage of the profit. Detailed provisions should be spelled out in the lease and any operating agreement to avoid future conflict between the parties in a long-term lease agreement.

Essential Lease Elements

In reviewing the leases provided by the LRU Airport Administrator, the intangible effects of relatively good and relatively bad agreements were revealed. It became apparent that many of the agreements either set the stage for a mutually beneficial long-term business relationship that will withstand changes in staff, ownership, and tenant management, or set the stage for dispute.

Ambiguity in the lease agreements themselves seems to be a common culprit or contributing factor when disputes arise. The most successful lease agreements leave few open issues to dispute or misinterpret. The following sections provide an overview of the core elements found in FAA Compliance Order 5190.6b and must be included in a lease to ensure that all parties are in agreement and have the same understanding of the contract into which they are entering.

The following tables and findings represent a thorough review of lease documents during the winter of 2019/20. Following each element a list of findings is presented. In addition a table showing which leases had elemental deficiencies is provided with recommendations. Lastly, sample element language will be provided. The next chapter in this document will provide the City with a sample lease. The sample lease will utilize sample element language found in this chapter.

Table –5 - Essential Lease Elements

LEASE No.	LESSEE NAME	PARCEL No.	HANGAR No.	ESSENTIAL LEASE ELEMENTS																								
				Lessor	Lessee	Premises	Term	Rent	Escalation Clause	Rights, Reservations and Obligations of Lessor	Right, Reservations and Obligations of Lessee	Operation and Maintenance	Environmental	Construction of Improvements	Damage to Facilities	Insurance Obligations	Hold Harmless Provision	Use of Premises	Taxes and Fees	Regulatory Compliance	Assignment and Subletting	Defaults	Security Requirements	Liens/subordination	Nondiscrimination	Living Clause	Force Majeure	Holdover
1	Francis Aviation	A	W	x	x	-	x	x	-	x	x	issues	issues	issues	issues	issues	issues	x	x	x	x	x	x	-	-	-	-	-
2	SWA	B		x	x	-	x	x	-	x	x	issues	issues	-	issues	issues	issues	x	x	x	x	x	x	-	-	-	-	-
3	PHI Air Medical	A/B		x	x	-	x	x	-	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	-
4	Dept Military Affairs	5	15	x	x	x	x	x	-	x	x	x	x	x	x	x	x	x	-	x	x	x	-	-	-	-	-	x
5	Air Methods	5	-	x	x	x	x	x	-	x	x	x	issues	ideal	issues	x	x	x	x	x	x	x	x	-	-	-	-	-
6	Frost Aviation	5	-	x	x	x	x	x	x	x	x	x	x	x	issues	x	issues	x	x	x	x	x	x	-	-	-	-	x
7	HABernal	5	-	x	x	x	x	x	-	x	x	x	issues	x	issues	issues	issues	x	x	x	x	x	x	-	-	-	-	x
8	JimBobs BBQ	5	-	x	issues	issues	x	x	-	x	x	x	issues	issues	issues	issues	issues	x	x	x	x	x	x	-	-	-	-	-
9	Francis Aviation	5	40	x	x	x	x	x	x	ideal	ideal	issues	ideal	x	x	ideal	x	x	-	-	x	issues	-	-	-	-	-	-
10	Immotal Data, Inc	5	8990-D	x	x	x	x	x	-	x	x	x	x	x	x	issues	issues	x	ideal	x	ideal	ideal	ideal	-	-	x	-	x
11	NMSU	5	8990-C	x	x	x	x	x	-	x	x	x	x	x	issues	issues	issues	x	ideal	x	x	x	x	-	-	-	-	x
12	SWA		Various	x	x	x	x	x	x	-	-	x	-	-	-	x	x	x	x	-	x	-	-	x	x	-	x	x
13	Privette Properties	10	19	x	x	x	x	x	x	x	x	ideal	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
14	Privette Properties	11	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
15	Ron Karp	12	21	x	x	x	x	x	-	x	x	-	-	x	-	x	x	x	x	x	x	x	-	x	x	-	x	x
16	Amador Holding & Leasing Co.	13	22	x	x	-	x	x	x	x	x	x	-	x	x	x	x	x	x	x	x	x	-	x	x	x	x	x
17	EAA Ch. 555	14	23	x	x	x	x	x	-	x	x	-	-	x	-	x	x	x	x	x	x	x	-	x	x	-	x	x
18	SWA, West	1,2,3,4	11,12,13,14	x	x	x	x	x	-	x	x	x	-	x	-	x	x	x	x	x	x	x	-	x	x	-	x	x
19	SWA, East	6,7	16,17	x	x	x	x	x	-	x	x	ideal	-	ideal	x	x	x	x	x	x	x	x	-	x	x	-	x	x
20	WAM, INC.	15	34	x	x	x	x	x	-	x	x	x	-	x	-	x	x	x	x	x	x	x	-	x	x	issues	x	x
21	Wallace Westwind	16	25	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	x	x
22	Brian K. Southard	17	26	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	x	x	-	-	x
23	Ken Cady	19	28	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	issues	-	-

KEY:	x = element included in lease	- = element missing from lease	issues = minor issues discovered - see discussion text	ideal = exemplary lease element example.

DuBois & King INC.

Table 5 - Essential Lease Elements (2 of 3)

LEASE No.	LESSEE NAME	PARCEL No.	HANGAR No.	ESSENTIAL LEASE ELEMENTS																								
				Lessor	Lessee	Premises	Term	Rent	Escalation Clause	Rights, Reservations and Obligations of Lessor	Right, Reservations and Obligations of Lessee	Operation and Maintenance	Environmental	Construction of Improvements	Damage to Facilities	Insurance Obligations	Hold Harmless Provision	Use of Premises	Taxes and Fees	Regulatory Compliance	Assignment and Subletting	Defaults	Security Requirements	Liens/subordination	Nondiscrimination	Living Clause	Force Majeure	Holdover
24	Melvin H. Renneckar	26	33	x	x	x	x	x	x	x	x	issues	x	x	x	x	x	-	-	x	x	x	-	-	-	-	-	x
25	Anthony Huelin	18	27	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	x	-	issues	-	x
26	JSRS Holdings	25	32	x	x	x	x	x	x	x	x	x	x	ideal	x	x	x	issues	x	x	x	x	x	x	-	issues	-	x
27	Icarus Aero.	24	31	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	issues	-	x
28	JSRS Holdings	23	30	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	x	issues	-	x
29	Christopher J & Denise A Frost	21	24	x	x	x	x	x	x	x	x	x	x	x	x	x	x	ideal	x	x	x	x	x	-	-	-	-	x
30	Lynco Flight Services	22	29	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	x
31	L.C. Civil Air Patrol	30/31	37	x	x	x	x	issues	-	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	
32	Double K Company	29	36	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	x
33	Adventure Aviation, Inc	27/28	35	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	x
34	Kenneth & Susan Kentosh	38	43	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
35	RACI Mgmt.	37	42	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
36	Icarus Aero,	36	41	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
37	Thomas and Julia Smith	35	40	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
38	Lynco Flight Services	34	39	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
39	Sam Snow	33	38	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	x
40	Vacant	40a																										
41	Vacant	41a																										
42	Vacant	42a																										
43	Vacant	43b																										
44	RACI Mgmt.	44A	44	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
45	Lynco Electric Co.	46	2	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
46	NMSU/PSL	50	1	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	issues	-	x

KEY:	x = element included in lease	- = element missing from lease	issues = minor issues discovered - see discussion text	ideal = exemplary lease element example.

Table 5 - Essential Lease Elements (3 of 3)

LEASE No.	LESSEE NAME	PARCEL No.	HANGAR No.	ESSENTIAL LEASE ELEMENTS: Lessor	Lessee	Premises	Term	Rent	Escalation Clause	Rights, Reservations and Obligations of Lessor	Right, Reservations and Obligations of Lessee	Operation and Maintenance	Environmental	Construction of Improvements	Damage to Facilities	Insurance Obligations	Hold Harmless Provision	Use of Premises	Taxes and Fees	Regulatory Compliance	Assignment and Subletting	Defaults	Security Requirements	Liens/subordination	Nondiscrimination	Living Clause	Force Majeure	Holdover
47	Aero Newton, Inc.	8W	8, 9, 10	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	x
48	Clarence Ed Mitchell	9W-A	11	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	-	-	-	-	x
49	Bill Soules	51	18 - A1	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
50	Bill Soules	51	18 - A2	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
51	John Kilchrist	51	18 - A3	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
52	Samuel Kane	51	18 - A4	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
53	Terry Armstrong	51	18 - A5	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
54	Kilo Aviation	51	18 - B1	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
55	Everett C. Johnson	51	18 - B2	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
56	James H. Bentley	51	18 - B3	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
57	Frost Aviation Services.	51	18 - B4	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
58	Grant Dyer	51	18 - B5	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
59	Sandra Urias	51	25 - C4	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
60	Ovidio Fernandez	51	25 - C5	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
61	Frost Aviation Services.	51	25 - D4	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-
62	Frost Aviation Services	51	25 - D5	x	x	x	x	x	-	x	x	x	-	x	x	x	x	x	-	x	x	x	-	x	x	x	-	-

KEY:	x = element included in lease	- = element missing from lease	issues = minor issues discovered - see discussion text	ideal = exemplary lease element example.

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Lessor

The lessor is the owner of a property that is being leased. In other words, the lessor is the landlord. In the case of airport leases, the lessor is the airport sponsor or controlling agency with authority to enter into contractual agreements on behalf of the airport sponsor. For any lease agreement, the lease document must contain the names, addresses, and signatures of all parties involved in the agreement and, more specifically, the individuals authorized to execute agreements and obligate the owner/lessor and the tenant/lessee.

Findings:
64 leases reviewed. Lessor was included in each lease. The lessor language was well written and the FAA would find this language adequate.

Recommendations:

- The City should continue to utilize the lessor language and format currently used in their leases.
- The City should add the words, "Authorized Signature" under Signature block on the lease signature page.

Lessee

The lessee is the person or business entity that leases the property or facility from the owner. Simply stated, the lessee is the tenant. In the case of a sublease agreement, the lessee is the tenant of the primary lease holder; the airport sponsor does not have a direct lessor-lessee agreement with the sublease tenant.

If the lessee is a commercial enterprise, the tenant's representative, or contact person, may wish to be identified in the lease parties section. Also, if the eventual tenant of the facility is to operate under a different name than the signatory of the lease, as in a "doing business as" (dba) arrangement, the dba entity must be identified as well. Provision for notification of changes by the lessee, such as moving offices or changing primary contact information, is also important, to ensure consistent communication between the parties.

Findings:
64 leases reviewed. Lessee was included in each lease. The lessee language was well written and the FAA would find this language adequate.

Recommendations:

- The City should continue to utilize the lessee language and format currently used in their leases.
- The City should add the words, "Authorized Signature" under Signature block on the lease signature page.

Premises

The premises element of a lease agreement defines the land and improvements that, in total, constitute the property subject to the lease agreement. The definition of the premises will include a description of the land to be leased (including square footage, boundaries, and access), a detailed inventory of improvements and equipment to be covered in the lease, and a statement of the general condition of the leasehold improvements (if applicable).

A graphic representation of the leasehold, either a site map, airport layout plan (ALP) or aerial photograph, as well as a photograph and/or graphic depiction of any leasehold improvements (if available) should be added as an "Exhibit(s)" included within the lease agreement. The exhibit should clearly demarcate the land, facilities, or other leasehold features that are subject to the lease agreement. If the premises element was found to be adequate during the review then it will not be found below. Only leases with inadequate information are detailed below in the table.

Findings:
Of the 64 leases reviewed, each lease had a description of the premises under what the City titled; "The Leased Area Described." The premises language was well written and the FAA would find this language adequate. Most of the lease files did have an exhibit showing the location of the parcel. None of the lease files had a photo of the parcel and the improvements on the parcel. Photos assist the airport with historical reference, insurance claims and enforcement action.

Recommendations:

- The City should continue to utilize the premises language and format currently used in their leases.
- The City should gather photos of each premises with associated improvements and place them in file.

Lease Term

The lease term states the fixed period in which the lease agreement is in effect. Each lease situation is slightly different, depending on when the lease was negotiated, the size of the tenant's investment, and the useful life of the improvements. While there are no set rules, and different airports have differing guidelines based upon applicable state and local statutes, it is important to consider that leases that are too long in term may prevent land from being developed in the most advantageous manner. Conversely, a lease term that is too short may prevent the potential tenant from being able to fully amortize their initial investment for the necessary improvements, therefore preventing interested tenants from entering into airport development projects.

The typical airport land lease term will range from a 20- to 30-year term, where, at the termination of the lease, the airport provides two options. One, the lessee may renew the lease, typically at the airport's current rate structure. Or, two, the land and all structures and enhancements will either revert to the owner. A revisionary clause means that the airport will now own the property. This has some benefit however, arguably, the detriment is that the airport now loses the rent, the tax revenue and needs to maintain the structures. This may be cost prohibitive.

The length of the lease term must consider the ability of the developer to fully amortize its investment in improvements over the length of the lease agreement. The larger the investment in leasehold improvements, the longer the lease term will need to be. The airport sponsor, however, must ensure that the lease term does not violate any state or local statute regarding acceptable lease term length for publicly owned land. The FAA also advises against longer lease terms and considers any term longer than 50 years to be fee-simple transactions where the tenant becomes the de-facto owner of the leased property. The FAA Sponsor Assurances and the FAA Compliance Order 5190.6b provide guidance in this area. Airport's run the risk of violating their Sponsor Assurance and the Compliance Order and should consult with the FAA Compliance Officer before entering into lease agreements with a term of greater than 50 years.

Findings:
Lease Application

- The Airport Administrator is currently utilizing a lease checklist however it does not entirely provide necessary elements of the lease that should be discussed with the applicant and it does not provide the City's Property Manager with additional information such as requests for variance from the City's property management standards.

Lease Terms

- Of these leases, the terms of the leases were generational in that the earlier leases (1980 and 1990 era) there was not any evidence of a standard term, while the next generation of leases (2000 to present) there was clearly an effort to find a standard term of 20 to 30 years.

Extensions of Lease

- Extensions, the ability of the lessee to extend the lease beyond the original term, were found to vary among the leases reviewed and on numerous occasions, provided the lessee with an automatic extension. First, extensions are an earned privilege and not a right. Lessees should request, in writing to the City, an extension and with adequate notice as per the lease conditions. If the lessee has performed well and within the terms and conditions of the lease, the City may grant them an extension, but never automatically. Second, **The FAA considers any lease with a term beyond 50 years a fee-simple transaction and the tenant a de-facto owner.** The Airport should never allow a lease term and extension to go beyond 50 years. At the end of the lease it should terminate and then the Airport, if they so choose, executes a new lease.

Revisionary Clause

- A revisionary clause in a lease reverts the property from the lessee to the City at the end of the lease. The City then loses the tenant, takes ownership, loses the tax revenue, and assumes the maintenance responsibility for the property. Many of the leases at Las Cruces have a "revisionary clause".
- Example (Parcel 11, Hangar 20, Article 7f; Removal of Improvements): "At the expiration or termination of this Lease, any or all buildings and other permanent improvements to the Parcel will, at the direction and sole discretion of the City, **either remain intact on the Parcel and become the property of the City, or be removed by the Lessee."**

End of Lease Provision

- The leases reviewed did not exhibit strong language with regard to end of the lease provisions. End of lease provisions provide the City the opportunity to permanently sever a lease and start new. End of Lease Provisions also provide some assurance to the lessee that, assuming they have adhered to the terms and conditions of lease and have provided the City with ample notice, they can apply for and receive a new lease.

Recommendations:

Lease Application

- The Airport Administrator and City Airport Property Manager should develop a comprehensive, well thought out lease application. The application would allow the Administrator to talk through elements of the lease with the applicant and to provide justification to the City's Property Manager for elements of the lease in which the applicant is requesting a variance from standard terms and conditions. It is recommended that sensitive information is not listed in the application and the applicant is incorporated into the executed lease agreement as an Exhibit.

Lease Terms

- The City should strive to limit a standard lease to 30 years or less. Flexibility should be given to the Airport Administrator when negotiating the terms of the lease however, a lease should never be allowed to extend beyond 50 years. The proposed term of the lease should be added as an element of the Lease application.

Extensions of Lease

- An extension of a lease is more than an administrative action, rather it is an opportunity for pause and change.
- The City should amend their lease language and require a lessee to notify the City, in writing and in advance of the term, the option to extend their lease. A reasonable time frame for advanced notice is 90 days however, the Administrator should have the flexibility with complex leases to require a more advanced notice.
- It is strongly advised that the Airport Property Manager discuss a lessee's request for extension with the Airport Administrator prior to the City granting the extension. The denial of an extension should not be arbitrary and capricious however, the Administrator may request that the Lessee cure an outstanding issue such as removing vegetation on the parcel or allowing for a hangar inspection. The Administrator should also ensure that the lessee is performing within the terms and conditions of the lease.
  - » Permitted use - is a private lease now being used commercially
  - » Living clauses (to name only a few) -
  - » - Airport Rules and Regulations - does the lessee have numerous violations
  - » - Minimum Standards - is the FBO required to provide aircraft maintenance and does not
  - » - Hangar Inspection Policy - has the hangar owner cooperated with requests to conduct inspections
- Extensions, cumulatively, should never allow the term of a lease to extend beyond 50 years.

Rent

The rental amount is usually determined by fair market value, or is the result of a competitive solicitation offer, but can be a combination of both. **The FAA does not require that the airport charge fair market value for aeronautical-use**, however, does for non-aeronautical use. The does reserve the discretion to set fair and equal rates for like services. Leases in a competitive environment and the forces of supply and demand should yield a determination by the airport of what is known as market value. While a comparison of similar facilities such as competing airports of similar size, service, and infrastructure is an acceptable method of determining market value or setting aeronautical lease rates, other market factors affecting the value of the land can be quite different. If the airport sponsor owns the facility or improvements, the airport may consider a fair market value basis for minimum financial offer to remain competitive with the market. The exception to this rule is in facilities such as airline terminals where they were constructed with grants or facility charges. In these cases, operation and maintenance drives rental amounts, and replacement cost and/or development costs are typically not a factor in establishing rental rates.

In addition to stipulating the lease rate, the rent element of the lease should also include the timing and acceptable methods of payment, as well as the provisions and penalties associated with the failure to make timely payments.

Findings:

Of the 64 leases reviewed, each lease had a Rent Article under what the City titled; "Fees and Charges". The Rent language was well written, contained the necessary elements, and the FAA would find this language adequate.

Fair and Equal Rates

- As leases were reviewed it was found that the lease rates varied significantly. These variations were not isolated to only one type of lease whether it be a hangar lease, land lease or FBO lease, the rates varied. Some of the variations were clearly due to a change in the adopted lease rates. Other variations were not readily explainable.

Southwest Aviation (SWA)

- Parcel 3 is approximately 262,562 square feet and is under lease with SWA. The lease term allows perpetual renewals and the leaseholder pays no rent. Based on the current lease rate of $0.10 per square foot, the City should be paid $26,562 annually. In addition to the loss in annual revenues and ability to develop the airport, the airport is at risk of a 14 CFR Part 13 with the FAA. The FAA may also consider the airport in violation of the Grant Assurances and Compliance Order 5190.6b. It would appear that the airport has granted an exclusive right for an apron. The Airport has not received any federal funds in the last 20 years to maintain this apron. Airport Operations does sweep this apron to remove foreign object debris. The Pavement Condition Index for this apron space is unknown.

Fire Department

- The Las Cruces City Fire Department Station 7 was built on airport property. A lease and operating agreement was not found during review of the leases. FAA Compliance Order 5190.6b, Chapter 17.15 states that the airport must generally be reimbursed at fair market rent for airport land used by police, fire, or other government departments. LCFD provides in-kind services in support of the Airport's Class IV/Unscheduled Air Service Part 139 Certificate requirements. The FAA expects sponsors to charge reasonable fees for the use of the land, however, the airport may offset the value of any services that the LCFD provides to the airport against the applicable airport fees.

Sunshades

- The sunshade lessees are only paying $50 per month and not paying the City Council approved rate of $75 per month. The lease rate schedule is designed to provide transparent, fair and equal rates to all airport users.
- The sunshade lessees are mixed with private and commercial users yet both pay the same rate.

Recommendations:

- The City should finalize and adopt a lease rate schedule and then apply the new lease rates fair and equally to lessees for new and expiring leases.
- The City should review and explore options to relieve itself of the obligations associated with the SWA lease. Given the requirement of SWA to maintain the apron, the City should consider conducting a pavement condition review and, if warranted, require SWA to conduct maintenance on the apron. *Article 8; Structure Repair and Maintenance (A); Good Condition states that, "Lessee shall keep the leased premises in good order and condition as set out above and will make all necessary and appropriate repairs and replacements thereof. If the Lessee fails to commence and diligently pursue repairs to the premises, the City, after thirty (30) days written notice to Lessee may, but shall not be obligated to, perform such repairs and the cost thereof shall be an additional rent due to the City on the next date for payment of rent installments under this Lease."*
- The City should execute a lease agreement with the LC Fire Department and set a rate that is fair, equal and considers the in-kind services the Fire Department provides for the Airport.
- The City should notify each Sunshade lessee of the City's intent to terminate current leases and to immediately execute new leases at the approved rate of $75.00 per month. With 14 rented sunshades, this would increase the current annual sunshade revenue from $8,400 to $12,600.
- To minimize the administrative burden of receiving and processing rental fees monthly, the City should consider providing a reduced rent for those that pay annually.
- Commercial sunshade users should pay a different rate than private sunshade users.
- Lease 31 (Civil Air Patrol) should update references to "Federal Register" to "FAA Compliance Order 5190.6b"

Escalation Clause

One of the most troubling aspects of long-term land leases is providing for the continued adjustment of rental property to compensate for inflation. When rent remains constant during a time of inflation, the airport is losing income, and this period may last for several years. The ideal situation is for an annual reappraisal of property, but this can be relatively expensive to administer. Rate studies may be implemented to establish appropriate rents throughout the lease term, but the most common form of rent escalation is a standard increase every 2 to 5 years, where rent escalation is tied to one or more of the consumer price indices set by the U.S. Department of Labor. This usually establishes a reasonable rate for the next period of time, while ensuring that the costly process of identifying a correct lease rate does not have to be completed more often than necessary.

Findings:

- Of the 64 leases reviewed approximately 48% of the leases had Escalation clauses. The escalation clauses did vary depending on when the lease was written. The escalation clauses ranged from 1 year to 5 year interval adjustments. Of interest were the sunshades which did not have an escalation clause with lessees having a lease for years.

Recommendations:

- The City should consider an escalation clause, providing the City with an increase in rent each 2 years and based on Consumer Price Index (CPI-U).
- The City should terminate the month to month leases with the Sunshade and execute a new lease agreement with an Escalator clause.

Rights, Reservations, and Obligations of Lessor

Many contemporary leases provide the lessor with the right of ingress and egress to leased premises. Leases should also reference the rights of the lessor for the purpose of enforcing compliance with the Airport Rules and Regulations and for ensuring that maintenance standards detailed in the lease agreement are being met. In addition, the airport sponsor may wish to include the right to show the property to potential tenants prior to lease expiration, or if the lease is expected to be terminated for any other reason. Since the lessee will have leasehold rights to the improved facility, the lease should specify a reasonable lessor notification period prior to inspection, or establish an inspection schedule within the lease document.

Airport management may also want to reserve the right to close the airport facility, including, but not limited to, the runway, taxiway, apron, terminal building, and automobile parking facilities when reasonably necessary. This should be at the airport's sole discretion for the purpose of maintenance, repair, further development or construction, or for the safety of the general public.

Findings: Lease 9 (Francis Aviation) contains an exemplary Rights, Reservations and Obligations of Lessee clause that could be utilized for other leases (9b)

Recommendations: None

Rights, Reservations, and Obligations of Lessee

This element of the lease agreement should clearly state the rights that the tenant is entitled to as lessee, and the obligations the lessee must fulfill under the lease agreement. Rights of the lessee typically include, but are not limited to:

- Ingress and egress, including use of public infrastructure;
- Signage (for commercial enterprises), stipulating acceptable size, location, and form;
- Quiet enjoyment, defined as possession and unimpaired use of the leasehold without interference; and
- Approved alterations and additions to improvements.

The obligations of the lessee section of the lease should include those functions that are typically associated with the operation of the specific facility. Obligations of the lessee should not include items that are addressed in other sections of the lease agreement, such as facility maintenance obligations or stipulations on use of the premises. Obligations of the lessee vary based on the type of tenant and operation (e.g., private versus commercial, aeronautical versus non-aeronautical), but will generally include the following language:

- Conduct and disturbance discussion specifying acceptable code of conduct for facility tenants, employees, customers, and vendor/suppliers. This language typically covers noise, demeanor, and appearance of individuals, vehicles, and equipment;
- Economic nondiscrimination language for commercial operators that ensures equitable pricing and services;
- Based aircraft reporting requirements;
- Other reporting requirements, as stipulated; and
- Disposal of trash and waste.

Along with the disposal of trash, additional wording should be added under this section of a lease agreement to include oils, fluids, or any hazardous waste. Current federal and some local regulations dictate the amount of hazardous material that is permitted to be stored at any one time. Such is the case with aircraft refinishing facilities and the storage of certain waste oils and fluids. Environmental regulations can be complex and change often, so language directing compliance with environmental jurisdictions is important. Such a lease clause (i.e., one that is affected by changes in regulation outside of the lessor's control) is also referred to as a living clause.

Findings:

- The leases did contain the requisite information typically found in a Rights, Reservations, and Obligations City clause, however, they were embedded within multiple clauses. The way in which these leases were written would be found acceptable by the FAA.
- Lease 9 (Francis Aviation) contains an exemplary Rights, Reservations and Obligations of Lessee clause that could be utilized for other leases (9c)

Recommendations:

- The City should consider the language recommended in the sample lease provided in Chapter 5.

Operation and Maintenance

The operation and maintenance (O&M) element(s) of a lease agreement will specify the division of responsibility between the lessee and lessor for the cost and effort required to maintain the leasehold to airport standards, and allocate the expenses associated with daily operation of the facility (utility costs). It should be the **goal of the airport sponsor to assign to the lessee the general maintenance and repair responsibility and expense along with grounds upkeep obligations**.

The O&M section of the lease will list the specific responsibilities of the lessee for leasehold maintenance and upkeep, as well as detail the minimum standards that must be met. These responsibilities and standards are often referenced in the Airport Minimum Standards document, so referencing this document within the lease agreement will prove beneficial for the airport in the long term. These documents can generally be modified to reflect changes in the regulatory and operational environment in a much easier fashion than individual lease agreements.

The airport sponsor may have the duty to perform any maintenance and upkeep that is not specifically referenced as the responsibility of the lessee within the lease agreement or Airport Minimum Standards document. It is in the best interests of the airport to be as detailed as possible when assigning these obligations within the lease, as well as ensuring that the Airport Minimum Standards document is as complete, up-to-date, and in compliance with FAA, TSA, environmental, and other applicable regulations as possible.

The responsibility of general operation costs, with items such as utilities, janitorial, and landscaping costs, may also be assigned within the operation and maintenance element of the lease agreement. These may also be addressed in an individual subsection of the lease agreement, depending upon the complexity of the arrangement. Typically, for stand-alone leaseholds, the lessee will assume all utility and operational costs. However, in the case of an agreement in which only a portion of a facility is leased, such as an office space within an airport-owned GA terminal, the lessor may assume utility and operation costs as part of the lease agreement.

O&M costs can be a point of negotiation between the airport sponsor and the tenant/developer. With this in mind, the decision of who pays O&M costs and how O&M costs are allocated or shared should be tailored to the specific business circumstances of a given lease agreement. In the case of multiple tenants within the same leasehold, O&M costs can be allocated or pro-rated accordingly, rather than the airport sponsor assuming the costs. The airport sponsor may also choose to share O&M expenses or duties with the tenant/developer to ease the financial burden on tenants and/or prospective tenants.

The reality is that O&M costs are a real expense to any airport development project, and the lease should identify the party or parties responsible for these costs with a spirit of fairness in mind. In some cases, the airport sponsor may be able to provide certain maintenance services or utilities at a rate that is lower than an individual tenant is able to achieve. In other cases, the tenant may be able to provide services more efficiently than the public sector. Efficiency should always be considered when allocating O&M responsibility.

Findings:

- Many of the leases reviewed did not specifically call out the requirement for the lessee to maintain vegetation around their hangar. Specifically, leases 1,2,9, & 24 could benefit from addition of a vegetation clause.
- Lease 13 (Privette Properties) and 19 (SWA East) contain exemplary clauses regarding Operations and Management.
- Many of the leases had very vague language with regards to the repair of their hangars. Airports with high winds are susceptible to hangar panels becoming partially or entirely detached. The repair clause was lacking language requiring the lessee to make reasonable and timely repairs.
- Lease 9 (Francis Aviation) contains an exemplary Repair clause that could be utilized for other leases (9f)

Recommendations:

- The City should consider the language recommended in the sample lease provided in Chapter 5 as it relates to vegetation control and improvement repairs.

Environmental

Environmental awareness and consciousness has risen significantly in past decades within many facets of modern life. Real estate, and more specifically, leased airport property is no exception. In fact, environmental consideration is now routinely a point of significant discussion in lease negotiations, airport operations, maintenance, and construction.

Environmental aspects to be considered in airport leases include the current environmental condition of land and/or airport facilities; responsibility for past, present, and future environmental remediation; environmental insurance requirements; and landlord assurance that the tenant will be financially capable of resolving potential liability exposures.

At the very minimum, all parties of an airport lease agreement should agree on the environmental condition of the property at the time the property is placed under control of the tenant, as well as the condition the property is expected to be in at the time the lease term comes to an end. Specifically, soil conditions and historical data regarding fuels, solvents, and other contaminants should be discussed and a baseline for expectations established. If existing buildings are a part of the airport lease, asbestos and other building materials/ equipment should undergo a similar baseline survey. Many airports have experienced decades of tenants and operations on a given piece of property. As acceptable activities have changed and environmental awareness has increased, past activities and practices may no longer be appropriate or allowed by the airport sponsor. Fuel releases from aircraft, for example, were dismissed more readily in the early days of aviation than they are today. Airport sponsors today are held to high standards as environmental stewards, especially in the areas of water quality and stormwater management, both of which could be affected by tenant fuel releases.

All parties should also agree on the level of environmental insurance, or liability insurance that covers environmental issues, as a term of the airport lease. Even if both parties agree that levels and standards may change over the course of the lease, an honest and constructive discussion can save all parties pain in the future. The airport sponsor deserves, and should expect, to be indemnified by the airport tenant on matters environmental and otherwise. The tenant should have an understanding of the prevailing obligations and associated expenses that are imposed by the airport sponsor regarding environmental insurance.

A third aspect of a minimum level of environmental discussion should be the airport sponsor's confidence in the ability of the tenant to environmentally remediate airport property in the event of contamination. Of course, environmental insurance speaks directly to this point, but environmental insurance can be very expensive. Just as the airport sponsor must gauge the tenant's ability to make payment for rents, fees, and charges, it must also gauge the tenant's ability to remediate contamination should environmental contamination occur. Other means of establishing security of obligations in this regard are bonds, letters of credit, and/or funds in escrow. As with many issues, the airport sponsor walks the fine line of protecting the airport's assets without imposing undue hardship on the tenant who wishes to utilize the airport. Come airports feel they should only be concerned with commercial operations, as it may place the airport at a higher risk. It should be noted that FAA Compliance Order 5190.6b allows any airport user, to include non-commercial users, to "self-fuel". This means that non-commercial airport users can bring their own fuel to the airport and self-fuel their airplane. Airport Rules and Regulations should stipulate the measures a self-fueler will take to protect the environment and the consequences of a spill.

Findings:

- Sunshades no reference to environmental yes private and commercial activity on going.
- Approximately 60% of leases reviewed carried language specific to environmental and focused primarily on Hazmat. Some language was much more comprehensive. The most thorough and comprehensive language observed was found in the Francis Aviation aeronautical facility lease for 8990 Zia Blvd.
- The Airport's Stormwater Pollution Prevention Plan (SWPPP), a 5 year document, was not reviewed as a part of this scope of work. The leases reviewed did not reference the SWPPP and its requirements.

Recommendations:

- The airport should consider adding an article to the Sunshade leases outlining environmental considerations and responsibilities.
- The airport should consider utilizing the lease language, found in the Francis Aviation aeronautical facility lease, into all future leases.

- The airport should consider referencing the Airport's SWPPP in each new lease.
- Environmental should be carried as a Living Clause with language stating that as Environmental requirements placed on the airport change, so does the responsibility of the lessee and that they are bound to the new language.

Construction of Improvements

The construction of improvements element of the lease agreement should detail the required **approval process from the lessor regarding any repairs, renovations, improvements, and alterations**. Generally, the airport should receive, review, comment as necessary, and approve any construction and/or alterations before changes are made. This ensures that design standards, quality, and conformance to standards are met and follow the long-term vision for the airport. Needless to say, all planned improvements must comply with the Airport Rules and Regulations and Minimum Standards documents.

A land lease may also contain a provision within the construction of improvements clause that provides **a clear timeline as to when the construction of improvements and beginning of facility operation must occur.** This clause will protect the airport sponsor from the practice of "land banking" (entering into a land lease agreement to reserve land for unstated future development) and ensure that airport land assets are used for immediate highest-and-best use.

Findings:

- This Article varied among all leases. Most had well written language regarding the approval process for construction.
- Most leases did not have well written language regarding a clear timeline as to when the construction of improvements and beginning of facility operation. An example of a well written clear timeline would be parcel 25 in which the Article 7e4 "Time Restrictions" was incorporated in the lease and had the following language, *"all building construction described in Exhibit "B" must be completed on or before the second anniversary date of the Commencement Date of the Lease, that date being August 31, 2000". as for the construction, maintenance and operation of offices, factories, hangars, warehouses, classrooms, and other facilities required in connection with these uses."*
- Leases 5 (Air Methods) and 19 (SWA East) have exemplary construction clauses

Recommendations:

- The Construction of Improvements Article is a "General" article. The City should consider developing a General Conditions document and incorporating this Article into the lease by way of reference.

Damage to Facilities

Circumstances and responsibility for repairing damages to facilities during the course of the lease term should be described and outlined in this section of the airport lease. Even if the developer pays the entire cost of agreed-upon improvements to airport land, all parties should understand and agree to the manner in which damages will be repaired should damages occur. Specifically, requirements for premises insurance should be considered, with clarity as to how insurance proceeds shall be used. The time frame for which repairs shall be made should also be described fully. The airport sponsor's interest should be well protected in this language, precluding a tenant that is late in the lease term from opting out of its responsibility to repair damaged facilities.

Natural disaster, fire, vandalism, and employee abuse should all be considered within this section of the airport lease, clearly identifying the party responsible for repairs in each scenario. This section may also consider provisions for payment of rent in the event of damaged facilities, especially if damages render the leasehold unusable for normal business activity. The airport sponsor should strongly consider the requirement for business interruption insurance so that the tenant has some financial security in the event of significant or catastrophic damage, and so that the airport sponsor is protected from loss of its revenue stream.

Findings:

- Nearly every lease reviewed displayed this Article. Most of the Articles reviewed provided very clear guidance to the lessee with regard to total destruction or improvements, however, it was unclear what the lessee's responsibility would be if the property was partially damaged.
- Leases 5,6,7,8 & 11 could be improved regarding repair responsibility
- Lease 43 (Aerosecure LLC) contains an exemplary Damage to Facilities clause 7e(4).
- Lease 9 (Francis Aviation) contains a duplicate line 9f. Taken together, these lines could be a good example of this clause type.

Recommendations:

- The City should consider stronger language for this Article.

Insurance Obligations

In order to protect the lessee and the airport sponsor from financial liability arising from the operations of a tenant, insurance requirements should be detailed in all lease agreements. Insurance requirements, at a minimum, should outline coverage types and amounts so that the airport is protected from financial liability. These requirements will vary based upon the type of tenant (e.g., private versus commercial enterprise), the ownership of the physical structures and equipment (e.g., airport sponsor or lessee), the scale of the operation, and the relative risk of harm or loss based upon the type of enterprise. Typical insurance coverage will include (depending upon lessee, ownership of improvements, and anticipated activity):

- Property (structure and/or contents),
- General liability or commercial general liability,
- Automobile,
- Fire,
- Liability, and
- Environmental.

The level of coverage required can be set by the airport sponsor or may be assigned by state or local authorities. Excessive coverage requirements may present an undue financial burden on airport tenants and warrants consideration when setting minimum levels. The various types of insurance an airport should contemplate (e.g., property, general liability, auto, and fire) as well as minimum amounts for the various categories prevalent at airports across the country. Because an airport sponsor must balance the need for protection of its interest with the real costs imposed on tenants and airport users, establishing appropriate levels of insurance coverage is an important topic that has direct consequences to the tenant's ability to maintain a successful business venture. Being consistent with like airports, without leaving the airport sponsor unreasonably exposed to risk, is a responsible approach to finding that balance.

If the airport sponsor is the owner of the physical improvements on the land being leased through new construction funded by the airport or due to the termination of a lease agreement, the airport may be responsible for premises insurance. An umbrella policy may be the most effective approach, though liability, contents (e.g., aircraft and/or equipment), and other stipulated hazards such as environmental contamination generally remain the responsibility of the tenant.

It is the responsibility of the airport sponsor to ensure that the lessee and any sub-lessee are in compliance with the insurance requirements outlined within the lease. This is typically accomplished by requiring the lessee to provide airport management with appropriate insurance documentation (Certificate of Insurance) on an annual basis from a reputable insurance firm licensed to do business in the state in which the airport is located. The lease agreement may include language that requires the lessee to notify the airport of the cancellation of insurance, within a stipulated time frame, should such an event occur.

Findings:

- All leases reviewed displayed a Insurance Obligation provision with language the FAA would find adequate.
- Lease 9 (Francis Aviation) contains an exemplary Insurance Obligations clause (6 a-e)
- Leases 1,2,7,8,10, and 11 could be improved with the addition of auto and environmental insurance elements.

Recommendations:

- Insurance Obligations should be carried as a Living Clause with language stating that as Tort law or City insurance requirements placed on the airport change, so does the responsibility of the lessee and that they are bound to the new language/requirements.

Hold Harmless Provision

The lease between the airport sponsor and the tenant **should include a hold harmless or indemnity clause that protects the airport sponsor from any legal action, suits, proceedings, claims, damage, loss, liability, cost, or expense** that may be filed against the lessee for any reason arising from the operation and/or negligence of the lessee. In the spirit of quid pro quo, the airport sponsor is typically asked and often evaluates reciprocal language that considers the lessee's position. Many airport leases include some level of hold harmless protection for the lessee as well, protecting them in the case of negligence on the part of the airport sponsor.

Findings:

- All leases reviewed displayed a Hold Harmless provision with language the FAA would find adequate.
- Leases 1,2,6,7,8,10, and 11 infer the Hold Harmless provision in the insurance element of the lease, but do not have a standalone Hold Harmless Clause.

Recommendations: None.

Use of Premises

The lease should assure that the land is being leased for a specific purpose and that development is conducted in accordance with a specific site plan. The "use of premises element" of a lease agreement will specifically state the activities that can and cannot be performed within any given leasehold. A hangar lease will typically forbid commercial activity from taking place at a private hangar and may limit what can be stored in the hangar. FBO and SASO leases will specifically state (and in the case of a SASO, may limit) the commercial activity that can take place at the leasehold. For land leases, the "use of premises element" will state what improvements may be constructed and for what purposes.

The majority of the items included in the use of premises section should be referenced in the Airport Rules and Regulations and Minimum Standards documents. This would enable the airport to modify this lease element in accordance with revisions to these documents as items and requirements may change over the term of the lease.

Findings:

- Many of the leases did not provide the clear and specific use of the premises. An example would be parcel 25 in which the Permitted Use states the property is to be used ONLY for housing of private aircraft but then goes on to state, *"as well as for the construction, maintenance and operation of offices, factories, hangars, warehouses, classrooms, and other facilities required in connection with these uses."*
- Permitted uses did not reference the Airport Rules and Regulations Living Clause.
- The Commercial Permitted Use Article did not reference the Airport Minimum Standards.
- Lease 29 (Chris & Denise Frost) has an exemplary use of premise clause that could be modeled for others.

Recommendations:

Remove the references to commercial activity in leases that are initially for Private Use. Insert this removed language into the Commercial Use of Parcel and Future Improvements Article. Insert Living Clauses into the Permitted Use section of the lease with language such as, *"The City's "Airport Rules and Regulations and Minimum Standards for Las Cruces International Airport, are attached hereto and incorporated herein by reference."*

Taxes and Fees

The airport sponsor, typically a public entity that operates the airport for public benefit and use, is likely exempt from many taxes and fees, including property taxes. When private development in support of a commercial venture takes place on public property, interpretation as to how the tenant of the leased property is taxed varies widely and can easily change with the political winds and economic climate. Airport sponsors, therefore, should strive to protect themselves from incremental development costs and associated tax exposure by appropriately passing any tax liability through to the tenant that occupies the airport property. These provisions and protection of the airport sponsor should be fully described within the language of the lease.

Similarly, the airport sponsor should be prepared, through language within the lease, to pass through any fees that might be assessed to a given airport development project on leased airport property. For example, impact fees that some communities levy on new development to offset the public investment required to support that development should be passed through to the tenant, even though the airport sponsor is the owner of the land being developed. An example would be a payment in lieu of taxes or PILOT, in which the City purchases a private hangar and then leases it to a new tenant. The City would strive to capture the lost tax revenue by passing it on to the new tenant over time.

Findings:

- All leases reviewed displayed a Taxes and Fees provision with language the FAA would find adequate.
- Leases 10 (Immotal Data) and 11 (NMSU) have exemplary Taxes and Fee clauses.

Recommendations: None.

Regulatory Compliance

The regulatory compliance section of a lease is a vitally important component of an airport lease agreement in that it assists the airport sponsor in keeping pace with a changing regulatory environment. The airport sponsor can and should require regulatory compliance with known applicable local, state, and federal regulations. In addition, the regulatory compliance section should pass along responsibility for complying with the inevitable additions and/or modifications to existing regulations that will certainly occur over the course of decades.

For example, an airport sponsor, as landowner, is responsible for complying with water quality regulations of the Environmental Protection Agency. The airport sponsor should pass along water quality responsibilities to its tenants, within their respective leaseholds, for complying with these same regulations, requiring participation in the airport's storm water protection plan, and future compliance with any new regulations that may come over the course of the lease.

Regulatory compliance requirements should be broad enough to encompass the many areas that affect the airport sponsor as owner of a public airport. Federal aviation and environmental regulations are prevalent at all airports, while a mix of local, state, and other federal regulations exist and vary depending on location. The regulatory compliance section of an airport lease agreement must acknowledge and require the tenant, as one member of an airport's community, to adhere to the same standards for compliance as the other members of the airport and the airport community as a whole.

Findings:

- Nearly every lease reviewed displayed a Regulatory Compliance provision with language the FAA would find adequate. **The only exception to this found was the Francis Aviation lease for Parcel 5 and Hangar 40.**

Recommendations:

- As the Francis Aviation Lease expires, the lease should be updated to include regulatory language.

Assignments and Subletting

The assignment of a lease is the process of transferring all rights and provisions of a lease from one tenant to another. A request for assignment may occur because one company is being acquired or sold by another, so the legal obligations need to transfer to the new legal entity. Another request may occur simply because the developer wants to divest of the liability and/or sell any equity interest in the facility. Subletting is the process of leasing part or all of the facility to another party without transferring any of the lessee's responsibilities to the airport sponsor.

Assignment and subletting language is important in an airport lease, especially in circumstances where permanent improvements need to be amortized over long periods of time to meet market pricing. The developer and/or the financier of the project will typically want some assurance from the airport sponsor that, if circumstances dictate, another tenant can replace the initial tenant and/or subletting is allowed if the financial and/or business circumstances of the tenant change over time. The initial tenant may sign a lease that is sufficient in length to amortize investment in improvements, but many things can happen over the course of a 20- or 30-year lease.

For the reasons just described, many airport leases include language that allows assignment, subletting, or both, within specific parameters. If improvements were made on airside property for the storage of aircraft, the allowable uses of the lease, including any assignment or subletting, should preclude non-aeronautical activity. Restrictions on use affect the market price of a facility, so the developer and lender often look for flexibility in the lease that will allow assignment and/or subleasing in order to build confidence in the commercial viability of a project.

At the minimum, the airport sponsor should consider assignment and subletting language that passes all obligations of the initial lease to any assignee or subtenant. The airport sponsor often requires pre-approval of any assignment or subletting, though approval should not be unduly or arbitrarily denied if the assignee and/or subtenant meets the spirit of the initial lease agreement. Some lease agreements include language that requires the initial tenant/developer to pay a percentage of any profit derived from an assignment or sublease, or a fee for the administrative effort to consider and execute an assignment and/or a sublease. All of these aspects should be considered during the lease negotiation process and balanced with the overall objectives of the airport sponsor.

Findings:

- All leases reviewed displayed an Assignment and Subletting provision with language the FAA would find adequate.
- Lease 10 (Immotal Data) contains an exemplary Assignment and Subletting clause

Recommendations: None.

Defaults

The defaults section of a lease should stipulate the scenario(s) in which the terms of the lease have been violated. This section should include methods for curing the default, as well as periods of time that must pass without curing before the lease can be terminated. For example, typical default provisions will include termination language that speaks to what happens in the event the tenant does not pay the agreed-upon rents. But, the defaults section should also include language that allows the tenant to cure, the time frame in which this must occur, and how penalties or late fees are to be applied. Additionally, default language in this example should address how the airport sponsor will apply or pursue security deposits, bonds, or letters of credit. Essentially, the defaults section will describe which (if not all) violations of the lease provisions will trigger lease default, the actions the airport sponsor intends to take in the event of default, and the recourses that the lessee is entitled to if provisions and/or terms of the lease are not met.

Default language that speaks to a failure to pay rent is perhaps the most common, but should not be the only parameter for lease default language. Failure to comply with airport rules and/or regulations, environmental damage to airport property, inappropriate use of airport land and/or facilities, and illegal activities are other examples that the airport sponsor should consider addressing within the context of a defaults section of a lease. Language that requires the tenant to comply with local, state, and federal laws, rules, and regulations, which may change during the course of the lease term, should be considered in order to protect the airport sponsor if the regulatory environment changes.

Default clauses should be considered from both the airport sponsor's perspective and the lessee's perspective. Specifically, the airport sponsor should consider events that would be unacceptable to the tenant and allow for language that responds to the needs of the lessee. However, the airport sponsor should never restrict its ability in any of the lease provisions to operate and develop the airport in a manner that is consistent with federal grant assurances. While the defaults section should consider and accommodate, when able, the perspective of the tenant, the lease should not restrict or penalize the airport sponsor in carrying out its primary objective of operating and developing a public airport within the parameters of state and federal regulations and guidelines.

Findings:
- All leases reviewed displayed a Default provision with language the FAA would find adequate.
- Lease 10 (Immotal Data) contains an exemplary Defaults clause.

Recommendations: None.

Security Requirements

New leases should reference the Airport Certification Manual (ACM), Airport Rules and Regulations (ARR), the Airport Security Plan (ASP), and require any current or future compliance with aviation-specific, such as federally-mandated security requirements by the TSA and/or Department of Homeland Security. As a Part 139 airport, Las Cruces has an Airport Emergency Plan (AEP) that considers security requirements which may change as the Homeland Security Threat Advisory Levels change, and, if required, the lessee must adjust operations to reflect the current security requirements.

Findings:
- Approximately 50% of the leases carried language requiring lessees to meet the airport's requirements for current, aviation-specific security requirements, leaving 50% that did not carry adequate security language.
- The ACM, ARR, ASP, and AEP and Airport Minimum Standards were all written at different times and may not be symbiotic.

Recommendations:
- The Security Requirements Article is a "General" article. The City should consider developing a General Conditions document and incorporating this Article.
- The airport should review the ACM, ASP, AEP, ARR and Airport Minimum Standards to ensure consistency.
- Security should be carried as a Living Clause with language stating that as the Airports security documents update, so does the responsibility of the lessee and that they are bound to the new language.

Liens and Subordination

Improvements on leased airport property are often financed, and the bank or lending institution is likely to require some type of security against the money to be loaned. Liens are the common instrument in this regard, as the lender has a recorded interest in the improvements and a right to claim ownership of those improvements should the borrower default on the loan. Liens are typically recorded at the appropriate courthouse as a legal claim against real property. In the event of default of the loan, the lender will have first claim to the property if it has a first lien position, or stand behind the first lien holder in the case of a second lien position. Lien position establishes priority for satisfying claims against the real property that secures collateral interest.

The caveat to this basic real estate principle is that the airport sponsor is restricted from disposal of property without FAA concurrence. In this case, a lien on the property itself must be precluded in the lease agreement. Lenders cannot be allowed to dispose of public airport property in the interest of satisfying a defaulted loan. The improvements can serve as security against debt though the airport sponsor would typically restrict the placement of liens to new development it has approved, with strict conditions for cure (e.g., payment of outstanding rents owed). Specifically, lease language should include airport sponsor approval of any new tenant the lender wishes to place in facilities encumbered by a lien, in the event of loan default, to preserve compatibility of the airport sponsor's vision for airport development. Ultimately, a lien on tenant improvements will generally provide less security than a traditional lien placed on fee simple property owned by the borrower.

Findings:

- A little over 50% of the leases reviewed displayed a Liens and Subordination provision with language the FAA would find adequate. The balance did not. Grant Assurance 5; Preserving Rights and Powers, in essence requires the airport to maintain control of its holdings and to not allow claims of rights of others, such as a bank, which would interfere with airport performance.

Recommendations:

- The airport should ensure that Liens and Subordination clauses are incorporated into new leases.

Nondiscrimination

49 CFR Part 21 outlines the mandate for nondiscrimination in federally-assisted programs of the Department of Transportation. Airport sponsors that receive federal grant funding through the Airport Improvement Program (AIP) are bound by grant assurances that prohibit discrimination on the grounds of race, color, or national origin. Tenants leasing property that is part of an airport's lands fall within the parameters of a federally-assisted transportation program, so the airport sponsor should include nondiscrimination language in its lease agreements, which is typically found under a "nondiscrimination" heading of the lease document.

Findings:

- A little over 50% of the leases reviewed displayed a Non-Discrimination provision with language the FAA would find adequate. The balance did not. Title VI of the Civil Rights Act of 1964 requires that federally obligated airports are prohibited from discriminating on the basis of race, color, national origin, disability, age, and economics, and must insert non-discrimination clauses in their leases.

Recommendations:

- The airport should ensure that Non-Discrimination clauses are incorporated into new leases.

Living Clauses

Living clauses play an important role in the lease document. These clauses **allow existing agreements to evolve as associated regulations and laws change during the course of the lease term** (e.g., wildlife, security, and environmental). **Rules and Regulations, Minimum Standards, Rates and Charges, and Schedules of Insurances** are other examples of documents that will likely change over time and that can be addressed through living clauses to maintain consistency.

Airport sponsors should always be aware of ongoing regulation amendments and changes. It is the airport sponsor's responsibility to ensure the airport and all encompassing aspects conform to state and federal laws. Airport tenants should remain current on these laws, as the changes may require substantial financial obligations or a complete change of operating standards.

Findings:

- Approximately 39% of the leases displayed some of the living clauses but none had all.

Recommendations:

- The Airport should consider developing Living Clauses for the following lease elements:
  - » Airport Rules and Regulations
  - » Minimum Standards
  - » Wildlife
  - » Security
  - » Environmental
  - » Insurance Requirements
  - » Rates and Charges *
- It is recommended that the Airport engage with the FAA Airport District Office Compliance Officer regarding Rates and Charges as a Living Clause. Although they should be standardized, each ADO reserves the right to develop guidance regarding certain elements of a lease in which they shall stand behind. Rates and Charges is one.
- If allowable by the FAA, language should be developed for new leases that would enable the airport to periodically adjust lease rates to meet the needs of sustainability and to immediately apply the new rate to leases with Rates and Charges as a Living Clause.

Force Majeure

The force majeure provision of an airport development and/or airport lease should **consider unavoidable causes for delay due to acts of God and natural disaster**, which may set the stage for failures to perform the provisions of the agreement. Force majeure clauses are often provided to address delays in construction due to weather and should consider both the developer/tenant and the airport sponsor perspectives. Specifically, agreements should include force majeure language when the airport sponsor has agreed to do certain things or make certain improvements. For example, the airport sponsor may agree to construct a taxiway extension to meet the needs of a new development, but the agreement should include force majeure language that protects it if a hurricane or unusual rainfall delays construction and places the sponsor in the position of being unable to meet the obligations of the lease/development agreement due to circumstances beyond its control.

Findings:

- Less than 20% of the leases reviewed displayed a Force Majeure provision with language the FAA would find adequate. The balance did not.
- None of the Sunshade leases displayed this provision.

Recommendations:

- The Airport should incorporate Force Majeure language into any new lease.

- The Airport should consider terminating the Month to Month Sunshade leases and add Force Majeure language to the new leases along with other recommendations provided in this document.

Holdover

Holdover provisions of an airport lease simply allow the airport sponsor to extend the terms of an existing airport lease, in the event both the airport sponsor and the tenant desire to continue the relationship as it exists, without execution of a new lease. Holdover provisions are useful in bridging gaps and meeting short-term needs of the parties involved, but should be used sparingly. Renegotiation of a lease or transition of lessees are typical uses of holdover provisions, where it is mutually beneficial for all parties to preserve the terms of the existing agreement without rushing negotiation for the sake of meeting a deadline, or for bridging the operational gaps that might occur between tenants. At the end of a long-term lease, the revenue associated with a lease may be below market value, so holdover provisions of that lease may result in a reduced revenue stream to the airport sponsor. Holdover provisions should be used sparingly.

Holdover provisions should not be confused with extension options, as extension options involve an additional period of time, as well as adjustment in rental rates for that extended period. Holdover language may include an adjustment in rents as well, but this provision is meant to provide short-term extension of the protections and terms described within the lease document and not the protection of the tenant that is reluctant to negotiate a new agreement. For this reason, the airport sponsor may choose to negotiate a premium into the lease for the exercise of holdover provisions, as well as the ability to waive increased rents or premiums, if the application of holdover provisions is for the benefit of the airport sponsor.

Findings:

- 65% of the leases reviewed displayed a Holdover provision.

Recommendations:

- The Airport should decide, with legal council, when holdover provisions should be used. There are advantages to holdover but it is recommended that holdover language should not be the default language.

Optional Lease Elements

Optional lease elements are typically added to address financial and business concerns of commercial lessees and are designed to protect the investments made in on-airport facilities. These lease elements are not a requirement. They are negotiated into the agreement by the lessee in order to protect the lessee's interests. However, their addition to the lease agreement is at the discretion of the airport sponsor. The airport sponsor must be certain that the addition of any language granting or limiting commercial activity does not provide a single tenant with a potential commercial advantage over its competition, limit on-airport competition, or hinder the highest-and-best use of airport land or facilities. Any lease element that does so may put the airport in violation of FAA grant assurances.

Non-compete Clause

A non-compete clause is intended to protect the business and financial position of an airport commercial lessee by limiting on-airport competition in the field of commerce in which the lessee is engaged. The clause states that the airport will not lease a property to a commercial entity that will provide the same services and be in direct competition with the lessee. A non-compete clause is most common among FBOs and maintenance, repair, and overhaul (MRO) facilities and businesses providing essential fueling and maintenance services to airport users. A non-compete clause will typically provide the lessee with a means to terminate the lease agreement without penalty should the terms be violated.

The airport sponsor should be wary when entering into an agreement that contains a non-compete clause because it may be perceived as offering the existing tenant a monopoly with all of the negative connotations associated with such an arrangement (e.g., the potential for higher prices and lower service levels). Without proper context, non-compete language can also be viewed as a violation of Federal Grant Assurances 22 and 23 that address economic nondiscrimination and the granting of exclusive rights. When structured properly, non-compete language can allow the airport sponsor to grant access to another competing commercial enterprise, while respecting an existing tenant's interests. In other words, non-compete language can give the airport sponsor the flexibility to pursue a superior tenant should it choose to do so, while respecting the existing tenant's perspective that a new entrant would force them out of the market, and giving that existing tenant an out. Such an arrangement would be most prevalent in circumstances where the existing tenant has very little or no investment/debt in the facilities they occupy. This type of language is meant to provide the existing tenant a means to terminate the lease should competitive conditions on the airport change. The airport sponsor should, however, be cautious not to establish a scenario in which negative consequences will occur should it pursue new tenants/competition. Specifically, if the existing tenant is paying a large amount in rents and fees, and has non-compete language in its lease, the airport sponsor may have a disincentive to pursue new tenants. A negative financial impact to the sponsor and presumed disincentive can be perceived as an exclusive right to operate.

Ultimately, it is the airport sponsor's decision whether or not to enter into such an agreement, and it should be made only after conducting a detailed analysis of the nature of the potential lessee's business in relation to the current availability of such services, the overall airport need and desire for the lessee's services, and the perceived ability of the lessee to adequately provide said services. The Airport is always encouraged to work with the FAA Airport District Office Compliance Officer when questions arise.

Right of First Refusal

A right of first refusal is a contractual right placed in the lease agreement that gives the lessee the option to enter into a lease agreement with the lessor for a specified airport property in advance of an interested third party. This does not specifically limit the airport from marketing the property, but it may limit the property's marketability if prospective tenants are aware that the property is subject to a right of first refusal. An existing commercial tenant may demand such a clause to limit potential competition on-airport, or to ensure space and resources for future expansion.

The airport sponsor will need to enter into such an agreement with caution, particularly if the lessee seeks to place set lease rates into effect for the property in advance (e.g., lease rate will mirror rates of those for the lessee's current property). Such stipulations may hinder the airport's ability to achieve market value rent for the property in question. Grant Assurance

24, Fee and Rental Structure, states the airport sponsor shall "maintain a fee and rental structure for the facilities and services at the airport that will make the airport as self-sustaining as possible." This means achieving market value rates for all available property.

Percent of Revenue

Another method of revenue recognition for the airport sponsor, a method that is common in terminal concessions lease agreements, is the percentage of gross revenue payment. The airport sponsor may enter into an agreement with a lessee that may reduce the base cost per square foot rate of a land and/or facility lease, but make up for this loss in airport revenue by stipulating that the airport receives a percentage of the tenant's gross revenue derived from the activity at the facility. Typically, a floor, or minimum monthly payment is set, and the greater of the minimum payment or percentage of profits is paid to the airport. This approach could, however, require a greater involvement of the airport, an agreed upon auditing process, and solid understanding of what defines gross revenue. This approach may add an administrative burden for the airport as it relates to collecting revenues.

Term Extension Options

Flexibility in the length of the lease term can be achieved through extension provisions written into the lease. These can be 5- to 10-year extension clauses that effectively extend the lease term to a length that is mutually beneficial for both the airport sponsor and the tenant. This is a particularly beneficial tool when an airport sponsor is limited by statute (state or local) from issuing lease terms for a period long enough to allow a tenant to amortize its facility investment. The airport sponsor will want to ensure that any lease rate escalation occurs periodically in order to keep pace with market rates and current appraisal values. The airport should also be cautious not to provide a tenant with a perpetual lease of greater than 50 years.

Table –6 - Lease Element Recommendations

Lease Element	*Recommendations*	*Responsibility*
Lessor	Continue use of lessor language and add "Authorized Signature" under signature block.	City Legal Staff
Lessee	Continue use of lessee language and add "Authorized Signature" under signature block.	City Legal Staff
Premises	Utilize existing language and append with photos and/or maps of premises	City
Term	Develop updated lease application	City / Consultant
	Limit standard lease to 30 years or less	City
	Modify language to require written notification for lease extension	City / Consultant
Rent	Finalize and adopt lease rate schedule & apply rates fair and equally.	City Council
	Review options to relieve city from obligations associated with SWA lease.	City / Consultant
	Establish a lease agreement with Las Cruces Fire Department which considers in-kind services provided by the Fire Department for the Airport.	City / Consultant
	Terminate and revise sunshade leases at $75.00 per month	City
Escalation Clause	Consider inclusion of escalation clause based on consumer price index.	City Legal Staff
Rights, Reservations and Obligations of Lessor	None	n/a
Right, Reservations and Obligations of Lessee	Consider including standardized language recommended in sample lease provided in chapter 5.	City Legal Staff
Operation and Maintenance	Consider including standardized language recommended in sample lease as it relates to vegetation control and improvement repairs	City Legal Staff
Environmental	Add environmental considerations and responsibilities to sunshade leases.	City Legal Staff
	Consider incorporating Francis Aviation lease environmental language into all future leases	
	Reference airport SWPP in new leases	
	Add environmental living clause.	
Construction of Improvements	Consider reference to construction of improvements by inclusion of a general conditions document and reference in new leases.	City Legal Staff
Damage to Facilities	Strengthen legal language and strength of this article	City Legal Staff
Insurance Obligations	Consider carrying insurance obligations as living clause in new leases.	City Legal Staff
Hold Harmless Provision	None	n/a
Use of Premises	Remove references to commercial activity in private leases. Insert this language into commercial use of parcel sections.	City Legal Staff

Table 6 - Lease Element Recommendations (2 of 2)

Lease Element	*Recommendations*	*Responsibility*
Taxes and Fees	None	n/a
Regulatory Compliance	As Francis Aviation lease expires, update lease to include regulatory language	City Legal Staff
Assignment and Subletting	none	n/a
Defaults	none	n/a
Security Requirements	Include security requirements in a general conditions document.	City / Consultant
	Review ACM/ASP/AEP/ARR and Airport minimum standards to ensure consistency.	City / Consultant
	Carry security language as living clause to allow updates as Airport Security documents update.	City Legal Staff
Liens/subordination	Ensure inclusion of Liens and Subordination clauses into new leases.	City Legal Staff
Nondiscrimination	Ensure non-discrimination clauses are incorporated into new leases.	City Legal Staff
Living Clause	Develop clauses for each of the following lease elements: Airport Rules and Regulations, Minimum Standards, Wildlife, Security, Environmental, Insurance Reqs, Rates and Charges	City / Consultant
	Coordinate w/ FAA District Office Compliance Officer regarding Rates and Charges as living clause, as well as periodic adjustments of lease rates.	City / Consultant
Force Majeure	Incorporate Force Majeure language into all new leases.	City Legal Staff
Holdover	Consider reviewing legal rationale for holdover provisions. Consider inclusion of holdover language as optional, rather than default.	City Legal Staff

Airport Revenue Planning

Current Lease Revenue

The FAA requires airport sponsors to apply airport fees in a fair, reasonable and non-discriminatory manner. The Las Cruces International Airport has executed aeronautical leases and the FAA allows sponsors the discretion to set aeronautical lease rates.

Federal law and policy on reasonableness of fees and other terms for airport access do not apply to non-aeronautical uses.

It is recommended that non-aeronautical rates meet fair market value. Table 7 outlines the annual revenue generated from Las Cruces International Airport.

Table –7 - Current Lease Revenue

Facility	Lease Type	Parcel	Lessee	Lease Amount (Annual)
Land - Fuel Farm	Commercial - FB	A	Francis Aviation	$388.50
Land - Fuel Farm	Commercial - FB	B	Southwest Aviation	$711.45
Land	Commercial - SA	A&B	PHI Air Medical	$40.00
Hangar 11, 12, 13 & 14	Commercial - FB	1, 2, 3, 4	Southwest Aviation	No Rent
Hangar #15	Private - HR	5	Dept Military Affairs	$3,013.10
8960 Zia Blvd; Rm L, M & T	Commercial - AF	5	Air Methods	$17,802.00
8960 Zia Blvd; Rm C	Commercial - AF	5	Frost Aviation	$1,080.00
8960 Zia Blvd; Rm E	Commercial - AF	5	HA Bernal	$960.00
8960 Zia Blvd	Commercial - AF	5	JimBobs BBQ	$8,238.00
8990 Zia Blvd; Hangar 40	Commercial - AF, LA	5	Francis Aviation	$23,024.00
8990 Zia Blvd; Rm D	Commercial - AF	5	Immortal Data, Inc.	$1,000.20
8990 Zia Blvd; Rm C	Private - AF	5	NMSU	$2,233.00
Hangar 16 & 17	Commercial - FB	6 & 7	Southwest Aviation	No Rent
T-Hangars	Commercial - LA	200-260	Southwest Aviation	$3,259.48
9400 Zia Blvd; Hangar 8, 9 & 10	Commercial - LA	8W	Aero Newton, Inc.	$7,144.21
9300 Zia Blvd; Hangar 11	Private - LA	9W	Clarence Ed Mitchell	$1,441.00
690 Wingspan Dr; Hangar 19	Private - LA	10	Privette Properties, LLC	$1,302.60
670 Wingspan Dr; Hangar 20	Private - LA	11	Privette Properties, LLC	$1,302.60
650 Wingspan Dr; Hangar 21	Private - LA	12	Ron Karp	$697.60
630 Wingspan Dr; Hangar 22	Private - LA	13	Amador Holding & Leasing Co.	$456.02
610 Wingspan Dr; Hangar 23	Private - LA	14	EAA Chapter 555	$889.08
Lease Types:	AF - Aeronautical Facility	FB - Fixed Base Operator	HR - Hangar Rental Agreement	LC - Land Civil Air Patrol
	FP - FBO Vehicle Parking	NF - Non Aeronautical Facility	SA - Specialized Aeronautical Services Operator	LA - Land
	SS - Sunshade	CP - Short and Long Term Parking		

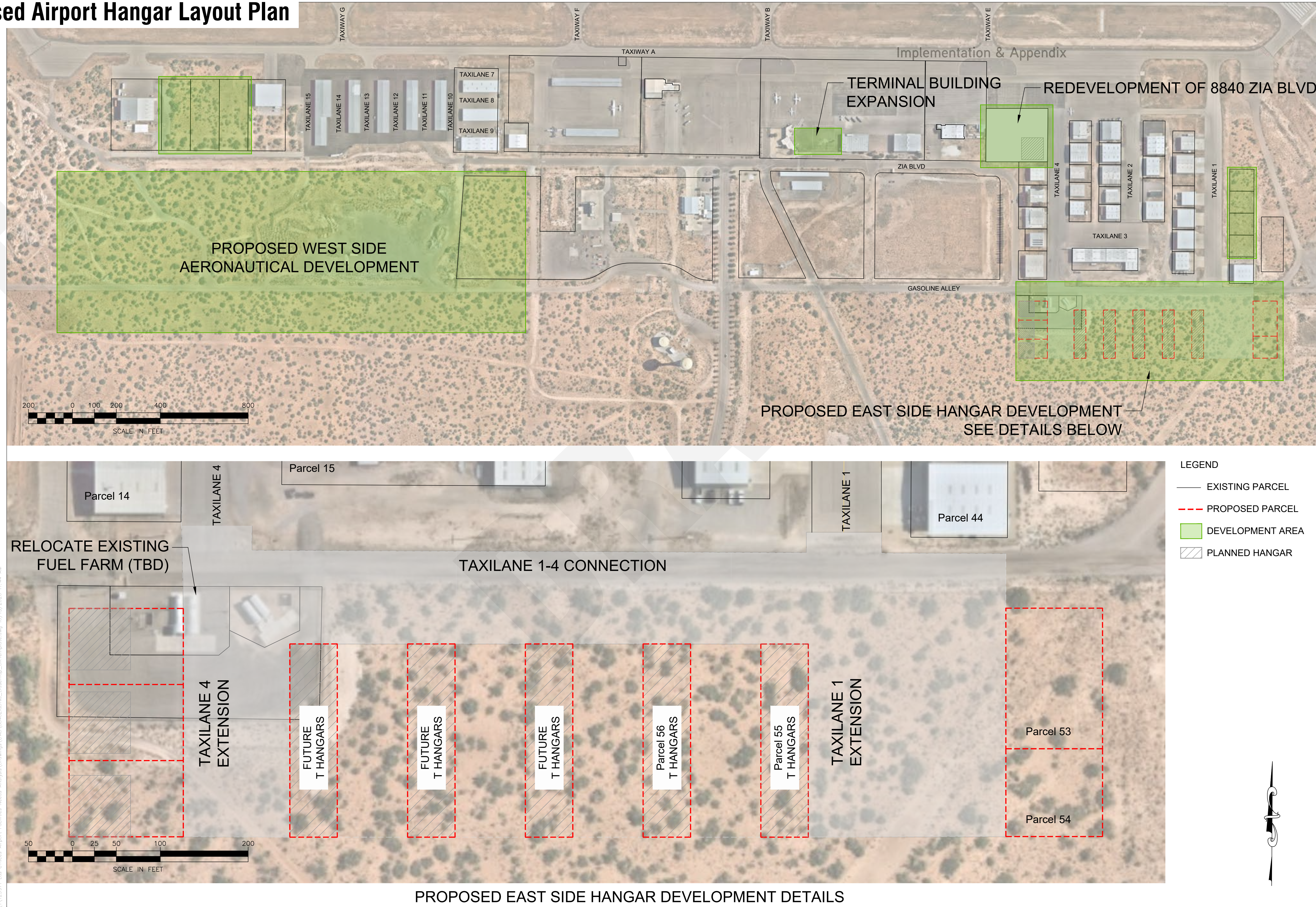
Table 7 - Current Lease Revenue - (2 of 3)

Facility	Lease Type	Parcel	Lessee	Lease Amount (Annual)
8650 Gasoline Alley; Hangar 34	Commercial - LA	15	WAM, Inc.	$1,923.07
730 Wingspan Dr; Hangar 25	Private - LA	16	Wallace Westwind, Inc.	$2,158.00
720 Wingspan Dr; Hangar 26	Private - LA	17	Brian K. Southard	$761.21
710 Leonard Bryan Alley; Hangar 27	Private - LA	18	Anthony Huelin	$800.00
700 Wingspan Dr; Hangar 28	Private - LA	19	Ken Cady	$991.03
740 Leonard Bryan Alley; Hangar 24	Private - LA	21	Christopher J & Denise A. Frost	$1,000.00
745 Leonard Bryan Alley; Hangar 29	Commercial - LA	22	Lynco Flight Services, LLC.	$1,089.54
735 Leonard Bryan Alley; Hangar 30	Private - LA	23	JSRS Holdings, LLC.	$1,033.33
725 Leonard Bryan Alley; Hangar 31	Commercial - LA	24	Icarus Aero, LLC.	$1,089.54
715 Leonard Bryan Alley; Hangar 32	Private - LA	25	JSRS Holdings, LLC.	$904.00
705 Leonard Bryan Alley; Hangar 33	Private - LA	26	Melvin H. Renneckar	$730.33
740 Therapy Alley; Hangar 35	Commercial - LA	27/28	Lou Sisbarro; Adventure Aviation, Inc.	$4,408.88
730 Therapy Alley; Hangar 36	Private - LA	29	Double K Company	$984.12
710 Therapy Alley; Hangar 37	Private - LA	30/31	L.C. Civil Air Patrol	$1.00
745 White Lightning; Hangar 38	Private - LA	33	Sam Snow	$1,000.00
735 White Lightning; Hangar 39	Commercial - LA	34	Lynco Flight Services, LLC.	$3,525.09
715 White Lightning; Hangar 41	Commercial - LA	36	Icarus Aero, LLC.	$2,386.94
705 White Lightning; Hangar 42	Private - LA	37	RACI Mgmt.	$2,220.00
Lease Types:	AF - Aeronautical Facility	FB - Fixed Base Operator	HR - Hangar Rental Agreement	LC - Land Civil Air Patrol
	FP - FBO Vehicle Parking	NF - Non Aeronautical Facility	SA - Specialized Aeronautical Services Operator	LA - Land
	SS - Sunshade	CP - Short and Long Term Parking		

Table 7 - Current Lease Revenue - (3 of 3)

Facility	Lease Type	Parcel	Lessee	Lease Amount (Annual)
695 White Lightning; Hangar 43	Private - LA	38	Kenneth & Susan Kentosh	$2,394.27
Land	LA	40A	VACANT	-
Land	LA	41A	VACANT	-
Land	LA	42A	VACANT	-
Land	LA	43B	VACANT	-
700 White Lightning; Hangar 44	Private - LA	44A	RACI Mgmt.	$2,640.00
9500 Zia Blvd; Hangar 2	Private - LA	46	Lynco Electric Co. Inc.	$11,746.47
Aerostar	LA	47	VACANT	-
Aerostar	LA	48	VACANT	-
Aerostar	LA	49	VACANT	-
800 Aerostar; Hangar 1	Private - LA	50	NMSU/PSL	$17,566.71
Sunshade 18 - A1	Private - SS	51	Bill Soules	$600.00
Sunshade 18 - A2	Private - SS	51	Bill Soules	$600.00
Sunshade 18 - A3	SS	51	VACANT	-
Sunshade 18 - A4	Private - SS	51	Regor Saulsberry	$600.00
Sunshade 18 - A5	Private -SS	51	VACANT	-
Sunshade 18 - B1	SS	51	VACANT	-
Sunshade 18 - B2	Private - SS	51	Everett C. Johnson	$600.00
Sunshade 18 - B3	Private - SS	51	James H. Bentley	$600.00
Sunshade 18 - B4	Commercial - SA	51	Bellator Aviation	$600.00
Sunshade 18 - B5	Private - SS	51	Grant Dyer	$600.00
Sunshade 25 - C4	SS	51	VACANT	-
Sunshade 25 - C5	Private - SS	51	Ovidio Fernandez	$600.00
Sunshade 25 - D4	Commercial - SA	51	Frost Aviation Services, Inc.	$600.00
Sunshade 25 - D5	Commercial - SA	51	Frost Aviation Services, Inc.	$600.00
		Total Annual Aeronautical Lease Revenue		$142,336.00
Lease Types:	AF - Aeronautical Facility	FB - Fixed Base Operator	HR - Hangar Rental Agreement	LC - Land Civil Air Patrol
	FP - FBO Vehicle Parking	NF - Non Aeronautical Facility	SA - Specialized Aeronautical Services Operator	LA - Land
	SS - Sunshade	CP - Short and Long Term Parking		

Proposed Airport Hangar Layout Plan



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NOT FOR CONSTRUCTION PRELIMINARY PLANS

NO. | DATE | DESCRIPTION | BY | CK'D

LAS CRUCES INTERNATIONAL AIRPORT (LRU)

8990 ZIA BLVD
LAS CRUCES, NEW MEXICO

AIRPORT FACILITIES NEEDS ANALYSIS

SHEET TITLE

HANGAR DEVELOPMENT PLAN

DRAWN BY	DATE
JLU	OCT 2020
CHECKED BY	D&K PROJECT #
GAR	125971
PROJ. ENG.	D&K ARCHIVE #

SHEET NUMBER

1

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East Side Future Development Land

East Side Parcels 40 - 43A

Potential Additional Lease Revenue

The Proposed Airport Hangar Layout Plan presented in Chapter 6 shows that the airport has a potential of continuing development on the East Side with General Aviation (GA) hangars. At the time of this writing, a conceptual plan was developed by the City for the East Side and was incorporated into this plan following a few technical edits. The West Side has considerable potential for development. It is recommended that a West Side development plan be developed as part of a master planning effort. A master planning effort would consider forecasting (given the recent/current pursuit and plans for the development of commercial air service), facility needs based on forecasting, and an ultimate layout plan which would include the proper sizing of aprons, hangars and potential hangar layout on the West Side. The airport may also consider cargo operations in the West Side development area.

East Side Hangar Development

The East Side GA Hangar Development Plan would add the parcels and hangar development to LRU as described in Table 8.

From a funding and development perspective this project will need to be phased. Phase I would include the development of parcels 53 through 56. Phase 1 will require the extension of Taxilane 1, and utilities such as water, wastewater, gas and stormwater. Chapter 2, Section 6 of the Airport Action Plan recommended that the design aircraft for the airport remain an Airplane Design Group (ADG) and Taxiway Design Group (TDG) II. FAA Advisory Circular 150/5300-13 provides the Taxilane Object Free Area (TOFA) design standards and is depicted in Table 15. As the airport conceptually lays out the East Side GA Hangar Development Plan, it should attempt to meet ADG and TDG II standards of 115 feet. Taxilane 1 does have the required 115' to maintain the TOFA.

Table –8 - East Side General Aviation Hangar Development

Parcel	*Square Feet*	*Type Hangar*
53	16,500	Conventional Hangar
54	11,000	Conventional Hangar
55	12,000	T-Hangar (10 unit)
56	12,000	T-Hangar (10 unit)
57	12,000	T-Hangar (10 unit)
58	12,000	T-Hangar (10 unit)
59	12,000	T-Hangar (10 unit)
60	11,000	Conventional Hangar
61	11,000	Conventional Hangar
62	11,000	Conventional Hangar

Phase II of the East Side GA Hangar development Plan would include the development of parcels 57 through 62 and conceptually depicts the connection of Taxilane 1 with Taxilane 4, the relocation of the fuel farm and connection to utilities such as water, wastewater, gas and stormwater. The entire length of Taxilane 4 does not meet ADG and TDG II TOFA standards and would create an issue if ADG/TDG II aircraft attempted to taxi through. The outrigger style hangar doors of the WAM hangar encroach into the TOFA of Taxilane 4. Aircraft operating to and from Hangar 23 should be restricted to ADG I and should be notified that their operation is at their risk. Connecting Taxilanes 1 and 4 would create a future hazard for ADG/TDG II aircraft if they were to attempt to taxi through this connection. Unless the WAM hangar doors are modified, Taxilane 4 and the future connection will need to be limited to ADG/TDG I. In addition, if the Airport has the FAA's participation in the funding of this development project, it will need to properly plan this area and gain FAA approval of the concept and design.

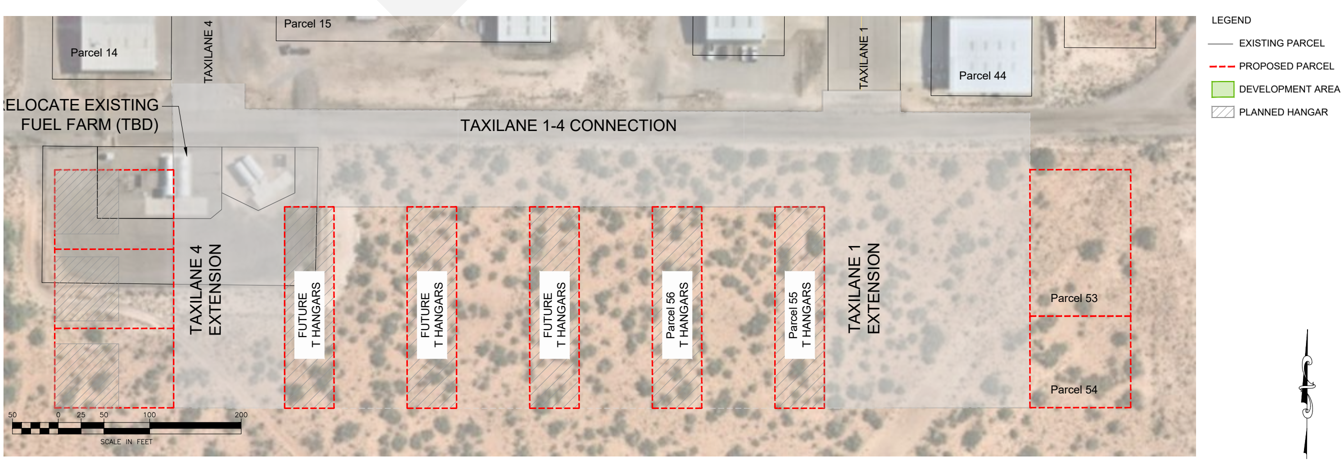
The East Side GA Hangar Development Plan conceptually adds an additional 10 parcels. The plan will allow for the construction of five (5) 10 Unit T-Hangars and five (5) conventional hangars. Hangars generate revenue through the rent associated with the hangar parcel area as well as ancillary revenue generated through the use of the airport such as fuel sales, aircraft maintenance, flight reviews and commercial operations.

A proposed lease rate per square for Private and Commercial uses was developed and these rates are depicted in the Proposed Lease Rate Schedule found in Chapter 3. These rates were proposed to be:

- $0.20 per square foot per year for Private Use Hangars;
- $0.30 per square foot per year for commercial Use Hangars;
- Average lot size is 12,000 square feet.

Table –9 - Taxilane Design Standards (AC 150-5300-13)

Taxilane Design Group	*Taxilane Object Free (TOFA) Design Standards*
I	79'
II	115'



Proposed East Side Hangar Development Details

West Side Hangar Development

As mentioned previously, it is recommended that a West Side development plan be developed as part of a master planning effort. The development of commercial air service will accelerate the growth of the airport and should necessitate the need for larger hangars. The West Side development area is depicted below. Without an updated aviation forecast, it would not be prudent to propose a conceptual hangar layout. Without a conceptual layout plan, it will not be possible to project revenue potential for the West Side.

Potential Revenue - Current and Proposed East Side Improvements

Until the West Side hangar development alternatives are formulated in a master planning effort, the calculation of potential revenue is limited to the current and East Side improvements.

To calculate the potential revenue the airport could generate once the East Side GA Development Plan is totally built, the proposed lease rate was applied to current leases (anticipating leases will eventually expire and the new rate will be applied to the new lease) and to the proposed hangars depicted in the proposed East Side GA Development Plan layout plan provided by the City. It should be noted that the average parcel size at the airport today is approximately 12,000 square feet with some anomalies such as the WAM hangar which is 30,000 square feet. Once the Airport has constructed all of the hangars proposed on the East Side, the annual revenue for all aeronautical leases is estimated in Table 16 below. Assumptions used in the estimate are as follows:

- Five (5) additional conventional hangars
- Five (5) additional 10 bay T-hangars
- Southwest Aviation No Rent situation is rectified

The current Las Cruces International Airport aeronautical lease revenue is estimated to be $141,727. This does not include the tax revenue generated from the current hangars or the estimated tax revenue generated from new hangars. Assuming the Airport was able to implement the proposed lease rate per square foot of $0.20 for Private Use and $0.30 for Commercial Use for all new leases and as leases renew, the airport would realize an increase in annual aeronautical revenue of approximately $147,563 or a 104% increase in aeronautical lease revenue.

The five (5) additional conventional and five (5) additional 10-bay T-hangars depicted in the East Side GA Hangar Development layout plan, once constructed, will increase the annual lease revenue by an additional $24,100. The East Side GA Hangar Development layout plan includes parcels 53 through 62.

The airport currently has seven (7) parcels that are vacant and available for hangar construction; parcels 40A, 41A, 42A, 43B, and 47 - 49. Once constructed, the seven (7) additional hangars are anticipated to increase annual lease revenue by $34,420.

Combine the $147,563 increase in revenue from applying the proposed lease rates, with the $24,100 in additional revenue from the East Side GA Hangar Development, with the $34,420 in additional revenue from new hangars built on vacant parcels and it is estimated that the Total annual aeronautical lease revenue for Las Cruces International Airport will be $347,810 or a 145% increase. This does not include fuel flowage fees that the FBO pays to the airport for selling aviation fuels and property tax.

Table –10 - Potential Total Aeronautical Lease Revenue - Hangar Development

Facility / Parcel / Tenant	COM (C) or PVT (P)	Square Feet	Current Lease Rate	Current Lease Revenue	Proposed Lease Rate	Potential Lease Revenue	% Inc/ Dec
Fuel Farm / A / Francis Avn	C	10,590	$0.15	$388	$0.30	$3,177	719%
Fuel Farm / B / Southwest Avn	C	4,743	$0.15	$711	$0.30	$1,423	100%
Land / A&B / PHI Air Medical	P	400	$0.10	$40	$0.20	$80	100%
Hangar 14 / 1 / Southwest	C	9,853	$0.31	$0	$0.30	$2,956	100%
Apron Space / 2 / Southwest	C	228,681	$0.00	$0	$0.04	$9,147	100%
Hangars 11, 12, 13 / 3 / Southwest	C	262,262	$0.00	$0	$0.04	$10,490	100%
Hangar #15 / 5 / Dept Military	C	9,262	$0.32	$3,013	$0.30	$2,779	-8%
8960 Zia Blvd; Rm L, M & T / 5 / Air Methods	C	1,600	$10.97	$17,552	$15.00	$24,000	37%
Apron space / 5 / Air Methods	C	10,000	$0.03	$250	$0.07	$700	180%
8960 Zia Blvd; Rm C / 5 / Frost Aviation	C	108	$10.00	$1,080	$15.00	$1,620	50%
8960 Zia Blvd; Rm E / 5 / HA Bernal	C	192	$5.00	$960	$15.00	$2,880	200%
8960 Zia Blvd / 5 / JimBobs BBQ	C	1,373	$6.00	$8,238	$15.00	$20,595	150%
8990 Zia Blvd; Office Space / 5 / Francis Aviation	C	1,172	$10.00	$11,720	$15.00	$17,580	50%
Vehicle parking spaces (sp) / Francis Aviation	C	20	$0.02	$84	$11.76	$235	180%
Hangar 40 / Francis Aviation	C	3,600	$3.32	$11,220	$0.60	$2,160	-81%
8990 Zia Blvd; D / 5 / Immortal Data, Inc.	C	60	$16.67	$1,000	$15.00	$900	-10%
8990 Zia Blvd; C / 5 / NMSU	P	203	$11.00	$2,233	$15.00	$3,045	36%
Hangar 16 & 17 / 6 & 7 / Southwest Avn	C	75,500	$0.00	$0	$0.30	$22,650	100%
Apron Associated w/ Hangar 16 & 17 / Southwest	C	49,000	$0.00	$0	$0.04	$1,960	100%
T-Hangars / 200 - 260 / Southwest Aviation	C	88,094	$0.03	$3,259	$0.30	$26,428	711%

Table 10 - Potential Total Aeronautical Lease Revenue (2 of 4)

Facility / Parcel / Tenant	COM (C) or PVT (P)	Square Feet	Current Lease Rate	Current Lease Revenue	Proposed Lease Rate	Potential Lease Revenue	% Inc/ Dec
9400 Zia Blvd; Hangar 8, 9 & 10 / 8W / Aero Newton	C	77,000	$0.09	$7,144	$0.30	$23,100	223%
9300 Zia Blvd; Hangar 11 / 9W / Clarence Ed Mitchell	P	14,410	$0.10	$1,441	$0.20	$2,882	100%
690 Wingspan Dr; Hangar 19 / 10 / Privette	P	13,026	$0.10	$1,302	$0.20	$2,605	100%
670 Wingspan Dr; Hangar 20 / 11 / Privette	P	13,026	$0.10	$1,302	$0.20	$2,605	100%
650 Wingspan Dr; Hangar 21 / 12 / Ron Karp	P	13,047	$0.05	$697	$0.20	$2,609	274%
630 Wingspan Dr; Hangar 22 / 13 / Amador Holding and Leasing	C	10,000	$0.04	$456	$0.30	$3,000	558%
610 Wingspan Dr; Hangar 23 / 14 / EAA 555	P	13,084	$0.06	$889	$0.20	$2,617	194%
8650 Gasoline Alley; Hangar 34 / 15 / WAM	P	30,000	$0.06	$1,923	$0.20	$6,000	212%
730 Wingspan Dr; Hangar 25 / 16 / Larry Frost Blue Mtn	C	10,000	$0.21	$2,158	$0.30	$3,000	39%
720 Wingspan Dr; Hangar 26 / 17 / Southard	C	8,000	$0.09	$761	$0.30	$2,400	215%
710 Leonard Bryan Alley; Hangar 27 / 18 / A. Huelin	P	8,000	$0.10	$800	$0.20	$1,600	100%
700 Wingspan Dr; Hangar 28 / 19 / Cady	P	10,000	$0.09	$991	$0.20	$2,000	102%
740 Leonard Bryan Alley; Hangar 24 / 21 / CJ&DA Frost	C	10,000	$0.10	$1,000	$0.30	$3,000	200%
745 Leonard Bryan Alley; Hangar 29 / 22 / Lynco Flight Svcs	C	10,000	$0.10	$1,089	$0.30	$3,000	175%
735 Leonard Bryan Alley; Hangar 30 / 23 / JSRS Holdings	P	10,000	$0.10	$1,033	$0.20	$2,000	94%
725 Leonard Bryan Alley; Hangar 31 / 24 / Icarus Aero	C	10,000	$0.10	$1,089	$0.30	$3,000	175%
715 Leonard Bryan Alley; Hangar 32 / 25 / JSRS Holdings	P	8,000	$0.11	$904	$0.20	$1,600	77%
705 Leonard Bryan Alley; Hangar 33 / 26 / Melvin H.	P	8,000	$0.09	$730	$0.20	$1,600	119%

Table 10 - Potential Total Aeronautical Lease Revenue (3 of 4)

Facility / Parcel / Tenant	COM (C) or PVT (P)	Square Feet	Current Lease Rate	Current Lease Revenue	Proposed Lease Rate	Potential Lease Revenue	% Inc/ Dec
740 Therapy Alley; Hangar 35 / 27&28 / L. Sisbarro	P	16,000	$0.27	$4,408	$0.20	$3,200	-27%
730 Therapy Alley; Hangar 36 / 29 / Double K Company	P	10,000	$0.09	$984	$0.20	$2,000	103%
710 Therapy Alley; Hangar 37 / 30&31 / LRU CAP	P	20,000	-	$1	-	$1	0%
745 White Lightning; Hangar 38 / 33 / Sam Snow	P	10,000	$0.10	$1,000	$0.20	$2,000	100%
735 White Lightning; Hangar 39 / 34 / Lynco Flight Svc	P	15,000	$0.23	$3,525	$0.20	$3,000	-15%
715 White Lightning; Hangar 41 / 36 / Icarus Aero, LLC	C	10,000	$0.23	$2,386	$0.30	$3,000	26%
705 White Lightning; Hangar 42 / 37 / RACI MGT	P	10,000	$0.22	$2,220	$0.20	$2,000	-10%
695 White Lightning; Hangar 43 / 38 / K&S Kentosh	C	10,000	$0.23	$2,394	$0.30	$3,000	25%
Land / 40A / Construct	P	11,000	-	$0	$0.20	$2,200	100%
Land / 41A / Construct	P	11,000	-	$0	$0.20	$2,200	100%
Land / 42A / Construct	P	11,000	-	$0	$0.20	$2,200	100%
Land / 43B / Construct	P	11,000	-	$0	$0.20	$2,200	100%
700 White Lightning; Hangar 44 / 44A / RACI MGT	P	13,200	$0.20	$2,640	$0.20	$2,640	0%
9500 Zia Blvd; Hangar 2 / 46 / Lynco Electric Co.	C	55,251	$0.21	$11,746	$0.30	$16,575	41%
Aerostar / 47 / Construct	P	42,700	-	$0	$0.20	$8,540	100%
Aerostar / 48 / Construct	P	42,700	-	$0	$0.20	$8,540	100%
Aerostar / 49 / Construct	P	42,700	-	$0	$0.20	$8,540	100%
800 Aerostar; Hangar 1 / 50 / NMSU/PSL	P	74,750	$0.23	$17,566	$0.20	$14,950	-15%
Sunshade 18 - A1 / 51 / VACANT	P	900	-	$0	$75.00 / mo	$900	100%
Sunshade 18 - A2 / 51 / Bill Soules	P	900	$50/mo	$600	$75.00 / mo	$900	50%
Sunshade 18 - A3 / 51 / VACANT	P	900	-	$0	$75.00 / mo	$900	100%
Sunshade 18 - A4 / 51 / Regor Saulsberry	P	900	$50/mo	$600	$75.00/ mo	$900	50%

Table 10 - Potential Total Aeronautical Lease Revenue (4 of 4)

Facility / Parcel / Tenant	COM (C) or PVT (P)	Square Feet	Current Lease Rate	Current Lease Revenue	Proposed Lease Rate	Potential Lease Revenue	% Inc/ Dec
Sunshade 18 - A5 / 51 / VACANT	P	900	-	$0	$75.00 / mo	$900	100%
Sunshade 18 - B1 / 51 / VACANT	P	900	-	$0	$75.00 / mo	$900	100%
Sunshade 18 - B2 / 51 / Everett C. Johnson	P	900	$50/mo	$600	$75.00 / mo	$900	50%
Sunshade 18 - B3 / 51 / James H. Bentley	P	900	$50/mo	$600	$75.00 / mo	$900	50%
Sunshade 18 - B4 / 51 / Bellator Aviation	C	900	$50/mo	$600	$100.00 / mo	$1,200	100%
Sunshade 18 - B5 / 51 / Grant Dyer	P	900	$50/mo	$600	$75.00 / mo	$900	50%
Sunshade 25 - C4 / 51 / VACANT	P	900	-	$0	$75.00 / mo	$900	100%
Sunshade 25 - C5 / 51 / Ovidio Fernandez	P	900	$50/mo	$600	$75.00 / mo	$900	50%
Sunshade 25 - D4 / 51 / Frost Aviation Services	C	900	$50/mo	$600	$100.00 / mo	$1,200	100%
Sunshade 25 - D5 / 51 / Frost Aviation Services	C	900	$50/mo	$600	$100.00 / mo	$1,200	100%
EastSide / 53 / Construct	P	16,500		$0	$0.20	$3,300	100%
EastSide / 54 / Construct	P	11,000		$0	$0.20	$2,200	100%
EastSide / 55 / Construct	P	12,000		$0	$0.20	$2,400	100%
EastSide / 56 / Construct	P	12,000		$0	$0.20	$2,400	100%
EastSide / 57 / Construct	P	12,000		$0	$0.20	$2,400	100%
EastSide / 58 / Construct	P	12,000		$0	$0.20	$2,400	100%
EastSide / 59 / Construct	P	12,000		$0	$0.20	$2,400	100%
EastSide / 60 / Construct	P	11,000		$0	$0.20	$2,200	100%
EastSide / 61 / Construct	P	11,000		$0	$0.20	$2,200	100%
EastSide / 62 / Construct	P	11,000		$0	$0.20	$2,200	100%
Total Current Annual Aeronautical Lease Revenue						$141,727	
Additional Annual Aeronautical Revenue Applying Proposed Lease Rates to Current Leases						$147,563	
Additional Annual Aeronautical Lease Revenue for Parcels 40A, 41A, 42A, 43B, 47 - 49, 53 - 62						$58,520	
Total Annual Aeronautical Lease Revenue & Percent Increase						$347,810	145%

Implementation

Implementation Plan with Recommended Process for Adoption

In broad terms, each project implemented by the Airport must follow specific steps to be properly realized. The recommendations provided within this plan will require coordination with airport users and the City Council. Below are the necessary tasks needed to implement this plan. These tasks include:

- **Propose New Lease Rates**
- **Approve New Leases**
- **Transfer Lessees from Old to New Leases**
- **Acquire GIS Map and Database Training**
- **Implement Lease Review Recommendations**

Proposed New Lease Rates

Chapter 2 of this document outlines the various research methodologies and structured research conducted to determine lease rates with comparable airports. With this research complete, Chapter 3 then provides the Airport with a proposed lease rate schedule. This lease rate schedule was proposed to the Airport Administrator. The proposed rates are the maximum rates the airport should consider at this time.

The Airport Administrator has direct access to airport users as well as knowledge of the airport users tolerance to lease changes. Although lease rate increases are never popular, however, Congress set forth the requirement for airports to be as self-sustaining as possible. This requirement is outlined in Section 511(a)(9) of the Airport and Airway Improvement Act of 1982, Section 112(a) of the Federal Aviation Administration Authorization Act of 1994, and Grant Assurance 24, Fee and Rental Structure.

The Airport Administrator's options when considering the implementation of a new lease rate may include:

- **Set and hold a meeting with the airport committee to discuss rates.** As mentioned previously, the proposed lease rate schedule reflects the maximum rates the airport should consider, evidenced by the research conducted. The Airport's current rates vary significantly. Airport Administration may choose to meet with airport users and the airport committee to determine a rate that is necessary, in the interest of self-sustainability, yet acceptable. The new rates can either be as proposed, or somewhere between the current and proposed.

- **Present the lease rate schedule to City Council for Adoption.** With or without input from the airport users and airport committee, the Airport Administrator will need to present the proposed lease rate schedule to the City Council for Adoption. The methodology and research conducted should be shared with the City Council with a final recommendation from the Airport Administrator. The City Council would then adopt the lease rate schedule for the airport's use.

Approve New Leases

Chapter 4 of this document provides the Airport with a line by line review of each lease currently in force. Over 50 leases were reviewed and for each, 25 lease elements were analyzed. it was discovered that many of the leases were missing important articles. Examples of the missing articles include environmental, discrimination and security. These are important elements to include in the lease. As a result, a draft lease agreement was formulated. This draft lease is provided as Exhibit B of this document. It is recommended that the Airport Administrator review the draft lease to affirm it will meet the needs of the airport. Following his review, it is then recommended that the lease is sent to the City's attorney for review and approval, as to form. Once approved, the Airport Administrator will have a standard lease template for use with new lessees.

Transfer Lessees from Old to New Leases

With the knowledge that many leases are missing important articles, It should be a goal for Airport Administration to transfer lessees from the old lease to the newly approved lease as soon as possible. Airport Administration has many options when working to reach this goal. These options include:

- Seek volunteers to transfer their current lease to the new lease.
- As leases end, write a new lease with the new lease format.
- All new leases are written with the new lease format.

Voluntary Transfer - The Airport Administrator should reach out to the current leaseholders. Many airports have great success in explaining how a lease review was conducted, that elements were missing, and that a new lease was reviewed by the City Attorney. The Airport could negotiate the new terms of the lease with the leaseholder. There will be many leaseholders that would benefit from a new lease. Benefits may include a new lease term and a lease rate amount that is favorable to them. Others may be willing to pay a new lease rate in exchange for a new lease term that begins on the transfer date. It is anticipated that the airport will find some participation in a voluntary transfer to the new lease. It is recommended that administrative processing fees be waived by the Airport for voluntary transfers. There will be others that simply do not want to voluntarily transfer from their current lease to the new. Although not preferred, it is okay and these leaseholders will be transferred to the new lease when they renew.

Lease Term End, Default or Termination - As the lease term comes to an end, the Airport should prepare the Leaseholder for a new lease. A new lease will be issued under the new lease format and with a new lease rate. There will also be times when the lessee is in default of the conditions of the lease. If the default goes uncured, the Airport should terminate the lease and issue a new lease under the new lease format and with a new lease rate. Terminated leaseholders should be given special consideration. The conditions associated with the termination may warrant an action that includes not issuing a lease. This should be left to the Airport Administrator and the processes he has in place however, if the lease is terminated, and the airport decides to issue a new lease, it is recommended that the new lease format is utilized along with a new lease rate.

GIS Map and Database Training for City Property Manager

Chapter 4 of this document lays out the process used to organize the airports current lease information. A geographic information system (GIS) was used to provide the Airport with the ability to capture and analyze spatial and geographic lease data. ESRI, was utilized in the organization and presentation of the LRU lease information. This computer-based tool will allow Las Cruces City staff, in responsible charge of updating LRU leases, to create interactive queries, store and edit spatial and non-spatial data, and visually share the results of these operations by presenting them as maps. The consolidated leasing data provided in the LRU Lease Matrix, was utilized to generate the online map depiction which is a graphical overview of the location of each lease. As the user interfaces with the online map, they will access critical lease information such as:

- Lease Identification
  - » Hangar and Space based on the Airport Layout Plan
  - » Parcel # based on the parcel lease maps
- Leaseholder
- Annual rent
- Annual tax
- Area in Square feet
- Location Address
- Lease Expiration

In addition, the user can access a hyperlink to the most current lease and any other information the City would like to have available. In essence, the interface information can be formatted any way the City of Las Cruces would like. Training for City staff will be conducted. The Airport will need to determine which City staff will attend the online training. Training will include interface use and updating data such as importing a new lease.

Implement Lease Review Recommendations

The lease review conducted in Chapter 4 produced numerous findings and associated recommendations. Table 6 outlines the recommendations as well as provides the City with a proposed responsible party who will work on resolving the issues. The Airport will be in responsible charge of resolving the majority of the findings, however, that Airport should consider assistance with the following as they are complex:

- Review options to relieve the City from obligations associated with the SWA Lease.
- Review the following Airport Plans to affirm consistency and revise as needed:
  - » Airport Certification Manual
  - » Airport Security Plan
  - » Airport Emergency Plan
  - » Airport Rules and Regulations
  - » Airport Minimum Standards

Appendix

Exhibit A - Sample Lease

Land Lease
City of Las Cruces, New Mexico, International Airport
Lessee Name, LESSEE

WHEREAS, the City of Las Cruces ("City"), a Municipal Corporation of the State of New Mexico, is the owner of certain real properties known collectively as the Las Cruces International Airport ("Airport") in Dona Ana County, New Mexico; and,

WHEREAS, the City maintains designated areas on the Airport specifically to lease said areas to aviation-related businesses and individuals to develop the Airport, its infrastructure, and aviation business for the benefit of the citizens of the City; and

WHEREAS, LESSEE ("Lessee") desires to lease a particular parcel of that real property on the Airport for the purpose of furthering the Lessee's aviation interests; and

WHEREAS, the City is willing to Lease the Parcel desired to the Lessee, and the parties desire to execute a written Lease containing the terms and conditions of their Lease.

NOW, THEREFORE, this lease is made and entered into this 1st day of June, 2020, by and between the City and Lessee. The City and Lessee in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the following is agreed:

1. The Leased Area Described. The City hereby Leases to the Lessee, a 11,000 square foot parcel of real Property located in the NW 1/4 of Section 26, T23S., R.1W., N.M.P.M. of the U.S.G.L.O. Surveys, within the City Limits of Las Cruces in the County of Dona Ana, State of New Mexico, described as Parcel XX on the Plat Showing Lease Property and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, together with an easement for ingress and egress to the property (hereinafter "Parcel") by the Lessee.

2. Terms.

a. Lease Term. The term of this Lease shall be thirty (30) years (hereinafter "Lease Term") commencing on the Commencement Date noted above and terminating on the 31st day of May, 2050.

b. Subsequent Lease Term. At the conclusion of the Lease Term, the Lessee shall have the right to enter into two additional ten-year terms *AND SHALL NOTIFY THE CITY, IN WRITING AND 90 DAYS IN ADVANCE OF THE END OF THE CURRENT LEASE TERM, OF THEIR DESIRE TO EXTEND THE LEASE. THE CITY SHALL APPLY THE land lease rate in effect at the TIME OF THE EXTENSION* of the ten-year terms. Should the Lessee elect to not enter into a new agreement, the provisions of paragraph 7.f.(2) shall apply.

3. Fees and Charges. Lessee shall pay the following fees and charges:

a. Closing and Processing Fee. Lessee shall pay a one-time closing and processing fee of Five Hundred Dollars and no cents ($500.00).

b. Rent. Beginning on the Commencement Date, the Lessee shall pay the City a fixed annual rental payment ("Rent"). The amount of the Rent shall be twenty-one cents ($0.21) per square foot per year for 11,000 square feet, which equals Two thousand three hundred and ten dollars and zero cents ($2,310.00) for the Parcel per year for the first five years of the Initial Lease Term.

c. Rent Adjustments. The rent shall be adjusted on the fifth, tenth, fifteenth, twentieth and twenty-fifth anniversary of the Commencement Date. The adjustment shall be based on the increase or decrease in the cumulative Average Annual U.S. Consumer Price Index, or its successor report issued by the Federal Government, over the preceding five (5) calendar years of reporting. The adjusted Rent payment shall be due on the next payment date. Should the lessee remain in possession of the Parcel as a hold-over Lessee, the rent shall be adjusted to the then current Fair Market Value of the land and building then in effect after the initial lease term and the two ten-year renewals.

4. Payments Due.

a. Due in Annually. In addition to those payment dates specified above, all rent payments shall be due and payable in advance beginning with the first payment due before the Initial Partial Lease Term followed by the second payment due before the Commencement Date. All subsequent payments shall be due on the Commencement Date Anniversary each year thereafter and continuing regularly and annually without notice from the City thereafter during the Lease Term. However, the City may elect to invoice payment notices.

b. Late Fee Due. On any annual rental payment made 10 days after the payment due date, Lessee shall in addition pay a late charge of ten percent (10%) of the annual rent for each month or part thereof that the payment is late.

5. No Refunds. Lessees may relinquish this Lease to the City, however the Lessee shall not be entitled to a refund of any fees of any kind paid.

6. Insurance Requirements.

a. General Liability. Lessee shall maintain general liability insurance insuring such claims. This insurance shall name the City of Las Cruces (City) as an additional insured. The insurance shall have a minimum per occurrence limit of $1,000,000 or as required to meet the mandatory requirements of the New Mexico Tort Claims Act or its successors in law, whichever is greater.

b. Property Insurance. Lessee shall maintain property insurance covering the improvements to the Parcel and the contents thereof. Such insurance shall be a property insurance policy with the broadest cause of loss endorsement including vandalism and malicious mischief. The insurance shall be on a replacement cost basis and shall name the City of Las Cruces as an additional insured, as its interests may appear.

c. Proof of Insurance. Such insurance shall be with a licensed and authorized company to do business in the State of New Mexico. The lessee shall furnish annually to the City on the rent payment due date of this Lease, a certificate or other evidence and proof of maintenance of the above required insurances. The certificate of insurance shall provide the City of Las Cruces with a minimum 60 days notice of cancellation or renewal of the insurance policy. Lessee shall provide the City with notice of any changes thereof and furnish to the City evidence of acquirement of a substitute therefore and payment of premium thereof. If the Lessee shall fail to maintain such insurance coverage, then the City may obtain same and add the cost of such insurance to the next due lease payment. If the City does so, it may charge interest thereon at the rate of 15% per annum from the time of payment, which shall be added to the rental becoming due and shall be collected as an additional fee.

d. Self Insurance. Lessee may self-insure by filing with the City a letter of credit in the amounts listed above or other promissory or escrowed monetary instrument.

e. Other Insurance. Lessee shall maintain all insurance required by the City for construction projects and/or the operation of a Specialized Aviation Service Operator *WHICH SHALL INCLUDE WORKERS COMPENSATION*.

7. Quiet Enjoyment. The Lessee, upon payment of the required fees and rents, and the faithful performance of such covenants, agreements and conditions required by law, or this agreement, shall and may, peaceably and quietly have, enjoy those portions of the Airport authorized for their use. Such use shall be free from molestation, eviction or disturbance by the City or any person claiming by, through, or under it, subject to the terms and conditions of the law or agreement entered into. Such quiet enjoyment is conditional upon Lessee adhering to the following conditions:

a. Permitted Uses. Lessee shall have use of the Parcel only for construction of a hangar of at least 3,600 square feet for the *STORAGE OF AIRCRAFT FOR PERSONAL USE*, as well as for the construction, maintenance and operation of said hangar in connection with these uses, in so far as it does not disturb the peaceful enjoyment of other tenants and conforms to airport permitted use under the current or any revised guidelines, standards, regulations, codes, and policies.

b. Additional Uses Require Permission. The Lessee shall not use or permit the use of the Parcel, or improvements thereto, for any purpose or use other than those expressly and specifically authorized by this Lease. Additional uses may be hereafter authorized in writing by the City, but only upon such terms and conditions as may be set out in such authorization.

c. Commercial Use of Parcel and Future Improvements. Lessee agrees to obtain permission from the City prior to commencing or permitting any commercial use of the Parcel not specifically listed, or additional improvements thereto, in accordance with the current Airport policies, code and/or standards. In the event that this Parcel, or improvements thereto is used for business purposes, the Lessee shall at all times maintain and pay any required permits, licenses, insurances, and taxes as required by law. *IN ADDITION, THE LESSEE SHALL PAY RENT AT THE COMMERCIAL RATE AS ADOPTED BY THE CITY COUNCIL.*

____
(Lessee's Initials)

d. Construction and Ownership of Improvements.

(1) Title to Improvements. During the Lease Term, title to all improvements existing or constructed upon the Parcel by Lessee are and shall be vested in Lessee.

(2) Proposed Improvements. The Lessee is required to construct improvements on the Parcel in accordance with Exhibit "B", Design Standards for Improvements attached hereto and incorporated herein by this reference. Lessee shall begin such process with no less than submission of a building permit application to the City, not later that six (6) months following the Commencement Date of this Lease, that date being June 1, 2020.

(3) City Codes Apply. Lessee must meet City standards as specified in the Las Cruces Municipal Code for all design, planning, and construction activities, including development or extension of infrastructure. In addition, Lessee shall pave all access from the Parcel, or improvements thereto, to taxiways and roads, and such construction shall match the existing grade, *AND SHALL MEET THE DESIGN STANDARDS SET FORTH IN FAA ADVISORY CIRCULAR 150/5300-13A*.

(4) Septic Systems. Lessee shall be allowed to use and maintain an easement on common City Property adjacent to the building to construct an individual on-site septic system, if necessary and as required to meet New Mexico Environment Department Regulations. The location and dimensions of this easement and constructed improvement shall be shown on the site plan submittal. In the event that the City provides a waste water disposal service to the Airport at such time in the future, Lessee shall be required to cease use of the individual on-site septic system and hook up to the City waste water system for sewage disposal, in accordance with the Las Cruces Municipal Code.

(5) Time Restrictions. Construction of a minimum 3,600 square foot Hangar in accordance with Exhibit "B", Design Standards for Improvements, must be completed on or before the second anniversary date of the Commencement Date of the Lease, that date being June 1, 2020.

(6) Additional Improvements Constructed During the Initial Lease Term or Extended Term. *FOLLOWING THE SUBMISSION AND APPROVAL OF A BUILDING PERMIT APPLICATION WITH THE CITY,* Lessee may construct additional improvements or modifications at a later date, adhering to the requirements of those codes and regulations then in effect on the Airport. However, in all cases, construction must be completed within eighteen (18) months of approval by the City.

e. Condition, Maintenance and Repairs of Leasehold and Improvements Thereto.

(1) Lessee Shall Maintain. Lessee shall maintain, at its own expense, the Parcel and any improvements, fixtures or equipment on the Parcel in a safe, sanitary, orderly, and sightly manner, in accordance with all applicable codes and regulations. Lessee shall also maintain the cleanliness of all paved area on the Parcel, and shall be responsible for mowing all grass, watering lawns, controlling weeds, and maintaining shrubs and trees on the Parcel.

(2) Erosion Control. Where the slope, terrain, or soil disturbance is such that active soil or wind erosion may be present, Lessee must carry out erosion control practices to mitigate the erosion. These practices include, but are not limited to, drainage facilities constructed and maintained by Lessee, landscaping, and/or seeding and maintaining of vegetation.

(3) City's Right to Correct Deficiencies. The City has the right to require reasonable maintenance and repairs to the Parcel or the improvements thereon by Lessee as required by this lease. The City shall provide written notice with 30 days for the Lessee to resolve any required maintenance or repairs. Should the Lessee fail to make the required corrections, the City may consider the Lessee to be in default. The City shall have the right to enter the Parcel, or improvements thereto, correct the deficiency, and recover the cost of activities from Lessee.

(4) Repair of Damage. If the Parcel, or improvements thereto is partially *DAMAGED*, destroyed or damaged by fire or other casualty, then Lessee shall repair and restore the Parcel, or improvements thereto as soon as it is reasonable and practicable. Such repair or restoration shall commence not later than six (6) months after such damage, and be completed within six (6) months thereafter. Such restoration shall be to substantially the same condition in which the Parcel or improvements thereto was before such damage. In the event that Lessee has not commenced repairs within six (6) months from the date of said damage and thereafter completed such repairs within six (6) months, this Lease may be immediately terminated by the City. Such termination shall be made effective by serving notice upon the Lessee, and effective on the date of receipt of such notice by the Lessee.

(5) Destruction of the Parcel or Improvements Thereto. In the event the Parcel, or improvements thereto is completely destroyed or so badly damaged that repairs cannot be commenced within six (6) months and completed within six (6) months thereafter, then this Lease may be terminated. Such termination shall be effective as of the date of the occurrence of the damage or destruction, and made effective by either party hereto by serving written notice upon the other.

f. Removal of Improvements.

(1) When Requested by Lessee. If at any time during the Lease Term, when all Rent then due and owing has been fully paid and Lessee is not in default under this Lease, Lessee may request to remove any or all improvements. Lessee shall give forty-five (45) days advance written notice of its intent to remove the improvements to the City, which shall not unreasonably withhold consent. When removing improvements, the Lessee shall restore the Parcel to its previously existing condition, including filling excavations, returning the surface to grade, and leaving the Parcel safe and free from all debris and hazards.

(2) At Expiration or Termination of Lease. At the expiration or termination of this Lease, any or all buildings and other permanent improvements to the Parcel will, at the direction and sole discretion of the City, either remain intact on the Parcel and become the property of the City, or be removed by the Lessee. Should the City elect for the Lessee to remove any or all improvements, the Lessee shall do so within forty-five (45) days. When removing improvements, the Lessee shall restore the Parcel to its previously existing condition, including filling excavations, returning the surface to grade, and leaving the Parcel safe and free from all debris and hazards. All improvements not removed as aforesaid shall, without compensation to or by City, become City's property free and clear of all liability and expenses. Lessee shall thereafter be released from any and all liability, cost or expense associated with the Parcel, including the improvements thereon, or associated with termination of this Lease. However, if Lessee fails to promptly remove said improvements if and as required by the city, the City may assess and bill Lessee based on receipt of an itemized statement of costs of removal and restoration of the Parcel.

g. Installation of Utilities. City warrants that all utilities, except for wastewater collection and treatment service, which are necessary for the conduct of Lessee's activities are available at the Airport. However, Lessee shall obtain and install underground at its own expense any necessary electrical, gas, water, sewer and septic tank, and any other utility service, subject to the Development Guidelines, rules and regulations or building codes of the State of New Mexico and the City of Las Cruces.

h. Hazardous Waste. No toxic materials or hazardous waste subject to regulation by the EPA or NM Environment Department shall be stored or disposed of on the Airport without the written permission of the Airport Manager. *IF THE LESSEE OPTS TO SELF FUEL, THE LESSEE SHALL BE SUBJECT TO REGULATION BY THE EPA OR NM ENVIRONMENTAL DEPARTMENT AND SHALL FOLLOW THE LAS CRUCES INTERNATIONAL AIRPORT SELF FUELING PROCEDURES.*

i. Environmental Assessment and Remediation. At the expiration or termination of this Lease, the City may require that Lessee furnish to the City an Environmental Assessment Report on the place of business, conducted in accordance with the laws, codes and regulations in effect at that time. The costs of remediation, if any should be required by law, shall be the responsibility of the Lessee.

j. Signs. Lessee must obtain City consent to paint or construct any exterior signs; including approval for a City Sign Permit. Lessee further agrees that upon vacating the Facilities, Lessee will restore exterior signs to same condition as received at time of occupancy. The Lessee shall be responsible for all cost and expense of maintaining its signs as permitted hereby. Lessee shall not erect, paint or maintain any temporary signs or advertising displays, such as banners, balloons, flashing sign boards, and/or any similar visual devices whatsoever.

k. ADD OTHER ENVIRONMENTAL LANGUAGE. EXAMPLE – REMAIN IN COMPLIANCE WITH STATE PERMITTING REQUIREMENTS FOR THEIR SITE SUCH AS SPCC, FUEL FARMS, ETC.

l. AIRPORT RULES AND REGULATIONS AND MINIMUM STANDARDS FOR LAS CRUCES INTERNATIONAL AIRPORT ARE ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

8. Obtain Permits, Pay Taxes, and Obey Laws.

a. Lessee shall pay when due all valid taxes, special assessments, excises, license fees and permit fees of whatever nature applicable to its operation or levied or assessed against the Airport, or improvements thereto. Lessee shall take out and keep current all licenses, permits, and certificates (City, County, State and Federal) required for the conduct of its activities at and upon the Airport, and further agrees not to permit any of said taxes, excise or license fees to knowingly become delinquent.

b. Lessee shall, at its own expense, fully comply with all laws, regulations, rules, ordinances, and requirements of the applicable City, County, State and Federal authorities and agencies which affect this Lease, the land granted by this Lease, any improvements upon the Leasehold, and/or operations thereon. Such compliance shall be with any laws, regulations, rules, ordinances or requirements which have been or may be enacted or promulgated during the effective period of this Lease.

c. Lessee recognizes the authority of the City Council and staff to take those necessary and legal actions required to safeguard any person, aircraft, equipment or property at the Airport. Lessee agrees to abide by any suspension, restriction, or designation of specific procedures applicable to any or all Airport operations whenever such actions are established by such authorities.

9. Assignment and Sublease.

a. City Consent Required. Lessee shall not assign or sublease the rights granted by this Lease, nor the Leased parcel, nor the improvements constructed or occupied in accordance with this Lease, without the prior written consent of the City, which consent shall not be unreasonably withheld. All approved assignments or subleases shall be in accordance with the Minimum Standards for Commercial Airport Aeronautical Activity and Service Providers at the Las Cruces International Airport. If the Lease is assigned or subleased, all clauses herein binding the parties hereto are also binding on any and all successors and/or assigns, unless specifically amended by the City as a condition of consent.

b. Assignment Relieves Lessee. Upon a valid assignment of this Lease, but not upon a sublease, the Lessee shall be relieved of all obligations and liabilities arising from this Lease effective as of the date of the assignment.

10. Default and Termination.

a. Definition. If the City determines the Lessee is in violation of any of the terms, conditions or covenants of this Lease, or the Lessee fails to pay, on time, any fees or charges due, the condition shall be considered a default of the Lease.

b. Written Notice Required. The City shall provide the Lessee with written notice of any determination of default.

c. Compliance Time. The Lessee shall then have ten (10) days to cure or remedy said default or otherwise comply with any demand contained within such written notice which cures or remedies the default.

d. Failure to Comply. If the Lessee fails to correct the default as specified by the City's notice within the specified period, or if the Lessee receives a third notice of default within any 18-consecutive month period, the City may, at its option, terminate this Lease immediately, or at any time thereafter. Such termination may be made without further notice or demand. Upon such termination, without further notice or demand, the City may enter upon and into the Leased area, or improvements thereto, or any part thereof, and take absolute possession of the same fully and absolutely, and such re-entry shall not be judged trespass. In addition, the City may also require all associated and permitted operations to cease and be removed from the Airport.

e. Lease Remains Binding. All provisions of this Lease remain binding upon the Lessee while the Lessee is in default, and if this Lease is terminated due to default.

f. **Termination by Lessee.** The Lessee may terminate the Lease with or without cause on sixty (60) days written notice to the City.

11. Airport Development. The City reserves the right to further develop the Airport as it sees fit, without unreasonable interference or hindrance from Lessee.

a. Eminent Domain Rights. If the physical development of the Airport requires the relocation, removal or alteration of Lessee's business from the Airport, the City has the right to condemn the business area wholly under the City's eminent domain rights.

b. Notice of Total Taking. In the case of a total taking by the City of the areas authorized for use by this Lease, the City will provide a minimum of ninety (90) days notice of such impending action. In the event of such a total taking, Lessee's obligation to pay rent and other charges shall terminate on the date of the taking.

c. Actions in the Event of Total Taking. In the case of a total taking, both parties hereto agree that the value of this Lease shall be declared to be zero dollars ($0.00). The value of the Building will be determined by an independent appraisal at Fair Market Value. The Lessee will have the option of receiving the monetary FMV of the building or having a similar building constructed on another parcel. The second option will require entering into a new lease agreement at the land lease rate at the time of the taking of the previous parcel.

12. Amendment. This Lease shall not be altered, changed or amended except by instrument in writing executed by the City and Lessee.

13. Severability. If any clause or provision herein shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect.

*14. **SUBORDINATION.** THIS LEASE SHALL BE SUBORDINATE TO THE PROVISIONS OF ANY EXISTING OR FUTURE AGREEMENT BETWEEN THE CITY AND THE UNITED STATES RELATIVE TO THE OPERATION AND MAINTENANCE OF THE AIRPORT. THIS SUBORDINATION INCLUDES, BUT IS NOT LIMITED TO THE FOLLOWING:*

*a. **WHEN REQUIRED TO OBTAIN FEDERAL FUNDING.** CONDITIONS PRECEDENT TO THE EXPENDITURE OF FEDERAL FUNDS FOR THE DEVELOPMENT OF THE AIRPORT.*

***b.** **DURING TIME OF WAR OR NATIONAL EMERGENCY.** THE CITY MAY TRANSFER OF THE LANDING AREA, OR ANY PART THEREOF, TO THE UNITED STATES FOR MILITARY OR NAVAL USE DURING TIME OF WAR OR NATIONAL EMERGENCY.*

*15. **DISCRIMINATION.** LESSEE HEREBY COVENENTS NOT TO DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYEMENT IN THE PERFORMANCE OF THIS AGREEMENT, WITH RESPECT TO HIS HIRE, TENURE, TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT, OR ANY MATTER DIRECTLY OR INDIRECTLY ELATED TO EMPLOYMENT, BECAUSE OF HIS RACE, COLOR, RELIGION, NATIONAL ORIGIN OR ANCESTRY, OR BECAUSE OF HIS AGE, EXCEPT WHERE BASED ON A BONA FIDE OCCUPATIONAL QUALIFICATION, AND TO REQUIRE A SIMILAR COVENANT ON THE PART OF ANY SUBCONTRACTOR EMPLOYED IN THE PERFORMANCE OF THE AGREEMENT OR SUBLESSES HEREUNDER, SHALL BE EXCLUDED FROM PARTICIPATION, DENIED BENEFITS OF, OR BE OTHERWISE SUBJECTED TO DISCRIMINIATION IN THE USE OF SAID FACILITIES.*

*16. **FORCE MAJEURE.** NEITHER THE CITY NOR LESSEE SHALL BE DEEMED TO BE IN BREACH OF THIS LEASE BY REASON OF FAILURE TO PERFORM ANY OF ITS OBLIGATIONS HEREUNDER IF, WHILE AND TO THE EXTENT THAT SUCH FAILURE IS DUE TO EMBARGOS, STRIKES, SHORTAGES OR MATERIALS, ACTS OF GOD, ACTS OF A PUBLIC ENEMY, ACTS OF SUPERIOR GOVERNMENT AUTHORITY, REBELLION OR ANY OTHER CONDITION OR CIRCUMSTANCE, WHICH IS BEYOND THE CONTROL OF LESSEE OR THE CITY OR WHICH COULD NOT BE PREVENTED OR REMEDIED BY REASONABLE EFFORT AND AT REASONABLE EXPENSE.*

17. Right of Aircraft Operations. The City hereby reserves a right of aircraft ~~ground~~ operations on and above the surface of the Airport, when conducted in accordance with the Federal Aviation Regulations, together with the right to cause such noise, odors and other disturbances as may be inherent in such operation.

18. Reserved Water, Gas, Oil, and Mineral Rights. The City reserves, subject to the BLM Patent all water, gas, oil, hydrocarbon and mineral rights in and under the surface of the Airport. However, the City shall not conduct any operations on the surface of the Airport for the exploration, development or recovery of the rights and substances reserved which would unreasonably interfere with the Lessee's use of the Airport.

19. Easements and Right of Way.

a. Existing Easements. This Lease is subject to all existing rights-of-way or easements of record and all other Leases granted by the City to other parties at the Airport, and to those retained by the City.

b. City's Right to Use Existing Easements. The City retains the right to locate utilities as necessary on existing easements on the Airport.

c. Easements to be Accessible. Lessee shall leave any utility easements upon the Airport open and unobstructed. A perpetual easement and right-of-way for the construction, maintenance, removal and replacement of any and all utility lines, manholes, and related facilities through, over, across and under the Airport is hereby reserved for the benefit of the City.

d. City's Right to Establish Easements. The City may at any time and from time to time relocate, in whole or in part, any easement serving the Airport, provided that such relocation does not diminish or permanently interrupt the rights or operations of the Lessee nor increase the costs to be incurred by Lessee. The City may temporarily interrupt operations with respect to such Easements during the period of relocation, and the City agrees to restore the Airport to a condition substantially similar to the condition existing prior to any alterations thereto by the City.

e. City's Right to Protect Aerial Approaches. The City reserves the right to take such action as may be reasonably necessary to establish and protect aerial approaches to the Airport against obstruction, including the right to prevent persons from erecting or permitting to be erected any improvements on the Airport which would constitute a hazard to aircraft.

20. Right to Perform Own Aircraft Servicing and Maintenance. It is clearly understood by the Lessee that no rights or privileges have been granted which would prevent any legal person from performing any services that it may choose to perform on its own aircraft at locations reserved for such purposes. All such servicing, maintenance and repair shall be conducted in accordance with Federal Aviation Regulations and applicable law. *THIS DOES NOT INCLUDE THE HIRING OF AN FAA CERTIFIED MECHANIC UNLESS SAID MECHANIC HAS A COMMERCIAL LICENSE WITH THE CITY TO CONDUCT SERVICING, MAINTENANCE AND REPAIRS OF AIRCRAFT.*

21. Security and Safety. Lessee will participate in the City's security and safety programs as they relate to the Airport. *THE CITY RESERVES THE RIGHT TO AMEND THESE SECURITY AND SAFETY PROGRAMS AND THE LESSEE SHALL ABIDE TO THE PROGRAM CHANGES.*

22. Airport Access. Subject to the rules and regulations established by the City, the Lessee has the right of free access, ingress to and egress from those parts of the Airport authorized for the Lessee's use by this Lease. Such access also applies to the Lessee's employees, agents, patrons and invitees, its suppliers of materials and furnishings of services and its equipment, vehicles, and machinery. The City may, at any time, temporarily or permanently close or consent to the closing of any roadway or other right-of-way for such access, ingress, and any other area at the Airport or in its environs presently or hereafter used as such. In such a case, a means of access, ingress and egress reasonably equivalent to that formerly provided may be substituted and concurrently made available subject to the Airports Security and Operational needs. *THE LESSEE AND LESSEE'S EMPLOYEES, AGENTS, PATRON AND INVITEES, ITS SUPPLIERS OF MATERIAL AND FURNISHING OF SERVICES AND ITS EQUIPMENT, VEHICLES AND MACHINERY SHALL RECEIVE ANNUAL DRIVERS TRAINING AS REQUIRED BY 14 CFR PART 139 AND FAA AC 150/5210-20 (or current version).*

23. City's Right to Enter. The City, its officers, agents and representatives, subject to any security regulations imposed by any governmental authority, shall have the right to enter all parts of the premises at all reasonable hours to inspect the premises when reasonably required and as it may deem necessary or desirable.

24. Operational Reports. Lessee agrees to submit to the City, upon request by the City any report or reports or information regarding Lessee's operations at the Airport. The City agrees to receive from Lessee, upon request by Lessee, any reports the Lessee deems appropriate for the purpose of keeping the City informed of any operational problems and of any suggested improvements at the Airport.

25. Automobiles and Other Vehicles. The City reserves the exclusive right to control, by security gate, uniform driving regulations, or otherwise, all vehicular ingress and egress to, and operations on, the aircraft operating areas including but not limited to all taxiways, runways and ramp areas on the Airport. *DRIVERS MUST ABIDE BY THE DRIVERS TRAINING REQUIREMENTS SET FORTH IN THE AIRPORT CERTIFICATION MANUAL, AS AMENDED.*

26. Attorney's Fees. City and Lessee agree that if either is found by a court to have breached this Lease, reasonable attorney's fees and the cost of litigation may be recovered from the defaulting party.

27. Notices. Whenever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered whether actually received or not, when deposited in the United States mail, as Certified Mail, postage prepaid, return receipt requested, and addressed to the parties at their respective addresses, as set forth below:

Airport Manager
City of Las Cruces
P.O. Box 20000
Las Cruces, New Mexico 88004
(575) 541-2471

LESSEE INFORMATION

28. Exhibit(s). The following exhibit(s) is(are) attached and made part of this Lease:

A. EXHIBIT "A": LEGAL DESCRIPTION OF PARCEL

B. EXHIBIT "B": DESIGN STANDARDS FOR IMPROVEMENTS

C. EXHIBIT "C": MINIMUM STANDARDS FOR COMMERCIAL AIRPORT AERONAUTICAL ACTIVITY AND SERVICE PROVIDERS

D. EXHIBIT "D": GENERAL CONDITIONS

IN WITNESS WHEREOF, City and Tenant have executed the Lease to be in effect as of the date first written above.

CITY OF LAS CRUCES, LESSOR

____
City Manager *(Date)*

LESSEES

____
LESSEE, Tenant *(Date)*

____
City Clerk

(SEAL)

APPROVED AS TO FORM:

____
City Attorney

Exhibit B - General Conditions

These General Conditions shall be incorporated into this Lease as an attachment and by reference. General Conditions allow the Sponsor to incorporate minimum performance requirements, and the rights and responsibilities for airport lessee's.

Oftentimes a Sponsor may incorporate General Conditions into a lease by reference rather than adding all of the Conditions to the lease itself. Following is a sample set of General Conditions that the City may want to incorporate as part of each lease.

GC-I. USE OF AIRPORT
The CITY grants LESSEE, in common with others authorized by the CITY, use of the public facilities of the Airport, including but not limited to, the public areas of the landing field, roadways, runways, aprons, taxiway/lanes, approach lights, runway lights, beacons, radio navigation aids, and all other conveniences for landing, taking off and safe-flying at the Airport.

LESSEE shall not post any signs that include advertising without specific written approval of the CITY. However, the LESSEE may post signs identifying the hangar number and owner/occupant provided that such signs are affixed to the building.

LESSEE shall use the facilities on the Airport only for their designated purposes unless authorized, in writing, by the CITY for other purposes.

No partner, affiliate, LESSEE, subLESSEE, employee or officer of LESSEE shall use the premises or any rights or privileges acquired under the terms of this lease, or knowingly allow such use in a manner which would violate criminal law, whether State or Federal, or be in violation of New Mexico State Statutes annotated.

The CITY, acting in its proprietary capacity, may establish reasonable rules and regulations for noise control at the Airport. LESSEE agrees to comply with any such rules and regulations.

LESSEE agrees to occupy and use the leased premises in a careful, safe and orderly manner so as not to interfere in any way with the maintenance or operation of the Airport or any of its structures or facilities, as determined by the CITY. The CITY shall have the right to enter the premises at any time to examine them. The CITY shall coordinate routine inspections with LESSEE.

The AIRPORT may establish any other type of commercial operation at the Airport without interference by the LESSEE.

The LESSEE shall post, in a conspicuous location, its schedule of charges, when commercial activity is conducted. LESSEE shall also file with the CITY its schedule of charges and changes in such charges.

LESSEE shall conduct its operations in a business-like and prudent manner.

LESSEE shall have the right to manage and collect fees from tie downs for long- and short- term storage of general aviation aircraft and to operate the leased property as defined in the Description of Premises.

1.11. Any person(s) using the Airport as a LESSEE or subLESSEE shall control its conduct and demeanor as to not cause, or allow to be caused, any interference in any way with any other LESSEEs, subLESSEEs or general public use of the Airport.

1.12. LESSEE shall report to the CITY any incidents that occur at the AIRPORT involving aircraft, general public, vehicles, vendors, etc. that could result in any delay in access or service to the AIRPORT users, negative publicity for the AIRPORT or the CITY, the impression or possible interpretation of increased liability, or any other situation that could be of concern to the CITY.

1.13. LESSEE shall perform inspections of personal fuel systems in accordance with the CITY, Airport Fueling Manual dated (date here) and/or any future versions of this manual.

1.14. If an unsafe condition or hazard is found or thought to exist, the LESSEE shall immediately notify the CITY.

1.15. LESSEE shall advise the CITY of non-compliance with applicable Airport rules and regulations.

1.16. LESSEE shall advise the CITY of observed incidents or actions that may require for the handling, policing, protection and safeguarding of the public at the AIRPORT.

1.17. LESSEE shall provide information to the general public when requested.

1.18. LESSEE shall regulate their personal vehicular traffic at the AIRPORT in a safe manner.

1.19. LESSEE shall not utilize leased property as a residence to include sleeping overnight in hangars, outbuildings or on the premises.

GC-II. MAINTENANCE OF AIRPORT

2.01. The CITY shall be responsible for the maintenance and repair of the following public facilities consistent with flight safety: Runways, CITY built taxiways, aircraft parking aprons, access roads, automobile parking areas, fences and runway safety areas that were constructed by CITY or built to a standard agreed to by the CITY. The CITY's responsibilities shall include plowing snow, mowing of the safety areas and fertilizing grass, and repairing asphalt and turf surfaces up to but not including areas leased to the LESSEE. Snow removal and mowing shall be done in accordance with the annual plans for the airport.

2.02. LESSEE shall park aircraft and vehicles only on the leased premises (or upon premises established by CITY for such purposes), clear of public taxiways or in designated parking areas for such vehicles.

2.03. CITY owned facilities leased to the LESSEE shall be used in accordance with the intended use described in the associated lease. The LESSEE has the right to collect fees from the intended activity. Operating and utility fees including heat and electricity are at the expense of the LESSEE. Structural repairs including the roof, furnace, water and sewer are at the expense of the CITY.

2.04. The CITY will remove snow from the public ramp as soon as possible up to approximately five (5) feet from private hangar doors when the hangar is directly adjacent to a public taxiway. Snow removal directly in front of the hangar doors, the door entering the hangar, and privately owned stub taxiways are the responsibility of the LESSEE. The CITY is not responsible for the removal of snow on private ramps and private taxi lanes.

2.06. LESSEE shall not permit to remain on the Airport for more than thirty (30) days (unless in an enclosed building) any discarded, dismantled, wrecked, scrapped or ruined aircraft or parts thereof.

2.07. LESSEE agrees to report to the CITY within twenty-four (24) hours of LESSEE's discovery of any defect, failure or the required repair or replacement of any part of the Airport facilities, particularly any facilities relating to the safe take-off and landing of aircraft.

2.08. LESSEE agrees to keep all buildings and premises in a neat, safe and sanitary condition at all times to include the removal of woody vegetation on the leased premises unless said woody vegetation is allowed to grow as a condition to a local or state permit.

2.09. In the event appropriated airport maintenance funds are diminished or deleted by action of the CITY General Assembly or by action of any other entity providing such funds, the maintenance obligations of the CITY shall cease. At the discretion of the CITY, LESSEE may assume the maintenance obligations. In such an event, the parties will enter into good-faith negotiations to reform this lease to recognize the LESSEE's increased responsibilities and expenses.

GC-III. USE OF BUILDINGS

3.01. All buildings and other facilities on the Airport, whether owned by the CITY, LESSEE, or any other party, shall be used exclusively for airport and aviation related activities.

3.02. LESSEE agrees to comply with all ordinances, rules, regulations, requirements and all permitting laws and laws of all federal, state, and municipal authorities, so far as they may affect the leased premises and use of the Airport and its facilities.

3.03. LESSEE shall not begin any construction or renovation on the leased premises without necessary permits and prior written approval of the CITY. Any request for approval shall include the proposed location, design, materials, intended use, and other specifications. If LESSEE erects a structure or appurtenance on the leased premises, without prior written approval from the CITY, LESSEE shall be obligated to remove it or CITY may do so at LESSEE's expense.

3.04. LESSEE shall not utilize any buildings and other facilities on the Airport as a place of residence nor shall the LESSEE store materials or equipment not used for airport and aviation related activities.

GC-IV. INDEMNITY AND PUBLIC INSURANCE
4.01. Independence; Liability: The LESSEE will act in an independent capacity and not as officers or employees of the CITY.

The LESSEE shall defend the CITY and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the LESSEE or of any agent of the LESSEE. The CITY shall notify the LESSEE in the event of any such claim or suit, and the LESSEE shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.
After a final judgment or settlement, the LESSEE may request recoupment of specific defense costs and may file suit in COURT NAME HERE Superior Court requesting recoupment. The LESSEE shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the LESSEE.

The LESSEE shall indemnify the CITY and its officers and employees in the event that the CITY, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the LESSEE.

4.02. Insurance: Before exercising any rights granted by this Lease, the LESSEE must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the LESSEE to maintain current certificates of insurance on file with the CITY through the term of the Lease. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the LESSEE for the LESSEE's operations. These are solely minimums that have been established to protect the interests of the CITY.

Workers Compensation: With respect to all operations performed, the LESSEE shall carry workers' compensation insurance in accordance with the laws of the State of New Mexico.

General Liability and Property Damage: With respect to all operations performed under the contract, the LESSEE shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations

Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

$1,000,000 Per Occurrence
$2,000,000 General Aggregate
$1,000,000 Products/Completed Operations Aggregate
$ 50,000 Fire/Legal Liability

LESSEE shall name the CITY of Las Cruces and its officers and employees as additional insureds for liability arising out of this Lease.

Automotive Liability: The LESSEE shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Lease. Limits of coverage shall not be less than: $1,000,000 combined single limit.
LESSEE shall name the CITY of Las Cruces and its officers and employees as additional insureds for liability arising out of this Lease.

4.03. Increased Insurance Coverage. CITY reserves the right, upon thirty (30) days' written notice, to require reasonable increases in the foregoing required insurances.

4.04. Contractors Hired by LESSEE. If LESSEE hires a contractor to perform work on the leased premises, the LESSEE will require the contractor to defend, indemnify and hold harmless the CITY and its officers and employees from liability and any claims, suits, judgments, and damages arising as a result of the contractor's work on the LESSEE's premises. The LESSEE will require the contractor to carry workers' compensation insurance in accordance with the laws of the State of New Mexico, general liability insurance in accordance with the coverage specified above, and automotive liability insurance (no less than $1,000,000 combined single limit) covering all motor vehicles, including owned, non-owned, and hired, used in connection with the work to be performed.

4.05. Certificate of Insurance. The insurance required above shall be placed with a reputable insurance company authorized to do business in the State of New Mexico. A binder or certificate of insurance, naming the CITY of Las Cruces as an additional insured, shall be delivered to the CITY as proof of compliance with this Article within ten (10) days of execution of this Lease. The policy shall provide that the insurance shall not be terminated or canceled without thirty (30) days' notice to the CITY. Renewal certificates shall be forwarded to CITY within ten (10) days of renewal. The amounts of the insurance shall not be deemed as a limitation of the liability of the LESSEE to indemnify, defend and save harmless the CITY as provided in this Article.

GC-V. TERMINATION

5.01. If any payment to the CITY, the leasehold mortgagee, if any, or any third party providing goods or services to LESSEE's operation at Airport, shall be in default and unpaid for thirty (30) days after notice to LESSEE, unless cured within thirty (30) days after notice by the CITY to LESSEE specifying the default and demanding compliance, CITY may re-enter and take possession of the premises. This re-entry shall constitute a termination of this lease.

5.02. If the Airport is closed by fire, storm, casualty, or other Act of God, or by action of lawful authority for any period in excess of thirty (30) days, rental to the CITY shall be abated during that period. If the Airport is closed for these reasons for a period in excess of three (3) months, then LESSEE at its option may terminate this lease by giving CITY thirty (30) days notice. CITY shall not be liable for loss of income or profits or any claims of liability on furnishings or equipment.

5.03. In the event of breach or default of any of the covenants set forth in this lease, the CITY shall have the right to terminate this lease and to re-enter and repossess the land and the facilities thereon, and hold the same as if this lease had never been made or issued.

5.04. If the CITY terminates this lease due to breach or default by LESSEE of any of the covenants in this lease, LESSEE shall be responsible for all damages, attorney's fees, and expenses directly or indirectly caused by the default and termination. LESSEE shall also be responsible for all loss of rents and revenues, and costs and expenses incurred in employing persons to carry on the responsibilities and functions of the LESSEE for up to a period of ninety (90) days.

5.05. If the LESSEE ceases to be operational or ceases to use all or any portion of the leased premises for the purposes intended for a period of thirty (30) days, unless cured within thirty (30) days after CITY's notice to LESSEE specifying default and demanding compliance, CITY may re-enter and take possession of the premises. The re-entry shall constitute a termination by this lease.

5.06. If the CITY believes that the LESSEE is failing to provide aeronautical services, which in the judgment of the CITY are reasonably required at the Airport to adequately serve public needs, the LESSEE shall be afforded a hearing before the CITY. If the hearing officer finds that such services are required but are not being provided, the CITY may give the LESSEE notice that this lease will be terminated in thirty (30) days.

5.07. If LESSEE files a voluntary petition in bankruptcy, or proceedings in bankruptcy are instituted against LESSEE and LESSEE is adjudicated bankrupt pursuant to proceedings, or if LESSEE is divested of, or be prevented by any final action of any Federal or State authority from conducting and operating its operations, this lease shall be immediately terminated.

5.08. If the CITY terminates this lease for any cause other than default or failure to comply with the terms of the lease by LESSEE, if the rent shall have been paid by the LESSEE in advance to a day subsequent to the date of termination of this lease, then the CITY within sixty (60) days after demand by LESSEE, may refund and repay to LESSEE the apportioned amount of the rent paid by LESSEE in advance for that portion of the term so avoided.

5.09. If the CITY terminates this lease because it chooses to exercise its right to develop or improve the portion of airport property leased to LESSEE when LESSEE fails to develop or improve the portion of Airport property leased to LESSEE in the agreed upon time frames, then the CITY, will give LESSEE sixty (60) days' notice of its intent to terminate.

5.10. If LESSEE vacates the leased premises before the expiration of the lease term, without the written consent of the CITY, the full rental for the current term shall then become due and payable.

5.11. The LESSEE covenants and agrees to surrender the premises hereby demised at the expiration of the term, or at any time when this lease shall be terminated as provided in this Agreement, in good order and condition satisfactory to the CITY.

5.12. The LESSEE may surrender this lease at the end of the original term or any renewal thereof, and at the same date in any following year of a holdover tenancy from year-to-year, by giving written notice to the CITY of intent to surrender at least ninety (90) days before the proposed date of surrender. LESSEE agrees that if LESSEE fails to give such notice, then possession shall be deemed to continue until this lease is terminated by the CITY as provided in this Agreement.

5.13. If it becomes necessary for CITY to institute suit for eviction and/or for damages, on account of rental arrears or violation of the terms of the lease, CITY shall be entitled to recover from the LESSEE its or their attorneys' fees and court costs, which fees and costs LESSEE hereby covenants and agrees to pay.

5.14. This lease shall automatically end if the LESSEE becomes delinquent in the payment of any local, state and/or federal taxes assessed on the LESSEE operations or on any LESSEE-owned improvements located on the Premises.

5.15. If the LESSEE is required to provide FBO or SASO services, this lease shall automatically end if the LESSEE discontinues providing FBO or SASO services for the CITY. The termination shall be effective on the day the LESSEE discontinues services as an FBO.

GC-VI. ASSIGNMENT AND ENCUMBRANCE

6.01. LESSEE agrees to not assign this lease or sublet any portion of the premises or mortgage or otherwise encumber any structures now or later placed on the Premises, without the prior written consent of the CITY. The CITY's consent to assign, sublet, mortgage or encumber the whole or any part shall not be deemed as waiving this restriction as to any other portion or giving assent to any other subletting or assignment or encumbrance. LESSEE further agrees that the Premises shall be used only for the purposes specified. If LESSEE sublets, LESSEE shall remain responsible to the CITY for the subLESSEE's full and faithful performance of all terms and conditions of this lease and approved sublease. The LESSEE shall submit any proposed sublease for the CITY's prior approval.

6.02. CITY reserves the right to reform this lease at the time of a proposed assignment or sublease.

6.03. If LESSEE is a closely-held corporation, then any proposed sale of controlling stock interest, change in management, formation of an affiliated or subsidiary company, or other transaction involving control of LESSEE shall be subject to review by the CITY as if such proposed transaction were an assignment.

6.04. If the CITY consents to a mortgage, then LESSEE at all times shall keep the CITY informed as to the correct name and current address of any holder or assignee of the mortgage. The CITY agrees that it will send any such person(s) known to CITY a copy of any notice of default that may be sent to LESSEE.

6.05. LESSEE shall timely perform all mortgage obligations.

6.06. LESSEE shall not, without the prior written consent of the CITY, subject its leasehold, or any of the buildings or other facilities located on the leased premises, to a declaration of condominium ownership under the Condominium Ownership Act, or successor statute. In the event of a change to condominium ownership, the CITY reserves the right to reform this lease, to impose reasonable charges on each transfer of condominium units, and to impose a reasonable annual charge on each condominium unit.

6.07. The CITY may withhold its permission for assignment of this lease if there are back rents owed; violations of the current lease or unresolved environmental problems on the leased premises; or as a condition to granting permission, the CITY may require LESSEE to remain financially responsible for any cleanup, notwithstanding the assignment.

6.08. The LESSEE shall provide to the CITY a copy of all fully executed sub-leases or agreements.

GC-VII. CITY RESERVATIONS AND SUBORDINATION AGREEMENT

7.01. Nothing contained in this Lease shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Chapter 3, Exclusive Rights of the Department of Transportation, Federal Aviation Administration Order 5190.6b, Airport Compliance Requirements, current date.

7.02. The CITY reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport.

7.03. The CITY reserves the right to develop or improve the Airport property, other than those parcels or premises leased to LESSEE, as it sees fit, regardless of the desires or views of LESSEE, and without interference or hindrance on the part of LESSEE.

7.04. This Lease is subordinate to the provisions of existing and future agreements entered into between the CITY and the United States to obtain Federal-aid for the improvement or operation and maintenance of the Airport, subject to reasonable notice to LESSEE by CITY of any such proposed agreement and subject further to the right of LESSEE to terminate this lease and recover reasonable costs of improvements made by LESSEE if such subordination effectively prohibits LESSEE from exercising the fundamental rights conveyed within this Lease.

GC-VIII. SURRENDER OF POSSESSION

8.01. During time of war or national emergency the CITY shall have the right to lease any part of the Airport to the United States Government, and, if such lease is executed, the provisions of this lease to the extent they are inconsistent with such lease shall be suspended without compensation to LESSEE.

GC-IX. CITY'S LIEN

9.01. If LESSEE breaches any of the provisions of this Lease, CITY shall have a lien to the extent of the breach and any continuation of the breach, upon all revenues, income, rents, earnings and profits from the leased premises as additional security to CITY for LESSEE's faithful performance of each of the lease's terms and provisions. The lien shall be superior to the rights of LESSEE and any of its creditors or assignees or any trustee or receiver appointed for LESSEE's property, or any other person claiming under LESSEE.

9.02. Upon CITY's termination of this Lease by reason of LESSEE's default, all such revenues, income, rents, earnings, and profits derived or accruing from the leased premises from date of such termination by CITY shall constitute the property of CITY. The same is hereby declared to be a trust fund for the exclusive benefit of CITY and shall not constitute any asset of the LESSEE or any trustee or receiver appointed for LESSEE's property. The provisions of this section shall be effective without the CITY's re-entry or repossession of the leased Premises, and without any judicial determination that LESSEE's interest under this Lease has been terminated.

9.03. CITY may enforce its lien by directing any subLESSEE to remit rental payments directly to the CITY. LESSEE shall include in its subleases a provision requiring each subLESSEE to make such payments to the CITY upon the CITY's giving notice of its lien.

GC-X. DAMAGE OR DESTRUCTION BY FIRE OR CASUALTY

10.01. If a CITY-owned Premises leased to LESSEE for its use shall be partially damaged by fire or other casualty but not rendered un-leasable, the Premises shall be repaired with due diligence by the CITY. If the damages render the Premises un-leasable, the rent payable shall cease until such time as the Premises are again leasable, provided that the CITY may, at its option, not reconstruct the Premises.

10.02. The LESSEE shall repair and/or reconstruct, at LESSEE's sole cost and expense, the whole or such part of the Airport and/or premises which are totally or partially destroyed by fire or other casualty arising directly or indirectly out of acts or omissions of LESSEE, its agents, employees, servants or guests.

GC-XI. SET OFF; TAX CERTIFICATION

11.01. Taxes Due to the CITY:

LESSEE understands and acknowledges responsibility, if applicable, for compliance with tax laws, including payment of use tax on property used within the CITY.

LESSEE certifies under the pains and penalties of perjury that, as of the date the Lease is signed, the

LESSEE is in good standing with respect to, or in full compliance with a plan to pay any and all taxes due the CITY of Las Cruces.

11.02. Subleases: LESSEE shall not assign, subcontract or subgrant the performance of this Lease or any portion thereof to any other LESSEE without the prior written approval of the CITY. LESSEE also agrees to include in all subleases a tax certification in accordance with paragraph 11.01 above.

11.03. Approvals. Notwithstanding any other provision of this Lease, the CITY reserves the right to deny any renewal, extension, consent, or permission under this Lease unless LESSEE and any proposed assignee first provide the CITY with written certification of tax compliance in accordance with New Mexico Statutes Annotated.

GC-XII. WAIVER

12.01. Any waiver at any time by any party of its rights with respect to a default under this lease, or with respect to any other matter arising in connection with this lease, shall not be deemed to be a waiver with respect to any subsequent default or matter. No delay, short of the statutory period of limitations, in asserting or enforcing any right shall be deemed to be a waiver of such right.

GC-XIII. HAZARDOUS MATERIALS; ENVIRONMENTAL REPORTS

13.01. LESSEE, at its own expense, shall comply with all present and hereinafter enacted environmental/cleanup responsibility laws ("Cleanup Laws") affecting the LESSEE's operations at the Airport. LESSEE, at its own expense, shall make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authorities (the "Authorities") under the Cleanup Laws. Should the Authorities determine that a cleanup plan be prepared and that a cleanup be undertaken because of any spills or discharges of hazardous substances or wastes on the Airport as a result of LESSEE's operations, then LESSEE, at its own expense, shall prepare and submit the required plans and financial assurances and carry out the approved plans.

13.02. LESSEE's obligations under this Article shall arise if there is any closing, terminating or transferring of operations of LESSEE's establishment on the Airport premises pursuant to the Cleanup Laws. At no expense to the CITY, LESSEE shall promptly provide all information requested by the CITY to determine the applicability of the Cleanup Laws to the Premises, and shall sign the affidavits or submissions promptly when requested to do so by the CITY.

13.03. LESSEE shall defend, indemnify and hold harmless the CITY from all fines, suits, procedures, claims and actions of any kind arising out of or in any way connected with any spills or discharges of hazardous substances or wastes arising as a result of LESSEE's operations; and from all fines, suits, procedures, claims and actions of any kind arising out of the LESSEE's failure to provide all information, make all submissions and take all steps required by the Authorities under the Cleanup Laws or any other environmental laws.

13.04. LESSEE shall promptly notify the CITY of any spills or discharges involving hazardous materials and supply the CITY with any notices, correspondence and submissions made by LESSEE to any Authorities, including the United States Environmental Protection Agency ("EPA"), the

United States Occupational Safety and Health Administration ("OSHA"), or any other local, state or federal authority that requires submission of any information concerning environmental matters or hazardous wastes or substances.

13.05. LESSEE's obligations and liabilities under this Article shall continue so long as the LESSEE remains responsible for any spills or discharges of hazardous substances or wastes on the leased Premises that occur during the term of this Lease.

GC-XIV. STORAGE, HANDLING AND TRANSPORTATION OF HAZARDOUS MATERIALS AND WASTES

14.01. LESSEE shall comply with all present and future enacted federal, state and local laws, ordinances, rules and regulations dealing with the storage, handling and transportation of hazardous substances and wastes. Without limitation of the foregoing, LESSEE'S attention is directed to Titles 40 and 49 of the Code of Federal Regulations (storage and handling of hazardous materials; transportation of hazardous materials), the State of New Mexico's Rules for Transportation of Hazardous Materials, and the applicable laws and regulations of federal and state departments and agencies dealing with agriculture, public utility regulation, labor and industry, environment and natural resources, public health, safety, health, emergency management, and forests, parks and recreation, as well as any other department or agency concerned with hazardous substances or wastes.

GC-XV. DBE PARTICIPATION

15.01. Policy. CITY and LESSEE acknowledge that they are aware of the policy of the United States Department of Transportation that minority business enterprises, as defined in 49 C.F.R. Part 26, shall have the maximum opportunity to participate in the performance of leases as defined in 49 C.F.R. Section 26.5. Consequently, these leases are subject to 49 C.F.R. Part 26, as applicable.

15.02. LESSEE's Obligation. LESSEE hereby assures that no person shall be excluded from participation in, denied the benefits of or otherwise discriminated against in connection with the award and performance of any contract, including leases, covered by 49 C.F.R. Part 26 on the grounds of race, color, national origin or sex.

15.03. Sublease Clause. LESSEE hereby assures that it will include the above clauses in all subleases and require subLESSEEs to similarly include such clauses in further subleases.

GC-XVI. ACCEPTANCE OF FEES

16.01. No acceptance by the CITY of rentals, fees, charges, or other payments in whole or in part, for any period or periods after a default of any of the terms, covenants, and conditions to be performed, kept or observed by LESSEE, shall be deemed a waiver of any right on the part of the CITY to terminate this Lease for any subsequent violation by LESSEE.

GC-XVII. MISCELLANEOUS

17.01. Except as alternatively set forth in Article 1, LESSEE acknowledges the title of the CITY in the Premises described in this lease and agrees never to assail or resist said title.

17.02. LESSEE agrees not to consume, sell or permit the sale of any beer, ale, wine or other spirituous liquor, of any kind whatsoever, upon or about the leased Premises.

17.03. LESSEE agrees that no portion of the leased Premises shall be used as, or as a site for a residential dwelling unit.

17.04. The topic headings of the articles or paragraphs in this Lease are for convenience and reference purposes only and are not to be considered or relied upon for purposes of the content of such articles or paragraphs.

17.05. LESSEE, for itself its successors in interest, and assigns, does agree, as a covenant running with the land, that (a) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities on the grounds of race, color, or national origin, (b) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin, (c) 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.

17.06. This Lease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 C.F.R. Part 26, subpart F. LESSEE agrees that it will not discriminate against any business because of race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 C.F.R. Part 23, Subpart F. LESSEE agrees to include these statements in any subsequent concession agreements that it enters and causes those businesses to similarly include the statements in further agreements.

17.07. LESSEE for itself, its successors in interest, and assigns, does agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as such regulations may be amended.

17.08. All references to the term of this Lease shall mean the original term and any extensions or renewals thereof.

17.09. The CITY shall be responsible for recording a memorandum of this Lease in the appropriate

CITY land records, at LESSEE's expense. The charge to record documents in the land records at inception of this Lease is Eight Dollars ($8.00) per page. LESSEE shall provide CITY with a check payable to "City of Las Cruces" in the amount of $32.00 (approximately 4 pages at $8.00 per page) at the execution of the lease to allow for recording.

17.10. This Lease with the terms and provisions contained herein constitutes the entire agreement between the parties. It supersedes and replaces all other agreements and representations in connection with leasing of the premises hereinafter described. Any amendments shall be made in writing, shall be signed by the LESSEE and the CITY, and shall be acknowledged before a notary public.

17.11. The CITY shall have the right to amend this lease at any time changes in relevant federal, state, or local laws, rules, regulations, ordinances, by-laws, etc. are made.

17.12. LESSEE shall comply with all applicable statutes, rules and regulations established by appropriate local, State or Federal governmental authorities, including, but not limited to, obtaining and bearing the cost of all necessary permits, licenses, and other items relative to LESSEE's operation.

17.13. This Lease shall inure to the benefit of, and be binding upon, the successors, executors, administrators and assigns of the parties.

17.14. The LESSEE will take all measures reasonably required by the CITY to prevent persons from entering on or near the CITY's adjacent property except as may be allowed herein by LESSEE's use of the Premises.

17.15. The CITY and its designees shall have the right of entry at any time during reasonable working hours for the purpose of inspection of the Premises.

17.16. This Agreement pertains only to the properties owned by the City of Las Cruces and administered by the City of Las Cruces and does not release LESSEE from the requirements of any otherwise applicable statutes, rules, regulations or ordinances (e.g., Site Law, local zoning, etc.).

17.17. No LESSEE, subLESSEE, partner, affiliate, employee or officer of the LESSEE shall utilize or employ the Premises or any rights or privileges acquired under the terms of the Lease, or knowingly allow such utilization or employment, in a manner which would constitute a violation of criminal law, whether state or federal.

17.18. No statements, expressions of opinion, representations or agreements of any nature whatsoever, not herein expressly stated, made by any representative or agent of the Las Cruces International Airport shall be binding on, or of any effect against, the City of Las Cruces.

17.19. The LESSEE agrees to comply with the Americans with Disabilities Act of 1990, as amended, and to assure that individuals with disabilities have equitable access to the services, programs and activities offered by the LESSEE under this Lease.

17.20. If an ambiguity or question of intent arises with respect to any provision of this Lease, the Lease will be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring either party by virtue of authorship of any of the provisions of this Lease.

GC-XVIII. DISPUTE RESOLUTION

18.01. Resolution of General Lease Disputes. The parties shall attempt to resolve any general disputes that may arise under the Lease by negotiation. Any dispute not resolved by negotiation shall be referred to the CITY's Manager for determination. If the LESSEE is aggrieved by the decision of the CITY Manager, the LESSEE may appeal in writing to the Las Cruces City Council, through the CITY Manager, within 30 calendar days of the Manager's decision, but not thereafter. The notice of appeal shall completely outline the nature and extent of the issue(s) appealed and shall include copies of any and all supporting documentation. The decision of the Board of Selectmen may be appealed to New Mexico Superior Court by either party as provided in the New Mexico Rules of Civil Procedure.

18.02 Resolution of Disputes as to the Fairness of Rents and Fees. The parties shall attempt to resolve any disputes that may arise as to the fairness of rents and fees by negotiation. Any dispute not resolved by negotiation shall be referred to the CITY's Manager for determination. If the LESSEE is aggrieved by the decision of the CITY Manager, the LESSEE may appeal in writing to the Board of Selectmen, through the CITY Manager, within 30 calendar days of the CITY Manager's decision, but not thereafter. The notice of appeal shall completely outline the nature and extent of the issue(s) appealed and shall include copies of any and all supporting documentation. The Board's decision may be appealed to New Mexico Superior Court by either party as provided in the New Mexico Rules of Civil Procedure.

GC-XIX. GENERAL CONDITIONS

19.01. The General Conditions of this Lease shall be incorporated into this Lease as an attachment and by reference.

Exhibit C - Glossary of Terms

Aeronautical Services/Activities: any activity or service conducted at the Airport that involves, makes possible or is required for the operation of aircraft, or that contributes to or is required for the safety of such operations.

Agreement: the written agreement between the City and an Operator specifying the terms and conditions under which the Operator may conduct commercial aviation activities. Such Agreement shall recite the terms, conditions and duration under which the activity shall be conducted at the Airport, including but not limited to: rents, fees, and charges to be paid; and the rights and obligations of the respective parties.

Aircraft: a device which is used or intended to be used for flight in air. Examples of aircraft include, but are not limited to: airplane, sailplane, glider, rotorcraft (helicopter, gyrocopter, auto gyro), unmanned aerial vehicle, balloon, blimp, and ultralite.

Aircraft Fuel: all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion, jet, or turbine engine in an aircraft.

Aircraft Fueling Vehicle: any vehicle used for the transportation, delivery, and dispensing of Aircraft Fuel.

Aircraft Movement Area: the runways, taxiways, and other areas of the airport utilized for taxiing, hover taxiing, air taxiing, and takeoff or landing of aircraft, exclusive of loading ramps, maintenance ramps and parking areas.

Airline: a commercial operator offering air transportation, and subject to regulations by the FAA in accordance with Federal Aviation Regulations.

Airman: an individual in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way; except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or who serves as an aircraft dispatcher or air traffic control-tower operator.

Airplane Design Group: an FAA designated grouping of Aircraft based upon wingspan. The groups are as follows:
Group I: Up to but not including 49 feet
Group II: 49 feet up to but not including 79 feet
Group III: 79 feet up to but not including 118 feet
Group IV: 118 feet up to but not including 171 feet
Group V: 171 feet up to but not including 214 feet
Group VI: 214 feet up to but not including 262 feet

Airport: the Las Cruces International Airport and all of the area, buildings, facilities, and improvements within the exterior boundaries of such airport as it now exists, or as it may hereafter be extended or enlarged.

Airport Administrator: the individual employed and authorized by the City to be the chief administrative officer of the Airport, or the person authorized by the Airport Administrator to act for or on behalf of the Airport Administrator, with respect to any particular matter.

Airport Advisory Board: the Board established by Section 2-496 of the Code of Ordinances of the City and is responsible for advising the City

Council or making specific recommendations involving policy matters pertinent to the operation of the airport.

Airport Certification Manual: those local rules and standards required by United States Code of Federal Regulations, Title 14, Part 139.201 established by the Airport Manager and approved by the FAA, to directly supplement the requirements of Title 14, Part 139.

Airport Certification Specifications: those local rules and standards required by FAR part 139.209 to be established by the Airport Manager, and approved by the FAA, to directly supplement the requirements of FAR part 139.

Airport Commercial Lease: the written agreement between a Commercial Operator and the City in which the City grants a non-exclusive right to conduct Commercial Activity on City-owned property at the Las Cruces International Airport.

Airport Administrator: the individual employed and authorized by the City to be the chief administrative officer of the Airport, or the person authorized by the Airport Administrator to act for or on behalf of the Airport Administrator, with respect to any particular matter.

Airport Layout Plan: the FAA approved and Airport adopted drawing, as may be amended from time to time, which reflects an agreement between the FAA and Airport depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, taxiways, buildings, roadways, utilities, NAVAIDS etc. and proposed allocation of Airport land and/or improvements to specific uses and/or development.

Airport Operating Certificate: the certificate issued to the City by the FAA authorizing and requiring the City to operate the Airport in accordance with United States Code of Federal Regulations, Title 14, Part 139 and the Airport Certification Manual.

Airside: the part of an airport directly involved in the arrival and departure of aircraft, including runways, taxiways, aprons, and ramps.
Advisory Circular (AC): means a type of publication offered by the Federal Aviation Administration (FAA) to provide guidance for compliance with airworthiness regulations, pilot certification, operational standards, training standards, and any other rules within the 14 CFR Aeronautics and Space Title

Airport Compliance Manual: a document generated by the FAA that provides guidance to FAA personnel on interpreting and administering the continuing commitments airport sponsors make to the U.S. Government when they accept grants of federal funds or federal property for airport purposes.

ARFF: Airport Rescue and Fire Fighting services for aircraft.

City: means the City of Las Cruces, New Mexico, owner and operator of the Airport, acting by or through the City and/or any duly authorized employee, agent or instrumentality of the City of Las Cruces, New Mexico.

Code of Federal Regulations (CFR): the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States.

Commercial Activity: any activity by any person, the purpose of which is to secure earnings, income, compensation, or profit, whether such objective or objectives are accomplished or not.

Commercial Aeronautical Activity: an Aeronautical Activity for commercial purposes. A Commercial Aeronautical Activity also includes any third party or contract employee engaged in the performance of an Aeronautical Activity for compensation or hire at the Airport who is not an employee of a Fixed Base Operator or a Specialized Aviation Service Operator. For purposes of this definition, "commercial purposes" is the conduct of any aspect of a business, concession, operation, or agency providing goods or services to any person for compensation or hire, including exchange of services, whether or not such objectives are accomplished. An activity is considered a commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt. The following services/activities commonly conducted on airports are Aeronautical Activities within this definition: charter operations, air cargo operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising, air ambulance services, surveying, air-carrier operations, aircraft sales and services, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, and any other activities that, because of their direct relationship to the operation of an aircraft, can appropriately be regarded as an "Commercial Aeronautical Activity."

Commercial Aviation Operator: a person or persons, firm, or corporation engaging in an activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to, or is required for the safety of such aircraft operations, the purpose of such activity being to secure earnings, income, compensation, or profit, whether or not such objective or objectives are accomplished. Authorized activities shall be strictly limited to any one, or a combination, of the following aeronautical services performed in full compliance with the Las Cruces International Airport Minimum Standards.

- » Aircraft Sales (new and/or used)
- » Airframe and Power Plant Repair Facilities
- » Aircraft Rental
- » Flight Training
- » Line Services
- » Aerial Spraying
- » Specialized Aircraft Repair Services
- » Aircraft Charter or Air Taxi
- » Specialized Commercial Flying Services
- » Multiple Services
- » Commercial Aviation Operators Subleasing from another Commercial Operator at the airport
- » Non-Profit flying clubs and similar non-profit corporations even though they may provide flight instruction, rental aircraft, and other services for their members only, are not considered a commercial aviation operator for purpose of these standards.
- » Non Commercial Aviation Fuel Usage
- » Off-Site Operators Subleasing from another Commercial Operator
- » Misc. Services including but not limited to Car Rentals, Food Services, and Aircraft Detailing
- » Any other activities not specifically provided for in the Minimum Standards, will normally be subject to negotiations.

Commercial Through-the-Fence Operation: an Operator or entity that provides Commercial Aeronautical Activities to the public for compensation or hire but does not have an Agreement with the City and does not occupy space on Airport property.

City Council: the legislative body that governs the City of Las Cruces, New Mexico.

Derelict: any aircraft that is not in a flyable condition, does not have a current certificate of airworthiness issued by the Federal Aviation Administration, and is not in the process of actively being repaired, or has been abandoned by its registered owner.

Disabled: any aircraft that is unable to move under its own power or through the normal use of an appropriate tow tractor and tow bar.

Driver: any person who drives or is in physical control of a motor vehicle.

Employee: any individual who is paid for services by another person, either at an hourly rate or by salary, and the employer issues a Form W-2 Wage and Tax Statement, or withholds social security and other withholdings in accordance to state and federal tax laws, consistent with the employer/employee relationship.

FAA: Federal Aviation Administration of the United States, the national authority with powers to regulate all aspects of civil aviation.

FAR: that portion of the United States Code commonly known as the Federal Acquisition Regulations. Post 2008 the FAA no longer uses FAR and now uses the Code of Federal Regulation (CFR) such as 14CFR or 49CFR.

Firearm: any weapon or device, including a starter gun, flare gun or the like, which will, or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any matching gun. The term "firearm" shall not include any non-functioning antique firearm.

Fixed-Base Operator (FBO): an organization granted the right by an airport authority to operate at the airport and provide aeronautical services such as aircraft fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, and similar services.

FCC: Federal Communications Commission

Flying Club: a non-commercial, non-profit, organization established for the sole purpose to promote flying, develop skills in aeronautics, including pilot training, navigation, and awareness and appreciation of aviation requirements and techniques solely to its members, their personal use and enjoyment. Aircraft owned by the Flying Club are vested in the name of the club or owners on a prorated share.

Fuel Flowage Fee: a fee paid to the City for each gallon of fuel distributed on the Airport.

Fuel Storage Area: any portion of the Airport designed temporarily or permanently by the City as an area in which aviation or motor vehicle fuel or any other type of fuel or fuel additive may be stored.

Fueling or Fuel Handling: the transportation, sale, delivery, dispensing, storage, or draining of fuel or fuel waste products to or from fuel storage tanks, aircraft, vehicles, or equipment.

General Aviation: all phases of aviation other than military aviation, air cargo operations, and scheduled or non-scheduled commercial air carrier operations.

Ground Service Equipment: any ground based equipment utilized in the servicing of aircraft.

HVAC: Heating, Ventilation and Air Conditioning

Lease: the written, contractual Agreement between the City and an entity which is enforceable by law, wherein said Agreement grants a concession or otherwise authorizes the conduct of certain activities.

Line Services: the into-plane delivery of fuels, oils, and other lubricants, the providing of ramp assistance, parking storage, and the tie down of aircraft.

Minimum Standards: these Minimum Standards for Commercial Aeronautical Service Providers adopted by the City, as amended from time to time.
Motor Vehicle: any vehicle, other than an aircraft, which is motorized.

NOTAM: Notice To Airmen - a notice containing interim information which is essential to personnel concerned with flight operations.

On-demand Flying Services: commercial flying activities other than Airline activities. Examples include crop dusting, flight instruction, air taxi, and air ambulance.

Operator: either a Fixed Base Operator, a Specialized Aviation Service Operator, or operator of an aircraft, as applicable, or the City, when performing a Commercial Aeronautical Activity, unless the context clearly indicates another meaning.

Owner: the owner of either a Fixed Base Operation, a Specialized Aviation Service Operation, or an aircraft, as applicable, or the City, when owning a Commercial Aeronautical Activity, unless the context clearly indicates another meaning.

Perimeter fence: the outermost continuous fence of the airport, including gates and gateways.

Perimeter road: the service road along the perimeter fence.

Person: any individual firm, partnership, corporation (including registered non-profit corporations), company, association, joint stock association, or governmental entity. It includes trustees, receivers assignees, employees, or similar representative of these groups.

Personnel: persons who are employees of an Operator or who are contractually obligated to render services to the public on behalf of an Operator.

ROA/ROI: Return of Asset / Return on Investment

RFI: Request for Information.

Rules and Regulations: policies, procedures, and regulations which are established and amended from time to time by the City, to govern the safe, orderly, and efficient use of the Airport.

Safety Area: any FAA-designated area abutting the edges of a runway or taxiway intended to reduce the risk of damage to an aircraft

Shall: the word “shall” is always mandatory and not merely directory.

Specialized Aviation Service Operator (SASO): a Commercial Aeronautical Activity or any entity that provides any one or more of listed in the Minimum Standards.

State: the State of New Mexico.

Streetside: the accessible areas immediately adjacent to the Airport and outside of the perimeter fence.

Sublease: a written agreement, approved by the City, stating the terms and conditions under which a third party leases space from a lessee for the purpose of providing aeronautical services at the Airport.

Tenant: any person, firm or corporation leasing property at the Las Cruces International Airport for aeronautical purposes. An Airport Tenant may hangar their aircraft on their leased property subject to the terms and conditions of a negotiated lease.

Through-the-fence-operator: a person offering commercial goods or services, other than passenger or cargo transportation by aircraft to customers on the airport but who does not maintain their primary place of business at the Airport.

TSA: the Transportation Security Administration or its successor agency.

Two-Way Radio: a two-way communication system operated by a non-governmental entity that provides communications between operators, pilots and Airport advisory information.

UNICOM: an air/ground radio communication station operated in accordance with the aeronautical information manual on the common traffic advisory frequency assigned for use at the airport by the FAA and the FCC.

Weapon: means any dirk, metallic knuckles, “slingshot”, billy club, tear-gas gun, chemical gun or device, or any other device the principal function of which is to inflict bodily harm or severe discomfort.

Exhibit D - Peer Airport Findings and Scores

Table –11 - Overview of Airport Scores and Land Lease Rates

Name	Funding Score	Facilities Score	Services Score	Lease Score	Final Score	Typ. Land Lease Rate psf/yr
Las Cruces International Airport	4	11	11	9	35.0	$0.14
Alamogordo White Sands Airport	4	6.2	11	10	31.3	$0.14
Artesia Municipal Airport	4	7.9	8	9	28.9	$0.10
Clovis Municipal Airport	4	8.2	12	9	33.2	$0.15
Deming Municipal Airport	2	7.1	8	11	28.1	$0.11
Doña Ana County Jetport at Santa Teresa	4	8.3	10	6	28.3	$0.19
Double Eagle II Airport	4	7.6	11	8	30.6	
Lea County Airport	0	6.3	10	5	21.3	$0.10
Moriarty Municipal Airport	2	5.3	9	8	24.3	$0.11
Roswell International Air Center	0	12.8	13	3	28.8	$0.24
Sierra Blanca (Ruidoso) Regional Airport	4	6.6	9	8	27.6	$0.13
Fort Collins-Loveland Municipal Airport	4	9.4	16	8	37.4	$0.39
Grand Junction Regional Airport	6	10.6	13	1	30.6	$0.21
Amarillo International Airport	6	10.9	15	4	35.9	by appraisal
Lubbock International Airport	6	11.2	12	10	39.2	$0.19
Rutland Southern Vermont Regional	4	12.7	0	4	20.7	$0.20

Table –12 - Funding Score Tables

Name	FAA GA Asset Service Level	Funding Score
Las Cruces International Airport	Regional	4
Alamogordo White Sands Airport	Regional	4
Artesia Municipal Airport	Regional	4
Clovis Municipal Airport	Regional	4
Deming Municipal Airport DMN	Local	2
Doña Ana County Jetport at Santa Teresa	Regional	4
Double Eagle II Airport	Regional	2
Lea County Airport	Unclassified	0
Moriarty Municipal Airport	Local	2
Roswell International Air Center	Unclassified	0
Sierra Blanca (Ruidoso) Regional Airport	Regional	4
Fort Collins-Loveland Municipal Airport	Regional	4
Grand Junction Regional Airport	Primary (not GA)	6
Amarillo International Airport	Primary (not GA)	6
Lubbock International Airport	Primary (not GA)	6
Rutland Southern Vermont Regional	Regional	4

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Table –13 - Facilities Score Table

Name	Elevation	Elevation Score	Runways	Adequate Runway Lengths	Runway Score	Taxiway Type	Taxiway Score	Fencing	Fencing Score	WX Weather Access	WX Score	IAP & NAVAIDS	NAVAID Score	Runway Obstructions		Night Approach Restrictions		FACILITIES SCORE
Las Cruces International Airport	*4457*	*0.0*	*3*	*Yes*	*2*	*Partial Parallel*	*1*	*fully fenced*	*2*	*AWOS-3pt*	*2*	*ILS/LOC RNAV (GPS)*	*2*	*No*	*1*	*No*	*1*	10.0
Alamogordo White Sands Airport	*4200*	*0.3*	*2*	*Yes*	*1*	*Partial Parallel*	*1*	*fully fenced. mixed types*	*1*	*AWOS-3*	*1*	*RNAV (GPS) VOR*	*1*	*Yes*	*0*	*No*	*1*	6.3
Artesia Municipal Airport	*3544*	*0.9*	*2*	*Yes*	*1*	*Partial Parallel*	*1*	*fully fenced*	*2*	*AWOS-3*	*1*	*RNAV (GPS) Type: NDB Class: MHW*	*1*	*Yes*	*0*	*No*	*1*	7.9
Clovis Municipal Airport	*4216*	*0.2*	*3*	*Yes*	*2*	*Partial Parallel*	*1*	*4' barbed wire fence*	*1*	*AWOS-3*	*1*	*ILS / LOC RNAV (GPS) VOR*	*2*	*Yes*	*0*	*No*	*1*	8.2
Deming Municipal Airport	*4314*	*0.1*	*2*	*Yes*	*1*	*Partial Parallel*	*1*	*fully fenced*	*2*	*ASOS*	*2*	*RNAV (GPS) VORTAC / L-VORTACW*	*1*	*Yes*	*0*	*Yes*	*0*	7.1
Doña Ana County Jetport at Santa Teresa	*4113*	*0.3*	*1*	*Yes*	*1*	*Partial Parallel*	*1*	*fully fenced. mixed types*	*1*	*AWOS-3PT*	*2*	*RNAV (GPS)*	*1*	*No*	*1*	*No*	*1*	8.3
Double Eagle II Airport	*5837*	*-1.4*	*2*	*Yes*	*1*	*Partial Parallel*	*1*	*fully fenced*	*2*	*AWOS*	*1*	*ILS/LOC RNAV (GPS)*	*2*	*No*	*1*	*No*	*1*	7.6
Lea County Airport	*3118*	*1.3*	*2*	*Yes*	*1*	*Partial Parallel*	*1*	*fully fenced*	*2*	*None*	*0*	*None*	*0*	*Yes*	*0*	*No (No IAP)*	*1*	6.3
Moriarty Municipal Airport	*6204*	*-1.7*	*2*	*No*	*1*	*Partial Parallel*	*1*	*fully fenced. mixed types*	*1*	*AWOS-3PT*	*2*	*RNAV (GPS)*	*1*	*Yes*	*0*	*No*	*1*	5.3
Roswell International Air Center	*3671*	*0.8*	*2*	*Yes*	*1*	*Full Parallel*	*3*	*fully fenced*	*2*	*ASOS*	*2*	*Hi-ILS / LOC ILS / LOC RNAV (GPS) LOC BC /VOR-B*	*2*	*No*	*1*	*No*	*1*	12.8
Sierra Blanca (Ruidoso) Regional Airport	*6814*	*-2.4*	*2*	*Yes*	*1*	*Partial Parallel*	*1*	*fully fenced*	*2*	*AWOS-3*	*1*	*ILS LOC/DME RNAV (GPS)*	*2*	*No*	*1*	*No*	*1*	6.6
Fort Collins-Loveland Municipal Airport	*5016*	*-0.6*	*2*	*No*	*1*	*Full Parallel*	*3*	*fully fenced*	*2*	*AWOS-3*	*1*	*ILS / LOC RNAV (GPS) VOR-A*	*2*	*No*	*1*	*Yes*	*0*	9.4
Grand Junction Regional Airport	*4861*	*-0.4*	*2*	*Yes*	*1*	*Full Parallel*	*3*	*fully fenced*	*2*	*AWOS-3*	*1*	*ILS/LOC RNAV RNP & RNAV GPS LDA/DME*	*2*	*No*	*1*	*No*	*1*	10.6
Amarillo International Airport	*3606.7*	*0.9*	*2*	*n/a*	*1*	*Full Parallel*	*3*	*fully fenced*	*2*	*ASOS*	*1*	*RNAV (GPS) LDA/DME HI-VOR / TACAN VOR / NDB*	*1*	*No*	*1*	*No*	*1*	10.9
Lubbock International Airport	*3282*	*1.2*	*3*	*n/a*	*1*	*Full Parallel*	*3*	*Fully fenced*	*2*	*ASOS*	*2*	*RNAV (RNP & GPS) HI-LOC HI-VOR/DME VOR-A Type: VORTAC Class: L-VORTACW*	*1*	*Yes*	*0*	*No*	*1*	11.2
Rutland Southern Vermont Regional	*787*	*3.7*	*2*	*No*	*1*	*Full Parallel*	*3*	*fully fenced*	*2*	*AWOS-3*	*1*	*ILS Y/Z LOC Y/Z RNAV Y/Z Type: DME Class: T-DME*	*2*	*Yes*	*0*	*Yes*	*0*	12.7

Table –14 - Services Score Table

Name	Parking to Terminal		Part 139 Class	Pt. 139 Score	24/7 Fuel Sales	Fuel Score	Aircraft Maintenance	Maint. Score	Flight Training &Score		Aircraft Rental & Score		Pilots Lounge & Score		Bathrooms & Score		Flight Planning Service & Score		Crew Rest Quarters & Score		Public Amenities & Score		Services Score
Las Cruces International Airport	*100'*	*1*	*Class IV*	*1*	*Yes*	*2*	*Major Airframe & Powerplant*	*2*	*Yes*	*1*	*Yes*	*1*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*No*	*0*	*Restaurant (pending)*	*1*	*11*
Alamogordo White Sands Airport	*0'*	*2*	*0*	*0*	*No*	*1*	*Major Airframe & Powerplant*	*2*	*Yes*	*1*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Restaurant*	*1*	*11*
Artesia Municipal Airport	*0'*	*2*	*0*	*0*	*No*	*1*	*None*	*0*	*Yes*	*1*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*None*	*0*	*8*
Clovis Municipal Airport	*0'*	*2*	*Class III*	*2*	*No*	*1*	*Minor Airframe & Powerplant*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*No*	*0*	*No*	*0*	*Restaurant & Museum*	*2*	*12*
Deming Municipal Airport	*0'*	*2*	*0*	*0*	*Yes*	*2*	*Major Airframe & Powerplant*	*2*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*No*	*0*	*No*	*0*	*None*	*0*	*8*
Doña Ana County Jetport at Santa Teresa	*0'*	*2*	*0*	*0*	*Yes-100LL No-JETA*	*1*	*Major Airframe & Powerplant*	*2*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Museum.*	*1*	*10*
Double Eagle II Airport City of Al	*100'*	*1*	*0*	*0*	*Yes-100LL No-JETA*	*1*	*Major Airframe & Powerplant*	*2*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Restaurant*	*1*	*11*
Lea County Airport	*0'*	*2*	*Class I*	*4*	*No*	*0*	*None*	*0*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*None*	*0*	*10*
Moriarty Municipal Airport	*0'*	*2*	*0*	*0*	*Yes-100LL No-JETA*	*1*	*Major Airframe & Powerplant*	*2*	*Yes*	*1*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*No*	*0*	*None*	*0*	*9*
Roswell International Air Center	*100'*	*1*	*Class I*	*4*	*No*	*1*	*Minor Airframe & Powerplant*	*1*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Restaurant & Museum*	*2*	*13*
Sierra Blanca (Ruidoso) Regional Airport	*0'*	*2*	*Class IV*	*1*	*No*	*1*	*Major Powerplant Only*	*1*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*None*	*0*	*9*
Fort Collins-Loveland Municipal Airport	*0'*	*2*	*Class I*	*4*	*Yes*	*2*	*Major Airframe & Powerplant*	*2*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*None*	*0*	*16*
Grand Junction Regional Airport	*100'*	*1*	*Class I*	*4*	*Yes-100LL No-JETA*	*1*	*Major Airframe & Powerplant*	*2*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*No*	*0*	*Yes*	*1*	*Restaurant & Museum*	*2*	*13*
Amarillo International Airport	*0'*	*2*	*Class I*	*4*	*No*	*1*	*Major Airframe & Powerplant*	*2*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Restaurant & Museum*	*2*	*15*
Lubbock International Airport	*100'*	*1*	*Class I*	*4*	*Yes-100LL No-JETA*	*1*	*Major Airframe & Powerplant*	*2*	*No*	*0*	*No*	*0*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*None*	*0*	*12*
Rutland Southern Vermont Regional	*150'*	*0*	*Class IV*	*1*	*Yes*	*2*	*Major Airframe & Powerplant*	*2*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Yes*	*1*	*Restaurant*	*1*	*12*

Table –15 - Lease Score Table

Name	Hangars and Storage meet NPIAS Criteria & Score		Current Hangar Occupancy & Score		Waiting List & Score		Hangar Development Plan & Score		Development Environmental Permitting & Score		Leases Allow Non Aeronautical Use & Score		Leases include Private and Commercial Use & Score		Snow Removal Operations & Score		Vegetation management & Score		Paved Surface Maintenance & Score		Lease Detail Score
Las Cruces International Airport	*Yes*	*1*	*100% full*	*0*	*No*	*1*	*Yes*	*1*	*PrePermitted*	*1*	*No*	*1*	*Yes*	*1*	*n/a*	*0*	*Fully airport maintained*	*2*	*Fully airport maintained*	*1*	9
Alamogordo White Sands Airport	*Yes*	*1*	*95% full*	*1*	*No*	*1*	*Yes*	*1*	*PrePermitted*	*1*	*Yes*	*0*	*Yes*	*1*	*n/a*	*2*	*Hangar is lessees responsibility*	*1*	*Fully airport maintained*	*1*	10
Artesia Municipal Airport	*No*	*0*	*100% full*	*0*	*No*	*1*	*Yes*	*1*	*developer pays*	*0*	*No*	*1*	*Yes*	*1*	*n/a*	*2*	*Fully airport maintained*	*2*	*Fully airport maintained*	*1*	9
Clovis Municipal Airport	*Yes*	*1*	*98% full*	*1*	*Yes*	*0*	*Yes*	*1*	*builder pays*	*0*	*No*	*1*	*No*	*0*	*Fully airport maintained*	*2*	*Fully airport maintained*	*2*	*Fully airport maintained*	*1*	9
Deming Municipal Airport	*Yes*	*1*	*98% full*	*1*	*No*	*1*	*Yes*	*1*	*builder pays*	*0*	*No*	*1*	*Yes*	*1*	*Fully airport maintained*	*2*	*Fully airport maintained*	*2*	*Fully airport maintained*	*1*	11
Doña Ana County Jetport at Santa Teresa	*Yes*	*1*	*100% full*	*0*	*Yes*	*0*	*Yes*	*1*	*builder pays*	*0*	*No*	*1*	*Yes*	*1*	*n/a*	*2*	*Parcel is lessees responsibility*	*0*	*Lessee pays for maintenance*	*0*	6
Double Eagle II Airport City of Al	*Yes*	*1*	*80% full*	*1*	*No*	*1*	*Yes*	*1*	*builder pays*	*0*	*No*	*1*	*Yes*	*1*	*Hangar is lessees responsibility*	*1*	*Hangar is lessees responsibility*	*1*	*Lessee pays for maintenance*	*0*	8
Lea County Airport	*Yes*	*1*	*100% full*	*0*	*Yes*	*0*	*Yes.*	*1*	*builder pays*	*0*	*Yes*	*0*	*No*	*0*	*Fully airport maintained*	*2*	*Parcel is lessees responsibility*	*0*	*Fully airport maintained*	*1*	5
Moriarty Municipal Airport	*No*	*0*	*100% full*	*0*	*No*	*1*	*Yes.*	*1*	*PrePermitted*	*1*	*Yes*	*0*	*No*	*0*	*Fully airport maintained*	*2*	*Fully airport maintained*	*2*	*Fully airport maintained*	*1*	8
Roswell International Air Center	*No*	*0*	*100% full*	*0*	*Yes*	*0*	*Yes*	*1*	*builder pays*	*0*	*Yes*	*0*	*Yes*	*1*	*Parcel is lessees responsibility*	*0*	*Parcel is lessees responsibility*	*0*	*Fully airport maintained*	*1*	3
Sierra Blanca (Ruidoso) Regional Airport	*No*	*0*	*99% full*	*1*	*Yes*	*0*	*Yes.*	*1*	*unclear*	*0*	*No*	*1*	*No*	*0*	*Fully airport maintained*	*2*	*Fully airport maintained*	*2*	*Fully airport maintained*	*1*	8
Fort Collins-Loveland Municipal Airport	*Yes*	*1*	*100% full*	*0*	*Yes*	*0*	*Yes*	*1*	*PrePermitted*	*1*	*No*	*1*	*Yes*	*1*	*Fully airport maintained*	*2*	*Parcel is lessees responsibility*	*0*	*Fully airport maintained*	*1*	8
Grand Junction Regional Airport	*No*	*0*	*100% full*	*0*	*Yes*	*0*	*Yes*	*1*	*builder pays*	*0*	*Yes*	*0*	*No*	*0*	*Parcel is lessees responsibility*	*0*	*Parcel is lessees responsibility*	*0*	*Lessee pays for maintenance*	*0*	1
Amarillo International Airport	*Yes*	*1*	*90% full*	*1*	*No*	*1*	*No*	*0*	*builder pays*	*0*	*Yes*	*0*	*Yes*	*1*	*Parcel is lessees responsibility*	*0*	*Parcel is lessees responsibility*	*0*	*Lessee responsibility*	*0*	4
Lubbock International Airport	*Yes*	*1*	*99% full*	*1*	*Y*	*0*	*Yes*	*1*	*builder pays*	*1*	*No*	*1*	*Yes*	*1*	*n/a*	*2*	*Parcel is lessees responsibility*	*1*	*Fully airport maintained*	*1*	10
Rutland Southern Vermont Regional	*No*	*1*	*100% full*	*0*	*Yes*	*0*	*Yes*	*1*	*builder pays*	*0*	*Yes*	*0*	*Yes*	*1*	*Hangar is lessees responsibility*	*1*	*Hangar is lessees responsibility*	*1*	*Lessee pays for maintenance*	*0*	4

DuBois & King inc.

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Table –16 - Lease Detail Table

	Typical Parcel Lease Rate (psf/yr)	Average Hangar Lease Rate (monthly)	Average Tie Down Rate (nightly)	Vehicular Parking Rate (monthly)	Fuel Flowage Fees (per gallon)	Commercial Lease Rates (psf/mo)
Las Cruces International Airport	*$0.14*	*Private Ownership*				
Alamogordo White Sands Airport	*$0.14*	*$200.00*	*$30.00*	*n/a*	*unknown*	*n/a*
Artesia Municipal Airport	*$0.10*	*$200.00*	*n/a*	*n/a*	*unknown*	*n/a*
Clovis Municipal Airport	*$0.148*	*$100.00*	*n/a*	*n/a*	*$0.07*	*n/a*
Deming Municipal Airport	*$0.11*	*$100.00*	*n/a*	*n/a*	*unknown*	
Doña Ana County Jetport at Santa Teresa	*$0.192*	*n/a*	*n/a*	*n/a*	*n/a*	*n/a*
Lea County Airport	*$0.10*	*n/a*	*$0.00*	*n/a*	*$0.05*	*$0.00*
Moriarty Municipal Airport	*$0.105*	*n/a*	*$30.00*	*$30.00*	*$0.035*	*$0.037*
Roswell International Air Center	*$0.24*	*$200.00*	*$60.00*	*n/a*	*$0.08*	*$1.00*
Sierra Blanca (Ruidoso) Regional Airport	*$0.13*	*$300.00*	*$15.00*	*n/a*	*$0.1*	*n/a*
Fort Collins-Loveland Municipal Airport	*$0.385*	*$256.00*	*$30.00*	*$30.00*	*$0.06*	*n/a*
Grand Junction Regional Airport	*$0.21*	*$175.00*	*$60.00*	*n/a*	*$0.10*	*$2.525*
Amarillo International Airport	*by appraisal*	*by appraisal*	*n/a*	*$210.00*	*$0.0525*	*n/a*
Lubbock International Airport	*$0.1875*	*$1200.00*	*n/a*	*$210.00*	*$0.08*	*n/a*
Rutland Southern Vermont Regional	*$0.20*	*$225.00*	*$35.00*	*$35.00*	*n/a*	*n/a*

Council Work Session Summary

Meeting: Work Session - Jan 11 2021

TITLE: REVIEW OF THE UTV ORDINANCE.

PURPOSE(S) OF DISCUSSION: ☐ **Inform/Update** ☒ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On March 20, 2020, City Council approved Ordinance No. 2915, which authorized Utility Terrain or Utility Task Vehicles (UTVs) on City streets pursuant to NMSA 1978, § 66-3-1011(B) by repealing and replacing he existing sections, Chapter 27, Article VII, Sections 27-12-7-9 and 27-12-7-9.2 of the Las Cruces Municipal Code. On June 1, 2020, City Council approved Ordinance No. 2930 which repealed and replaced Ordinance No. 2915 to amend the definition of a UTV, enumerate areas where UTV are prohibited from being driven, and requiring a City permit to operate a UTV. On September 21, 2020, City Council, amended the UTV ordinance again to eliminate the conflicts within the ordinance that precluded a number of UTVs that were commercially owned. The purpose of this work session review is to discuss impacts of the ordinance and to get guidance on any additional revisions.

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

City of Las Cruces®
MOUNTAINS OF OPPORTUNITY

Council Work Session Summary

Meeting: Work Session - Jan 11 2021

TITLE: CONSOLIDATED PLAN DISCUSSION

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces, as both an entitlement community for the Community Development Block Grant (CDBG) program and a participating jurisdiction for the Home Investment Partnership (HOME) program, both funded by the U.S. Department of Housing and Urban Development (HUD), must develop and adopt a 5-year plan that identifies the community development and affordable housing needs that the City will attempt to address during the plan period. This plan is known as the Consolidated Plan and has been developed in accordance with HUD regulations. The proposed Consolidated Plan (Con Plan) is for HUD program years 2021-2025, which corresponds with City fiscal years 2022-2026.

Crescendo Consulting Group (CCG) was selected as the consultant to assist with the development of the Con Plan. There were 8 public forums held during November and December 2020 to gather public input on future housing and community development needs. Public outreach also included postcard mailings and utility bill inserts to complete a community survey. Furthermore, CCG conducted multiple stakeholder interviews with invested community members and industry professionals.

CCG is conducting research and compiling collected data to help assist with the development of the Con Plan. This work session is an opportunity for CCG to present and discuss the Con Plan development process with City Council. The results of the research and data collected will allow CCG and City staff to identify priority needs and develop goals to best direct federal resources available to serve low-moderate income residents of Las Cruces. Priority needs may include reducing homelessness, affordable and/or accessible rental housing, preserving existing housing, affordable homeownership housing, and improving public facilities and/or infrastructure.

PLAN(S):

2021-2025 Consolidated Plan

COMMITTEE/BOARD REVIEW:

None