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Attorneys for plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

City of Kingman, an Arizona municipal  
corporation,  
  
Plaintiff,

vs.

Andrew M. Federhar, an individual; Spencer  
Fane, LLP, a foreign limited liability  
partnership; Krystal Burge, an individual;  
Vearl Haynes, an individual; Jean Liss, an  
individual; Steve Pebley, an individual;  
Dwayne Patterson, an individual; Kevin  
Schleeter, an individual; Mike Taylor, an  
individual; Jane Watson, an individual;  
Jeffrey A. Goldberg, an individual; Bruno,  
Brooks and Goldberg, P.C., an Arizona  
professional corporation; David French, an  
individual; and the Kingman Airport  
Authority, an Arizona non-profit corporation.  
  
Defendants.

No. \_\_\_\_\_  
**Complaint**

1. This court has jurisdiction pursuant to the Arizona Constitution, art. VI, § 14.
2. The City of Kingman is an Arizona municipal corporation, a political subdivision of the State of Arizona.
3. The following are or were during the relevant time period, members of the board of directors of the Kingman Airport Authority and are hereafter referred to as the board members: Krystal Burge, Vearl Haynes, Jean Liss, Steve Pebley, Dwayne Patterson, Kevin Schleeter, Mike Taylor, and Jane Watson, collectively referred to as “the board members.”

1           4.     Jeffrey A. Goldberg and Andrew Federhar are attorneys who represented the Kingman  
2 Airport Authority with respect to the condemnation proceeding whereby the City of Kingman has  
3 retaken possession of the Kingman Airport, Mohave County civil cause no. S8015CV2017-00965.  
4 These attorneys are referred to hereafter collectively as the attorneys.

5           5.     David French was the executive director of the Kingman Airport Authority during the  
6 pertinent time period.

7           6.     Kingman Airport Authority, Inc., is an Arizona non-profit corporation that was  
8 incorporated on April 1, 1992.

9           7.     On June 1, 1992, the City of Kingman passed Resolution No. 1649 approving an  
10 assignment of a lease to the Kingman Airport Authority so that the Kingman Airport Authority could  
11 act as the city's administrative agent for the Kingman Airport and the associated industrial park. A  
12 copy of the resolution and associated assignment is attached as exhibit A to this complaint.

13          8.     Resolution No. 1649 was duly adopted, and the assignment of the lease was duly  
14 executed and became effective.

15          9.     The lease the Kingman Airport Authority assumed as assignee is attached as exhibit  
16 B. Exhibit D to this lease is an agreement between the United States of American and the City of  
17 Kingman that controls expenditure of funds at the airport.

18          10.    The lease assumed by the Kingman Airport Authority contained various obligations  
19 and restrictions on the activities of the Kingman Airport Authority as the city's administrative agent.

20          11.    The lease and its assignment obligated Kingman Airport Authority to comply with  
21 requirements set forth in City of Kingman Resolution No. 1271, which is attached as exhibit C.

22          12.    Resolution No. 1271 sets forth the policy requirement of the Federal Aviation  
23 Administration that requires, as a condition for the sale of land associated with the airport, that the  
24 proceeds of sale be used for airport purposes, and these requirements are a part of the lease between  
25 the city and the airport authority.

26          13.    Resolution No. 1271 also contains the agreement obligating the City of Kingman to  
27 comply with the requirement that money obtained from sale of excess land at the airport—industrial  
28 park property—be used for improvement of the airport proper.

1           14.    At no time has the City of Kingman released the Kingman Airport Authority from its  
2 obligations to use proceeds of sale for the improvement of the airport as required by Resolution No.  
3 1271, the policy requirements of the Federal Aviation Administration as set forth in Resolution No.  
4 1271, or the agreement between the city and the United States of America.

5           15.    The defendants at all times knew about the City of Kingman’s restrictions on the use  
6 of airport funds.

7           16.    The City of Kingman filed a condemnation proceeding against the Kingman Airport  
8 Authority’s leasehold interests in 2017 and thereafter gained possession of the airport and industrial  
9 park that was the subject of the lease between the city and the airport authority.

10          17.    As the property taken by the City of Kingman from the airport authority is so  
11 substantial as to make it impractical for the Kingman Airport Authority to proceed with the  
12 operation of the property leased from the city for airport or air terminal purposes.

13          18.    The condemnation operates to permanently deprive the Kingman Airport Authority  
14 of the ability to perform obligations under its lease with the city.

15          19.    The Kingman Airport Authority did not want to have its leasehold interests  
16 condemned, so it employed counsel, Jeffrey Goldberg and Andrew Federhar and their respective  
17 firms, to resist the City of Kingman’s condemnation efforts. The Kingman Airport Authority board  
18 approved the hiring of Andrew Federhar at its board meeting on October 4, 2017.

19          20.    On October 6, 2017, Andrew Federhar and the Kingman Airport Authority received  
20 a letter from the city’s attorney that stated in pertinent part

21                   Take notice that the City of Kingman does not approve, consent to, or  
22 acquiesce to your employment as a lawyer adverse to the city. The  
23 airport authority is obligated to use its funds for airport improvement  
24 purposes only. Self-perpetuation of an airport authority . . . is not an  
25 authorized expenditure of airport funds.

26          21.    The letter also stated that the employment of Mr. Federhar was *ultra vires* and would  
27 make the individual board members personally liable for Mr. Federhar’s fees and costs. A copy of  
28 the October 6, 2017, letter to Andrew Federhar is attached as exhibit D.

          22.    The substance of the October 6, 2017, letter was reiterated in a letter to Federhar on  
February 23, 2018, a copy of which is attached as exhibit E.



1 *ultra vires*, improper, and contrary to the trust agreement under which those funds were held. He,  
2 therefore, is personally liable for those fees wrongfully disbursed.

3 **COUNT FOUR**  
4 **(Conversion)**

5 31. The use of funds to pay Federhar and Goldberg in conjunction with the condemnation  
6 case constituted a theft of those funds for which all of the defendants are liable as they acted in  
7 concert or aided and abetted in the theft, conversion of the funds for an illegal purpose.

8 **COUNT FIVE**  
9 **(Racketeering)**

10 32. The theft of the City of Kingman's funds for an improper purpose, the payment of  
11 Federhar and Goldberg, constituted theft as defined by A.R.S. § 13-1802.

12 33. The authorization and reauthorization of additional monies to Federhar constituted a  
13 pattern of racketeering activity entitling the City of Kingman to recover up to treble damages and  
14 costs of the suit including reasonable attorney's fees against the defendants.

15 **COUNT SIX**  
16 **(Theft)**

17 34. David French abused his position as executive director of the Kingman Airport  
18 Authority by taking money to which he was not entitled.

19 35. The money that French took to which he was not entitled including, as he boasted to  
20 airport users, simply occupying his office at the Kingman Airport Authority's building whenever  
21 he needed money for a personal purpose, money he would take as remuneration for being the airport  
22 executive when he was actually not doing anything.

23 36. David French also had the Kingman Airport Authority issue and sign checks for his  
24 personal attorneys, thereby converting public funds to a personal use.

25 WHEREFORE, judgment is demanded as follows:

26 A. Declaring the lease between the City of Kingman and the Kingman Airport Authority  
27 terminated;

1 B. For an order requiring Andrew Federhar, his law firm, Jeffrey Goldberg, and his law  
2 firm, to disgorge money received for representation of the Kingman Airport Authority in the  
3 condemnation case;

4 C. For judgment against the individual members of the board of directors who wrongfully  
5 diverted airport funds to Andrew Federhar and Jeffrey Goldberg;

6 D. For judgment against David French for theft;

7 E. For damages and treble damages together with costs of suit, including reasonable  
8 attorneys fees against all the defendants on account of their racketeering activities; and

9 F. For such other and further relief as the court deems appropriate.

10 Dated this 26th day of June 2018.

11  
12 /s/ Daryl M. Williams  
13 Daryl M. Williams  
14 Williams Mestaz, LLP  
15 6225 North 24<sup>th</sup> Street, Suite 125  
16 Phoenix, Arizona 85016  
17 Attorneys for plaintiff  
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# Exhibit A

CITY OF KINGMAN, ARIZONA

RESOLUTION NO. 1649

A RESOLUTION BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF KINGMAN, ARIZONA; APPROVING AN ASSIGNMENT OF THE LEASE AGREEMENT FROM THE MOHAVE COUNTY AIRPORT AUTHORITY, INC. TO THE KINGMAN AIRPORT AUTHORITY, INC.; AND ACKNOWLEDGING THE KINGMAN AIRPORT AUTHORITY, INC. AS THE CITY'S ADMINISTRATIVE AGENT FOR THE KINGMAN AIRPORT AND INDUSTRIAL PARK.

WHEREAS, Mohave County and the Mohave County Airport Authority, Inc, entered into a Lease Agreement dated May 21, 1979, whereby Mohave County leased the Kingman Airport to The Mohave County Airport Authority, Inc.; and

WHEREAS, Mohave County transferred and conveyed its ownership interest in the Kingman Airport to the City of Kingman on December 19, 1988; and

WHEREAS, under Arizona Revised Statutes §2-301, et seq., the City of Kingman is authorized to enter into agreements with a nonprofit corporation for airport or air terminal purposes and for the operation and maintenance of airports, air terminals and uses incidental thereto; and

WHEREAS, the City of Kingman and the Mohave County Airport Authority, Inc entered into a Third Amendment and Restatement of Lease Agreement for the real property known as the Kingman Airport on January 20, 1992; and

WHEREAS, the Kingman Airport Authority, Inc. was recently formed as a nonprofit corporation; and

WHEREAS, the Mohave County Airport Authority, Inc. and the Kingman Airport Authority, Inc. plan to enter into an agreement, to be effective July 1, 1992, which will assign and transfer all of Mohave County Airport Authority, Inc.'s rights, titles, interests, and liabilities to the Kingman Airport Authority, Inc., including the Third Amendment and Restatement of Lease Agreement dated January 20, 1992, between the City of Kingman and the Mohave County Airport Authority, Inc.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Common Council of the City of Kingman, Arizona, hereby approve the Lease Assignment Agreement, attached hereto as Exhibit A, from the Mohave County Airport Authority, Inc. to the Kingman Airport Authority, Inc.;

AND BE IT FURTHER RESOLVED, that the Mayor and Common Council of the City of Kingman, Arizona, acknowledges that after the effective date of the above Lease Assignment Agreement the Kingman Airport Authority, Inc. is the City of Kingman's administrative agent for the Kingman Airport and Industrial Park;



AND BE IT FURTHER RESOLVED, that the Mayor and Common Council of the City of Kingman, Arizona, acknowledges that the lease assignment agreement in no way diminishes the responsibility of the City of Kingman for the ownership, maintenance and compliance with the Grant Agreement Assurances, Surplus Property Deed Restrictions and other Contractual Obligations between the City of Kingman and the United State Government.

PASSED AND ADOPTED by the Mayor and Common Council of the City of Kingman, Arizona, this 1st day of June, 1992.

APPROVED:

ATTEST:

Charlene Ware  
Charlene Ware, City Clerk

Carol S. Anderson  
Carol S. Anderson, Mayor

ASSIGNMENT AGREEMENT

EXHIBIT A

THIS ASSIGNMENT AGREEMENT is made this \_\_\_\_ day of June, 1992, by and between MOHAVE COUNTY AIRPORT AUTHORITY, INC., an Arizona nonprofit corporation, (hereinafter referred to as "ASSIGNOR") and KINGMAN AIRPORT AUTHORITY, INC., an Arizona nonprofit corporation, (hereinafter referred to as "ASSIGNEE").

WHEREAS, the COUNTY OF MOHAVE and ASSIGNOR entered into a Lease Agreement dated May 21, 1979, whereby the COUNTY OF MOHAVE leased to ASSIGNOR the Kingman Airport; and

WHEREAS, the COUNTY OF MOHAVE and ASSIGNOR entered into Addenda of the above-referenced Lease Agreement on July 2, 1979, and November 3, 1986; and

WHEREAS, the COUNTY OF MOHAVE transferred and conveyed its ownership interest in that certain real property known as the Kingman Airport to the CITY OF KINGMAN on or about December 19, 1988; and

WHEREAS, the CITY OF KINGMAN and ASSIGNOR entered into a Third Amendment and Restatement of Lease Agreement for the real property known as the Kingman Airport on or about January 20, 1992; and

WHEREAS, the lease of the Kingman Airport from the CITY OF KINGMAN to ASSIGNOR has been entered into pursuant to the provisions of Arizona Revised Statutes §2-301, et seq.; and

WHEREAS, ASSIGNOR has leased the Kingman Airport in order to foster its improvement, development, operation and maintenance; and

WHEREAS, under the provisions of A.R.S. §2-301, et seq., the CITY OF KINGMAN is authorized to enter into agreements with a

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nonprofit corporation for airport or air terminal purposes and for the operation and maintenance of airports, air terminals and uses incidental thereto; and

**WHEREAS**, ASSIGNOR was formed as a nonprofit corporation under A.R.S. §10-451, et seq., and A.R.S. §2-311, et seq., for the purpose of engaging in the promotion, establishment, development and maintenance of airports and adjacent property for the benefit of air transportation and commercial and industrial activities, for the general public benefit; and

**WHEREAS**, ASSIGNEE was formed as a nonprofit corporation under A.R.S. §10-451, et seq., and A.R.S. §2-311, et seq., for the purpose of engaging in the promotion, establishment, development and maintenance of airports and adjacent property for the benefit of air transportation and commercial and industrial activities, for the general public benefit; and

**WHEREAS**, ASSIGNOR and ASSIGNEE believe that it would be in the best public interest for ASSIGNOR to assign all of its right, title and interest, subject to all related obligations, in and to the Kingman Airport, to ASSIGNEE;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

1. ASSIGNMENT AND ACCEPTANCE. ASSIGNOR hereby assigns, transfers and delivers to ASSIGNEE, and ASSIGNEE hereby accepts such assignment, all of ASSIGNOR's right, title and interest, subject to all related liabilities, in and to the Kingman Airport. The assets and liabilities assigned hereunder are more fully described by Paragraphs 2 and 3 hereinbelow.

2. ASSETS BEING TRANSFERRED. The assets being transferred from ASSIGNOR to ASSIGNEE are all of the assets related to the Kingman Airport, including, but not limited to, the following:

A. Lease. ASSIGNOR's right, title and interest as Lessee of that Third Amendment and Restatement of Lease Agreement dated January 20, 1992, by and between the CITY OF KINGMAN, as Lessor, and ASSIGNOR, as Lessee.

B. Capital Improvement Assets. All of ASSIGNOR's capital improvement assets located at the Kingman Airport. Such capital improvement assets are more fully described by Exhibit A, attached hereto and by reference made a part hereof.

C. Equipment, Personal Property and Vehicles. All of ASSIGNOR's equipment, personal property and motor vehicles located at the Kingman Airport. Such equipment, personal property and motor vehicles are more fully described by Exhibit B, attached hereto and by reference made a part hereof.

D. Bank Accounts. All of ASSIGNOR's checking and savings accounts, including all funds deposited therein, related to the Kingman Airport. Such checking and savings accounts are more fully described by Exhibit C, attached hereto and by reference made a part hereof.

E. Accounts Receivables. All of ASSIGNOR's accounts receivables relating to the Kingman Airport. Such accounts receivables are more fully described by Exhibit D, attached hereto and by reference made a part hereof.

F. Subleases. All of ASSIGNOR's subleases related to the Kingman Airport. Such subleases are more fully described by Exhibit E, attached hereto and by reference made a part hereof.

G. Books and Records. All of ASSIGNOR's books, documents and records related to the Kingman Airport. Such books, documents and records are more fully described by Exhibit F, attached hereto and by reference made a part hereof.

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H. Grants. All of ASSIGNOR's government grants and endowments related to the Kingman Airport. Such government grants and endowments are more fully described by Exhibit G, attached hereto and by reference made a part hereof.

I. Insurance. All of ASSIGNOR's rights and benefits as a loss payee or named insured under any and all insurance policies on any of the assets and/or operations which are the subject of this Assignment Agreement. Such insurance policies are more fully described by Exhibit H, attached hereto and by reference made a part hereof.

J. Contracts. All of ASSIGNOR's rights and benefits as a party to the contracts for services and supplies related to the Kingman Airport. Such contracts are more fully described by Exhibit I, attached hereto and by reference made a part hereof.

K. Employment Contracts. All of ASSIGNOR's rights and benefits as a party to all employment contracts, whether written or oral, for employees of the corporation employed at the Kingman Airport. Such employment contracts are more fully described by Exhibit J, attached hereto and by reference made a part hereof.

3. LIABILITIES BEING TRANSFERRED. The liabilities being transferred from ASSIGNOR to ASSIGNEE are all liabilities related to the Kingman Airport, including, but not limited to, the following:

A. Lease. ASSIGNOR's obligations as Lessee of that Third Amendment and Restatement of Lease Agreement dated January 20, 1992, by and between the CITY OF KINGMAN, as Lessor, and ASSIGNOR, as Lessee.

B. Accounts Payables. All of ASSIGNOR's accounts payables relating to the Kingman Airport, including, but not limited to, all utilities, taxes, wages and payments due to vendors for services and equipment. Such accounts payables are more fully described by Exhibit K, attached hereto and by reference made a part

hereof.

C. F.A.A. Release Obligation. ASSIGNOR's obligations to follow the terms of the release obligations whereby the United States Government released certain parcels of real property located at the Kingman Airport. Such release obligations are more fully described by Exhibit L, attached hereto and by reference made a part hereof.

D. Grants. All of ASSIGNOR's obligations to uphold the terms of certain grants related to the Kingman Airport. Such grants are more fully described by Exhibit M, attached hereto and by reference made a part hereof.

E. Claims. All claims, whether known or unknown, which may be made against ASSIGNOR related to the Kingman Airport. Such claims, if known, are more fully described by Exhibit N, attached hereto and by reference made a part hereof.

4. ASSIGNEE'S WARRANTY. ASSIGNEE hereby expressly warrants and covenants that it shall adhere to all terms and conditions of the Third Amendment and Restatement of Lease Agreement entered into between the City of Kingman, as Lessor, and ASSIGNOR, as Lessee. ASSIGNEE further warrants and covenants that it shall comply with all terms and conditions arising out of the Releases by the United States Government, and contracts related thereto, as more fully described by Exhibit L, attached hereto and by reference made a part hereof.

5. ADDITIONAL DOCUMENTS. ASSIGNOR and ASSIGNEE hereby specifically agree to execute any additional documents which may be necessary from time to time to carry out the purposes of this Assignment Agreement. Such documents shall include, but not be limited to, all documents necessary to convey from ASSIGNOR to ASSIGNEE any assets and/or liabilities related to the Kingman Airport that have not been assigned by this Assignment Agreement.

6. CONDITIONS PRECEDENT. This Assignment Agreement shall be effective only upon the approvals from the Federal Aviation Administration, Arizona Department of Transportation and the City of Kingman.

7. EFFECTIVE DATE. This Assignment Agreement shall be effective on July 1, 1992, or upon the receipt of the approvals set forth in Paragraph 6, whichever date is later.

8. APPLICABLE LAW. This Lease is being executed and is intended to be performed in the State of Arizona, and shall be enforced and construed according to the laws of that state.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**ASSIGNOR:** MOHAVE COUNTY AIRPORT AUTHORITY, INC.,  
an Arizona nonprofit corporation

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**ASSIGNEE:** KINGMAN AIRPORT AUTHORITY, INC.,  
an Arizona nonprofit corporation

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

# Exhibit B



**THIRD AMENDMENT AND RESTATEMENT**  
**OF LEASE AGREEMENT**

THIS THIRD AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 1992, by and between the **CITY OF KINGMAN**, a municipal corporation functioning under the laws of the State of Arizona, (hereinafter referred to as "LESSOR") and the **MOHAVE COUNTY AIRPORT AUTHORITY, INC.**, a non-profit corporation organized under the laws of the State of Arizona (hereinafter referred to as "LESSEE").

**WHEREAS**, MOHAVE COUNTY and LESSEE entered into a Lease Agreement dated May 21, 1979, whereby MOHAVE COUNTY leased to LESSEE the Kingman Airport; and

**WHEREAS**, MOHAVE COUNTY and LESSEE entered into addenda to the above-referenced Lease Agreement on July 2, 1979, and November 3, 1986; and

**WHEREAS**, MOHAVE COUNTY transferred and conveyed its ownership interest to that certain real property known as the Kingman Airport to the CITY OF KINGMAN on or about December 19, 1988; and

**WHEREAS**, LESSEE continues to lease the Kingman Airport from the CITY OF KINGMAN pursuant to the terms of the Lease Agreement dated May 21, 1979, as amended; and

**WHEREAS**, LESSOR has acquired title to several former Kingman Airport parcels to be added to that certain real property known as the Kingman Airport, all as described by Exhibit "A" hereto; and

**WHEREAS**, LESSOR and LESSEE are agreed that the improvement, development, operation and maintenance of the Kingman Airport and its expense will be in the public interest; and

**WHEREAS**, under the provisions of A.R.S. §2-301, et seq., LESSOR is authorized, among other things, to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate airports; and

**WHEREAS**, under the provisions of A.R.S. §2-301, et seq., LESSOR is authorized to enter into agreements with a non-profit corporation for airport or air terminal purposes and for the operation and maintenance of airports, air terminals and uses incidental thereto; and

**WHEREAS**, LESSEE was formed as a non-profit corporation under A.R.S. §10-451, et seq., and A.R.S. §2-311, et seq., for the purpose of engaging in the promotion, establishment, development and maintenance of airports and adjacent property for the benefit of air transportation and commercial or industrial activities, for the general public benefit of the residents of Mohave County; and

**WHEREAS**, LESSOR and LESSEE desire to enter into a Third Amendment and Restatement of Lease Agreement for the Kingman Airport;

**NOW THEREFORE**, in consideration of the mutual covenants herein, the parties agree as follows:

1. **LEASED PREMISES**. LESSOR hereby leases to LESSEE and LESSEE does hereby lease from LESSOR for airport and air terminal purposes, and for all purposes related thereto, and for all purposes incidental thereto, and for the purpose of carrying on any other revenue-producing business in connection therewith, the property described by Exhibit A attached hereto and by reference made a part hereof.

2. **TERM**. The term for which the leased premises are leased shall commence on the 20th day of January, 1992, and shall expire on the 19th day of January, 2017, subject to the right of

renewal hereinafter set forth, unless said term is sooner terminated as hereinafter provided.

3. OPTION TO RENEW. LESSEE may, at its sole option, extend the term of this Third Amendment and Restatement of Lease Agreement for an additional period of twenty-five (25) years at the same rental and under the same terms and conditions as contained in this Third Amendment and Restatement of Lease Agreement, said option to be exercised prior to the expiration of the prime term by LESSEE giving notice in writing to LESSOR of its intention to renew, together with the payment of the rent required by Subparagraph 5.B. hereinbelow.

4. SURRENDER OF PREMISES. Upon expiration or sooner termination of the prime term of this Third Amendment and Restatement of Lease Agreement, or any renewal thereof, LESSEE covenants and agrees that it will give up, surrender and deliver to LESSOR the leased premises together with title to all buildings, structures and improvements added to the leased premises during the term of this Third Amendment and Restatement of Lease, as well as all personal property, furniture, fixtures and other equipment contained thereon and used in connection with the operation of said airport and airport terminal and purchased or acquired for said purposes.

5. RENT. As rent for the leased premises, LESSEE shall pay to LESSOR the following:

A. The sum of ONE DOLLAR (\$1.00) for the prime term of this Lease, payable on or before January 31, 1992.

B. The sum of ONE DOLLAR (\$1.00) for the successive twenty-five (25) year term, if renewed, subsequent to the expiration of the prime Lease, payable on or before January 1, 2017.

6. REPAIRS. LESSEE shall take care of the leased premises, together with all improvements, fixtures and personal

property thereon, whether now on the premises or hereafter added, and shall make all necessary repairs, inside and outside, structural or otherwise, so as to maintain and preserve them in good order and condition and keep the leased premises as an operating airport and air terminal in good condition, ordinary wear and tear excepted.

7. EXPENDITURES IN EXCESS OF TEN THOUSAND DOLLARS. In the erection, improvement and repair of all buildings, structures, works, runways, improvements, fixtures and personal property, and in furnishing supplies and materials for same or for any other use by LESSEE, when the expenditure required exceeds the sum of TEN THOUSAND DOLLARS (\$10,000.00), LESSEE shall advertise for bids for the work contemplated and for furnishing such supplies and materials, and ask for sealed proposals. Any such contract shall be let to the lowest responsible bidder. LESSEE may, however, reject any and all bids submitted and may readvertise for bids. The TEN THOUSAND DOLLAR (\$10,000.00) minimum established by this paragraph has been based on the requirements set forth in A.R.S. §41-2535. In the event A.R.S. §41-2535 is modified during the term of this Lease, or any renewal or extension thereof, the modified amount set forth therein shall be automatically substituted for the amount set forth herein.

8. ASSIGNMENT AND MORTGAGE. LESSEE shall not assign, mortgage, pledge, hypothecate or encumber this Third Amendment and Restatement of Lease Agreement, or any part thereof, or sublet the leased premises in its entirety. LESSEE may sublet portions of the leased premises and may enter into other agreements with third persons for the use thereof and for such purpose. Nothing contained in this paragraph shall prevent LESSEE from pledging in whole or in part the revenues of the airport and air terminal and adjacent lands after providing for operation and maintenance costs as security for the payment of bonds or other obligations issued, incurred or assumed for airport and air terminal purposes to or for the benefit of the holders of such bonds or other obligations, or from making such bonds or other obligations a lien upon such revenues.

9. ACCOUNTS. LESSEE agrees that LESSOR may, during reasonable times and hours, inspect LESSEE's books and records. LESSEE further agrees to furnish LESSOR, upon LESSOR's request, within a reasonable period of time, annual operating statements and detailed balance sheets, certified by a certified public accountant of the State of Arizona, at LESSOR's expense.

10. FINANCING AND DEVELOPMENT OF AIRPORT AND AIR TERMINAL. LESSEE shall be obligated to the extent it deems necessary to rehabilitate, expand, improve and develop the airport and air terminal, and shall have the right, in its discretion, to issue bonds and incur obligations and make expenditures for such purposes. None of the bonds issued by LESSEE shall be a lien or charge upon the leased premises. Title to the buildings, structures and additions made or added to the leased premises by LESSEE or any of its subtenants shall vest in LESSOR immediately upon annexation, except where leases, permits, licenses or other agreements provide the title thereto shall remain in the lessees, permittees or third persons. Bonds issued or other obligations incurred or assumed by LESSEE for airport and air terminal purposes shall not be obligations of LESSOR, and LESSEE shall have no power to pledge the credit of LESSOR in any way whatsoever.

11. OPERATING CONTRACTS AND SUBLEASES. LESSOR and LESSEE acknowledge that LESSEE has permitted subleases, permits, licenses, contracts and agreements related to the leased premises. LESSEE hereby acknowledges that it shall be responsible for and hold LESSOR harmless from all claims arising out of or in respect to all such subleases, permits, licenses, contracts and agreements, whether existing as of the date of this Third Amendment and Restatement of Lease Agreement or entered into hereafter. All rentals, fees and other payments due under said subleases, permits, licenses, contracts and agreements shall be payable to LESSEE.

12. OTHER CONTRACTS AND AGREEMENTS. This Third Amendment and Restatement of Lease Agreement and all subleases,

permits, licenses, contracts and agreements entered into by LESSEE shall be subject to the following requirements:

A. Public Use of Airport. LESSEE agrees to operate the airport for the use and benefit of the public, to make available all airport facilities and services to the public without unjust discrimination, and to refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges or fees for any use of the airport or its facilities or for any airport services.

B. Exclusive Use. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of any exclusive right within the meaning of Section 303 of the Civil Aeronautics Act of 1938, as amended.

C. Maintenance of Landing Area. LESSOR reserves the right, but shall not be obligated to LESSEE, to develop or improve the landing area of the airport and all publicly-owned facilities of the airport.

D. Development of Landing Area. LESSOR reserves the right, but shall not be obligated to LESSEE, to develop or improve the landing area and all publicly-owned air navigation facilities.

E. Approach Protection. LESSOR reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, which in the opinion of LESSOR would limit the usefulness of the airport or constitute a hazard to aircraft.

F. National Emergency. During the time of war or national emergency, LESSEE shall have the right to enter into an agreement with the United States government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other area facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the government, shall be suspended.

G. Subordination to Federal Agreements Generally. This Agreement shall be subordinate to the provision of any existing agreement between LESSOR and the United States, relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

H. Additional Federal Aviation Administration Regulations. LESSEE agrees to manage and operate the leased premises in accordance with Federal Aviation Administration

Regulations, attached hereto as Exhibit B and by reference made a part hereof.

13. PROCEEDS FROM SALES OF REAL PROPERTY. LESSOR hereby agrees to pay to LESSEE all proceeds which it receives arising out of each and every sale of real property which or at any time may be leased premises under the terms of this Third Amendment and Restatement of Lease Agreement or any renewal, extension or modification thereof. LESSEE agrees to use said funds in a manner consistent with those agreements entered into between MOHAVE COUNTY and the UNITED STATES GOVERNMENT dated June 1, 1962, and December 19, 1988, copies of which are attached hereto as Exhibits C and D and by reference made a part hereof.

14. INSURANCE. LESSEE hereby undertakes and agrees to indemnify and save LESSOR harmless from any claims, causes of action or judgments by reason of personal injuries sustained by any person or persons, including death, in the leased premises, and for any claims for damage to property, and agrees to procure, from companies permitted to do business in the state of Arizona, such insurance as will protect LESSOR from any such claims, suits, demands or judgments which may arise from the operation, control or occupancy of the leased premises. Such insurance shall provide a single limit of at least TEN MILLION DOLLARS (\$10,000,000.00), or such amount as LESSOR may require, in any one occurrence. LESSEE further agrees to procure insurance with extended coverage endorsement on all buildings, structures, equipment and fixtures in or upon the leased premises and used in connection with the operation and maintenance of the airport and air terminal. Such policies shall cover the property to the extent of a minimum of the amount necessary to cover the interests of both LESSOR and LESSEE. All policies shall provide that loss, if any, shall be payable to LESSEE, which shall hold the proceeds of all such insurance in a trust fund for the purpose of repairing or reconstructing any of the buildings, structures, equipment or fixtures damaged or destroyed by reason of any of the risks insured against by such policies or for the purpose of making other capital improvements to the airport or air terminal. In the

event the proceeds of such insurance exceed the cost of any such repairs or reconstruction, or of the making of such capital improvements, such excess shall be paid to LESSOR. If LESSEE shall not commence such repairs or reconstruction, or other capital improvements, with one (1) year from the date of receipt of the proceeds of such insurance, the same shall be paid over to LESSOR. In the event such proceeds shall be insufficient, then LESSEE shall make repairs, reconstruction or replacements at its own expense. Copies of all policies of insurance or certificates thereof shall be delivered to LESSOR and the premiums thereof shall be paid by LESSEE. All insurance shall jointly cover both LESSOR and LESSEE. Any additional insurance shall be at the sole cost of LESSEE.

15. GOVERNMENT AID. LESSOR agrees to cooperate with LESSEE, if so requested by LESSEE, in making any necessary applications for and in securing any and all governmental or other aid which may be obtainable for the airport and air terminal under any applicable laws, but LESSOR shall not be obligated to LESSEE to assume any financial liability or obligation in connection therewith.

16. ADDITIONAL LANDS AND INTEREST THEREIN. LESSOR shall immediately upon acquisition of any lands and improvements thereon or rights, easements or interest therein for use in extension of the airport or air terminal, or for use in expansion of the airport or air terminal, or for use in maintaining airplane beacons, guides or other aids to aviation, convey the same to LESSOR without consideration, and such property shall become part of the leased premises.

17. CONDEMNATION OR ACQUISITION BY OTHERS. In the event the leased premises or any part thereof, or the right and interest of LESSEE hereunder in or to the leased premises or any part thereof, shall be condemned, taken or acquired by a body having superior power of eminent domain, the compensation or award therefor shall be payable in accordance with the following provisions:



A. Out of said compensation or award there shall be paid to LESSEE an amount equal to the sum of the following:

(1) The amount required to redeem any of LESSEE's Bonds or to pay any of LESSEE's obligations issued or incurred for airport and air terminal purposes and outstanding at the time title vests in the condemning power at the earliest dates after such decree or judgment when any such bonds may be called for redemption or such obligations may be paid, or, if any such bonds or obligations are not subject to call or immediate payment, then the amount required to redeem or pay them at their maturity, less the following three (3) items:

(a) The assets of any sinking fund established for redemption of any bonds or other obligations issued, incurred or assumed for airport and air terminal purposes, or any other public purposes, including interest thereon.

(b) The proceeds remaining unexpended from the sale of any and all bonds or other obligations issued, incurred or assumed for airport and air terminal purposes.

(c) Any cash set aside for redemption of bonds issued or the payment of any obligations incurred or assumed for airport and air terminal purposes.

(2) The interest on any such bonds or obligations from the last interest payment date prior to the vesting of title in the condemning power up to the date of such call or maturity;

(3) The call premium, if any;

(4) Any unamortized funds of LESSEE, other than bonds or other obligation proceeds, or federal, state or city grants, expended for capital improvements at the airport or air terminal.

B. The balance, if any, of such compensation or award shall be paid to LESSOR.

The amount paid to LESSEE as provided by this paragraph shall, together with any funds remaining unexpended for airport and air terminal purposes from the proceeds of any such bonds or obligations, be set aside in a special fund. If, after the payment or redemption of all said bonds and obligations with

interest and after the deduction of unamortized funds of LESSEE as aforesaid, there shall remain any balance in said special fund including income and appreciation thereon, LESSEE shall pay such balance to LESSOR. If the whole of said leased premises or the right and interest of LESSEE in or to the same shall be payable thereunder. If only part of the said leased premises or if the right and interest of LESSEE in or to the same shall be condemned, taken or acquired is so substantial as to make it impractical to proceed with the operation of the leased premises for airport or air terminal purposes, or other public purposes, then and in such event, no further rental shall be payable hereunder, provided, however, that possession of the leased premises remaining shall be promptly surrendered to LESSOR as if the term hereof shall have come to an end. If, however, only a part of said leased premises or of the right and interest of LESSEE in or to the same shall be condemned, taken or acquired, and the remaining is sufficient to conduct the operation thereof for airport and air terminal purposes, or other established public purposes, then, and in such event, the obligations of LESSEE under the provisions of this Agreement relating to rent as well as under other provisions of this Agreement shall continue and remain unaffected by such condemnation, taking or acquisition.

18. INSPECTION. LESSOR reserves the right of free access to all portions of the leased premises for the purpose of inspection, during reasonable times, upon reasonable notice.

19. PROMOTION OF AIRPORT ACTIVITIES AND SUPERVISION. LESSEE agrees to use diligent efforts to promote aeronautical activities at the airport and to secure persons who wish to base their aeronautical activities at the airport, either as fixed-base users or non-scheduled air carriers, or as lessees, and to promote other types of revenue-producing businesses and recreational activities at the airport. LESSEE shall supervise the airport and all activities thereon in a businesslike and prudent manner, and shall cooperate with LESSOR in securing compliance by other airport

users of pertinent laws and regulations and of the terms of any agreement or lease relative to the use of the airport. LESSOR and LESSEE specifically acknowledge that the efforts of LESSEE and the expenditures of authorized funds by LESSEE to enhance the Industrial Park area of the leased premises is beneficial to the long-term growth of aviation activities on the leased premises.

20. TERMINATION BY LESSOR. LESSOR shall have the right to terminate this Third Amendment and Restatement of Lease Agreement in its entirety or to enforce this Agreement by any appropriate remedy immediately upon the happening of any of the following events:

A. Filing of a petition, voluntarily or involuntarily for the adjudication of LESSEE as bankrupt;

B. The making by LESSEE of any general assignment for the benefit of creditors;

C. The occurrence of any act which operates to permanently deprive LESSEE of the ability to perform its duties under this Agreement (except suspension of operations resulting from war or national emergency);

D. The abandonment of operations at the Airport by LESSEE;

E. The failure by LESSEE to perform, keep and observe any and all of the terms, covenants and conditions herein contained on the part of LESSEE to be performed, kept or observed after the expiration of ninety (90) days from the date written notice has been given to LESSEE by LESSOR to correct such default or breach, provided that LESSOR shall extend said period in the event LESSEE shall furnish satisfactory evidence that it is continuously and diligently attempting to correct such default or breach.

21. TERMINATION BY LESSEE. Should LESSOR fail to observe any provisions of this Agreement, written notice of such delinquency shall be given by LESSEE. If such delinquency continues uncured for ninety (90) days after receipt of such notice, LESSEE may elect to terminate this Agreement in its entirety or enforce this Agreement by any appropriate legal remedy.

**22. EFFECT OF THIRD AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT.** LESSOR and LESSEE hereby acknowledge that this Third Amendment and Restatement of Lease Agreement supersedes in its entirety all of the Lease Agreement entered into between MOHAVE COUNTY and LESSEE dated May 21, 1979, as amended.

**23. NOTICE.** Any notice desired or required to be served by either party upon the other or whenever notice is provided for in this Agreement, it shall be given in writing and hand-delivered or mailed by certified mail, return receipt requested, to the party to whom addressed, as set forth hereinbelow:

LESSOR: CITY OF KINGMAN  
310 North Fourth Street  
Kingman, AZ 86401

With a copy to:

KINGMAN CITY ATTORNEY  
310 North Fourth Street  
Kingman, AZ 86401

LESSEE: MOHAVE COUNTY AIRPORT AUTHORITY, INC.  
7000 Flightline Drive  
Kingman, AZ 86401

With a copy to:

BRUNO, WEISBERG & BROOKS, P.C.  
730 East Beale Street  
Kingman, AZ 86401

Any party may change the address to which notice shall be delivered or mailed by notice duly given.

**24. NON-DISCRIMINATION.** LESSEE shall make no distinction among persons entitled to the benefit of use of the premises, nor shall it discriminate against any employee or applicant for employment on the premises, on the basis of race, color, creed, sex or national origin in accordance with state or federal laws. Any violation of this paragraph by LESSEE shall constitute a material

breach of this Agreement.

25. SEVERABILITY. If it is determined that any specific clause or provision is prohibited by law, then that provision shall be null and void but shall not affect the other provisions of this Agreement, which nevertheless remain in full force and effect.

26. CONTINUITY. This Agreement and each and all of the covenants, obligations and conditions hereof shall inure to the benefit of and bind the LESSOR and LESSEE respectively, their successors in office, successors in interest and assigns.

27. APPLICABLE LAW. This Third Amendment and Restatement of Lease Agreement is being executed and is intended to be performed in the State of Arizona, and shall be enforced and construed according to the laws of that state.

IN WITNESS WHEREOF, the parties have executed this Third Amendment and Restatement of Lease Agreement as of the date first above written.

LESSOR:

CITY OF KINGMAN, a municipal  
corporation

By Carol S. Anderson  
CAROL ANDERSON, Mayor

Attest;

Charlene Ware  
CHARLENE WARE, Clerk


LESSEE:

MOHAVE COUNTY AIRPORT AUTHORITY, INC.,  
an Arizona non-profit corporation

By Hal Johnson  
HAL JOHNSON, President

STATE OF ARIZONA            )  
  ) ss.  
COUNTY OF MOHAVE         )

The foregoing Third Amendment and Restatement of Lease Agreement was acknowledged before me, the undersigned notary public, this 22<sup>ND</sup> day of January, 1992, by CAROL ANDERSON, Mayor of the CITY OF KINGMAN.



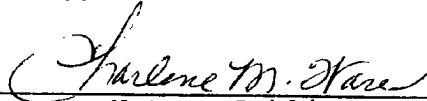
Notary Public

My Commission Expires:

4-4-95

STATE OF ARIZONA            )  
  ) ss.  
COUNTY OF MOHAVE         )

The foregoing Third Amendment and Restatement of Lease Agreement was acknowledged before me, the undersigned notary public, this 22<sup>ND</sup> day of January, 1992, by HAL JOHNSON, President of MCHAVE COUNTY AIRPORT AUTHORITY, INC.



Notary Public

My Commission Expires:

4-4-95

EXHIBIT \_\_\_\_\_

KINGMAN AIRPORT REMNANT PARCEL:

That portion of Sections 14, 23, 26, 27 and 34 lying Southeasterly of the Southeasterly Right-of-Way line for the A.T.& S.F. Railroad Company 200 foot wide Right-of-Way.

That portion of Section 33 lying Southeasterly of the Southeasterly Right-of-Way line for "BERRY STATION" of the A.T.& S.F. Railroad Company.

The S 1/2 of the SW 1/4 and the S 1/2 of the N 1/2 of the SW 1/4 and the S 1/2 of the N 1/2 of the SW 1/4 of Section 24; all of Sections 25, 35 and 36. All of the above Sections within T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona.

GROSS AREA = 4009.04 Acres, More or Less.

EXCEPT the following described Parcels:

GENERAL CABLE PARCEL:

A Parcel containing 56.104 Acres, more or less, being a part of Section 26 and a part of Section 27, Township 22 North, Range 16 West, G.& S.R.M., Mohave County, Arizona, said Parcel being more particularly described as follows:

Beginning at a point which lies S.73°19'19"W., a distance of 3753.47 feet from the Northeast Corner of said Section 26, Thence N.45°00'W., a distance of 930.00 feet; Thence Northwesterly along the arc of a curve, concave to the Southwest and having a radius of 175.00 feet and a central angle of 90°00', an arc distance of 274.89 feet; Thence S.45°00'W., a distance of 844.16 feet; Thence Southwesterly along the arc of a curve, concave to the Southwest and having a radius of 849.95 feet and a central angle of 6°44', an arc distance of 99.88 feet; Thence S.38°16'W., a distance of 1060.84 feet; Thence Southwesterly along the arc of a curve, having a radius of 20.00 feet and a central angle of 83°16' an arc distance of 29.07 feet; Thence S.45°00'E., a distance 397.82 feet; Thence N.45°00'E., a distance of 41.00 feet; Thence S.45°00'E., a distance of 100.25 feet; Thence S.45°00'W., a distance of 41.00 feet; Thence S.45°00'E., a distance of 486.82 feet; Thence Southeasterly along the arc of a curve concave to the Northeast and having a radius of 20.00 feet and a central angle of 90°00' an arc distance of 31.42 feet; Thence N.45°00'E., a distance of 2120 feet; Thence Northeasterly along the arc of a curve concave to the Northwest and having a radius of 50.00 feet and a central angle of 90°00', an arc distance of 78.54 feet to the Point of Beginning.

PARCEL II-I as delineated on Record of Survey: Book 4, Page 39 recorded September 11, 1986 at fee number 86-37849 records of Mohave County, Arizona situate in the NE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 2.50 Acres, More or Less.

PARCEL IX-C as delineated on Record of Survey: Book 4, Page 40 recorded September 11, 1986 at fee number 86-37850 records of Mohave County, Arizona situate in the N 1/2 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 6.92 Acres, More or Less.

PARCEL VI-A as delineated on Record of Survey: Book 4, Page 37 recorded July 24, 1986 at fee number 86-30962 records of Mohave County, Arizona situate in the SW 1/4 of Section 23 and the NW 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 5.00 Acres, More or Less.

PARCEL IX-B as delineated on Record of Survey: Book 4, Page 15 recorded February 25, 1986 at fee number 86-6518 records of Mohave County, Arizona situate in the N 1/2 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 15.71 Acres, More or Less.

PARCELS IV-I, J, K, L as delineated on Record of Survey: Book 3, Page 14 recorded July 18, 1983 at fee number 83-26900 records of Mohave County, Arizona situate in the SW 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 5.02 Acres, More or Less.

PARCELS IV-G, H as delineated on Record of Survey: Book 3, Page 12 recorded July 18, 1983 at fee number 83-26898 records of Mohave County, Arizona situate in Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 10.70 Acres, More or Less.

PARCEL IV-F as delineated on Record of Survey: Book 3, Page 11 recorded July 18, 1983 at fee number 83-26898 records of Mohave County, Arizona situate in Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 12.84 Acres, More or Less.

PARCELS IV-R, S as delineated on Record of Survey: Book 3, Page 96 recorded August 8, 1985 at fee number 85-28343 records of Mohave County, Arizona situate in the NW 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 4.63 Acres, More or Less.

PARCEL II-K as delineated on Record of Survey: Book 5, Page 10 recorded March 2, 1988 at fee number 88-8134 records of Mohave County, Arizona situate in the NE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 2.15 Acres, More or Less.



PARCEL IV-E as delineated on Record of Survey: Book 5, Page 13 recorded March 2, 1988 at fee number 88-8137 records of Mohave County, Arizona situate in Section 27, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 4.61 Acres, More or Less.

PARCEL IX-F as delineated on Record of Survey: Book 5, Page 28 recorded May 31, 1988 at fee number 88-22059 records of Mohave County, Arizona situate in the NE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 10.00 Acres, More or Less.

PARCEL II-L as delineated on Record of Survey: Book 5, Page 30 recorded May 31, 1988 at fee number 88-22061 records of Mohave County, Arizona situate in the SE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 1.50 Acres, More or Less.

PARCEL IV-O-A-A as delineated on Record of Survey: Book 4, Page 77 recorded July 7, 1987 at fee number 87-27966 records of Mohave County, Arizona situate in Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 2.00 Acres, More or Less.

PARCELS IV-A, B, C as delineated on Parcel Plat: Book 1, Page 59 recorded April 23, 1979 at fee number 79-12670 and Parcel Plat: Book 1, Page 72 recorded April 9, 1980 at fee number 80-12574 records of Mohave County, Arizona situate in Sections 26 and 27, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 60.52 Acres, More or Less.

PARCEL V-J as delineated on Record of Survey: Book 4, Page 6 recorded December 5, 1985 at fee number 85-42277 records of Mohave County, Arizona situate in Section 27, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 0.86 Acres, More or Less.

PARCEL V-I as delineated on Record of Survey: Book 3, Page 99 recorded August 8, 1985 at fee number 85-28346 records of Mohave County, Arizona situate in Section 27, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 0.38 Acres, More or Less.

PARCEL IV-Q as delineated on Record of Survey: Book 3, Page 86 recorded May 23, 1985 at fee number 85-18341 records of Mohave County, Arizona situate in Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 2.00 Acres, More or Less.

PARCEL IV-N as delineated on Record of Survey: Book 3, Page 49 recorded July 27, 1984 at fee number 84-28073 records of Mohave County, Arizona situate in Sections 26 and 27, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 9.43 Acres, More or Less.

PARCEL II-F as delineated on Record of Survey: Book 3, Page 17 recorded July 18, 1983 at fee number 83-26903 records of Mohave

County, Arizona situate in the NE 1/4 of Section 26, T.22 N., R.16 W., Mohave County, Arizona. Area = 3.50 Acres, More or Less.

PARCELS II-A, C, D as delineated on Record of Survey: Book 3, Page 15 recorded July 18, 1983 at fee number 83-26901 records of Mohave County, Arizona situate in the NE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 4.48 Acres, More or Less.

PARCEL IX-D-C as delineated on Record of Survey: Book 5, Page 38 recorded August 23, 1988 at fee number 88-35231 records of Mohave County, Arizona situate in the N 1/2 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 2.00 Acres, More or Less.

PARCEL IX-H as delineated on Plat recorded August 23, 1988 at fee number 88-35230 records of Mohave County, Arizona situate in the SE 1/4 of Section 23 and the NE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 36.14 Acres, More or Less.

PARCEL II-E as delineated on Record of Survey: Book 3, Page 15 recorded July 18, 1983 at fee number 83-26901 records of Mohave County, Arizona situate in the NE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 0.76 Acres, More or Less.

PARCEL II-H-A as delineated on Record of Survey: Book 6, Page 88 recorded November 2, 1990 at fee number 90-80346 records of Mohave County, Arizona situate in the NE 1/4 of Section 26, T.22 N., R.16 W., Mohave County, Arizona. Area = 1.10 Acres, More or Less.

PARCEL IV-U-A as delineated on Record of Survey: Book 6, Page 1 recorded February 8, 1990 at fee number 90-8832 records of Mohave County, Arizona situate in the SW 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 5.07 Acres, More or Less.

PARCEL IX-E-A as delineated on Record of Survey: Book 6, Page 96 recorded December 10, 1990 at fee number 90-83621 records of Mohave County, Arizona situate in the SE 1/4 of Section 23 and the NE 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave county, Arizona. Area = 2.48 Acres, More or Less.

PARCEL VI-E-A as delineated on Record of Survey: Book 6, Page 2 recorded February 8, 1990 at fee number 90-8833 records of Mohave County, Arizona situate in the SW 1/4 of Section 23 and the NW 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 40.00 Acres, More or Less.

PARCEL IV-M-A as delineated on Record of Survey: Book 7, Page 90 recorded October 21, 1991 at fee number 91-56920 records of Mohave

County, Arizona situate in the NW 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 2.00 Acres, More or Less.

PARCEL II-O-A as delineated on Record of Survey: Book 6, Page 40 recorded June 8, 1990 at fee number 90-38173 records of Mohave County, Arizona situate in the E 1/2 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave county, Arizona. Area = 2.00 Acres, More or Less.

PARCEL II-N-A as delineated on Plat recorded October 21, 1991 at fee number 91-56921 records of Mohave County, Arizona situate in the E 1/2 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 0.41 Acres, More or Less.

PARCEL II-B-B as delineated on Record of Survey: Book 5, Page 73 recorded September 7, 1989 at fee number 89-47674 records of Mohave County, Arizona situate in the NE 1/4 of the Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 0.64 Acres, More or Less.

PARCEL IV-S as delineated on Record of Survey: Book 3, Page 96 recorded August 8, 1985 at fee number 85-28343 records of Mohave County, Arizona situate in the NW 1/4 of Section 26, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona. Area = 2.00 Acres, More or Less.

GROSS AREA OF THE EXCEPTIONS = 310.43 Acres, More or Less.

NET AREA OF THE PARCEL DESCRIBED = 3698.61 Acres, More or Less.

AVIGATION EASEMENTS:

PARCEL NO. 1:

A portion of the SE 1/4 of Section 24, T.22 N., R.16 W., G.& S.R.M., Mohave County, Arizona being more particularly described as follows:

COMMENCING at the S 1/4 Corner for said Section 24 being a 1" ODIP W/USGLO Brass Cap having Arizona Coordinate System, West Zone values of X=445945.18; Y=1553029.04; thence along the South line of said SE 1/4 S.89°49'47"E., 415.90 feet (Basis of Bearings: Grid North said West Zone and distances are ground to obtain grid multiply by 0.999775) to the point of beginning; thence N.37°59'50"E., 659.58 feet; thence S.44°52'39"E., 737.40 feet to a point in the aforementioned South line of said SE 1/4 of Section 24; thence along said South line N.89°49'47"W., 926.36 feet to the point of beginning. This parcel encumbers 5.54 Acres, More or Less.

PARCEL NO. 2:

The CLEAR ZONE AVIGATION EASEMENT recorded on November 15, 1977, in Book 428 of Official Records, Pages 214-219, records of Mohave County, Arizona. This parcel encumbers 4.64 Acres, More or Less.

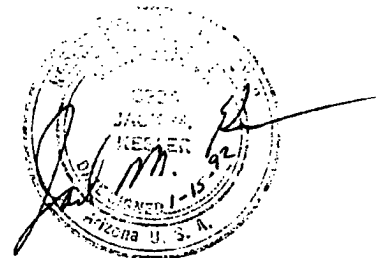


EXHIBIT "B"

Page 1

F.A.A. PROVISIONS

A. The LESSEE, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on the said 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, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

B. The LESSEE, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishings of services thereon, no person on the grounds of race, color or national origin shall be excluded from participating in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

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

D. LESSEE shall furnish accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly

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EXHIBIT "B"

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discriminatory prices for each unit of service, PROVIDED THAT the LESSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchases.

E. Noncompliance with Provision D. above shall constitute a material breach thereof and, in the event of such noncompliance, the LESSOR shall have the right to terminate this Lease and the estate hereby created without liability therefor or, at the election of the LESSOR or the United States, either or both said governments shall have the right to judicially enforce Provisions.

F. LESSEE agrees to insert the above five provisions in any Lease Agreement by which said LESSEE grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

G. LESSEE assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. LESSEE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. LESSEE assures that it will require that its covered suborganizations provide assurances to the LESSEE that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E, to the same effort.

H. LESSOR reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of the LESSEE, and without interference or hindrance.

I. LESSOR reserves the right, but shall not be obligated to the LESSEE, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of the LESSEE in this regard.

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

K. There is hereby reserved to the LESSOR, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or

CL00057

EXHIBIT "B"

Page 3

flight through the said airspace or landing at, taking off from or operation of the Kingman Airport.

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

M. The LESSEE, by accepting this Lease, expressly agrees for itself, its successors and assigns, not to erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above a mean sea level elevation of 3,520 feet. In the event the aforesaid covenants are breached, the LESSOR reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of LESSEE.

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

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

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

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CL00058

EXHIBIT "C"

13

INSTRUMENT OF RELEASE

WHEREAS, the UNITED STATES OF AMERICA, acting by and through the General Services Administrator, under and pursuant to the powers and authority contained in the Federal Property and Administrative Service Act of 1949 (63 Stat. 377) and the Surplus Property Act of 1944 (58 Stat. 765), as amended, by instrument entitled "Instrument of Transfer" and dated November 28, 1949, did remise, release, and forever quitclaim to the County of Mohave, Arizona, its successors and assigns, all rights, title and interests of the United States in and to certain property known as the Kingman Municipal Airport subject to certain conditions, reservations, exceptions, and restrictions; and

WHEREAS, the County of Mohave, Arizona, has requested the Administrator of the Federal Aviation Agency to release a 264.8 acre parcel of land hereinafter described from all conditions, reservations, and restrictions contained in said "Instrument of Transfer" to permit the sale of said 264.8 acre parcel and has by appropriate resolution dated April 15, 1962, obligated itself to devote the proceeds from the sale of said property exclusively for the development, improvement, operation, or maintenance of the Kingman Municipal Airport; and

WHEREAS, the Administrator of the Federal Aviation Agency, under and pursuant to the powers and authority contained in Public Law 311 (63 Stat. 700) is authorized to grant a release from any of the terms, conditions, reservations, and restrictions contained in, and to convey, quitclaim, or release any right or interest reserved to the United States by any instrument of disposal under which surplus airport property was conveyed to a non-Federal public agency pursuant to Section 13 of the Surplus Property Act of 1944 (58 Stat. 765); and

WHEREAS, the Administrator of the Federal Aviation Agency has determined that said 264.8 acre parcel no longer serves the purpose for which it was made subject to such terms, conditions, reservations, and restrictions.

NOW, THEREFORE, in consideration of the benefits to accrue to the United States and to civil aviation, the UNITED STATES OF AMERICA, acting by

CL00059



described real property from the conditions, reservations, and restrictions of said "Instrument of Transfer" dated November 28, 1949, between the United States and the County of Mohave, Arizona:

Beginning at a point which lies  $38^{\circ}46'$  W, a distance of 1835.0 feet from the northeast corner of Section 26, Township 22 North, Range 16 West, G.&S.R.M., Mohave County, Arizona; thence  $N 45^{\circ}00'$  W, a distance of 1100.0 feet; thence  $S 45^{\circ}00'$  W, a distance of 1450.0 feet; thence  $N 45^{\circ}00'$  W, a distance of 2685.3 feet to the point of intersection with the southeasterly right-of-way boundary of the A.T.&S.F. Railroad; thence  $N 38^{\circ}18'$  E along said right-of-way boundary, a distance of 3323.1 feet; thence  $S 45^{\circ}00'$  E, a distance of 4173.3 feet; thence  $S 45^{\circ}00'$  W, a distance of 1850.0 feet to the point of beginning. A Parcel containing 264.8 Acres, more or less.

This release is granted subject to the following conditions:

That complete description of said property will be publicly advertised and sold to the highest bidder; however, if the highest bid received is not considered to be the fair market value of said property, it may be withdrawn from sale and disposed of by negotiated sale.

That the instrument used to convey the hereinabove described property shall expressly include the following reservations by the Grantor:

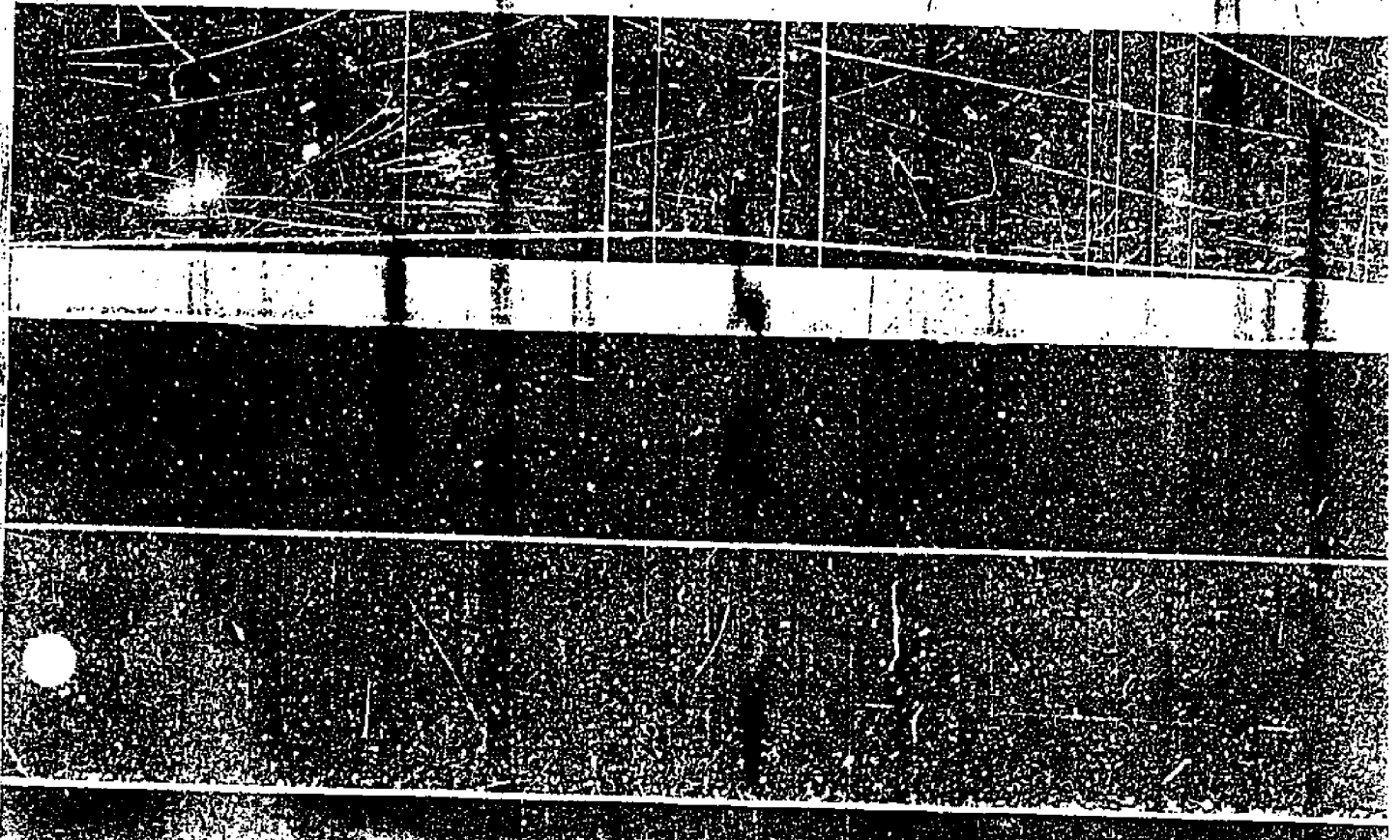
1. There is hereby reserved to the Grantor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on the Kingman Municipal Airport.
  2. The Grantee by accepting this conveyance expressly agrees for itself, successors, and assigns that it will not erect nor permit the erection of any structure or object nor
- allow the growth of any tree on the land conveyed hereunder

release any right, interest reserved to the United States by any instrument of disposal under which surplus airport property was conveyed to a non-Federal public agency pursuant to Section 13 of the Surplus Property Act of 1944 (58 Stat. 765); and

WHEREAS, the Administrator of the Federal Aviation Agency has determined that said 264.8 acre parcel no longer serves the purpose for which it was made subject to such terms, conditions, reservations, and restrictions.

NOW, THEREFORE, in consideration of the benefits to accrue to the United States and to civil aviation, the UNITED STATES OF AMERICA, acting by and through the Administrator of the Federal Aviation Agency under and pursuant to the powers and authority contained in Public Law 311 (63 Stat. 700) and applicable rules, regulations, and orders, hereby releases the following

Exhibit A



CL00061

1. There is hereby reserved to the Grantor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on the Kingman Municipal Airport.
2. The Grantee by accepting this conveyance expressly agrees for itself, successors, and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land conveyed hereunder above a mean sea level elevation of 3483 feet. In the event the aforesaid covenant is breached the Grantor reserves the right to enter on the land conveyed hereunder and to remove the offending structure or object and to cut the offending tree, all of which shall be at the expense of the Grantee.
3. The Grantee by accepting this conveyance expressly agrees for itself, successors, and assigns that it will not make use

of the said property in any manner which might interfere with the landing and taking off of aircraft from said Kingman Municipal Airport or otherwise constitute an airport hazard. In the event the aforesaid covenant is breached the Grantor reserves the right to enter on the land conveyed hereunder and cause the abatement of such interference at the expense of the Grantee.

4. since

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused this Instrument to be executed as of the 1st day of June, 1962.

UNITED STATES OF AMERICA  
The Administrator of the Federal Aviation Agency

By Charles J. Winger  
Chief, Airport Division, Western Region

STATE OF CALIFORNIA )  
                          )ss  
COUNTY OF LOS ANGELES)

On this 1st day of June, 1962, before me Donald T. [unclear], a Notary Public in and for the County of Los Angeles, State of California, personally appeared Charles J. Winger known to me to be the Chief, Airport Division, Western Region, Federal Aviation Agency, and known to me to be the person whose name is subscribed to the within Instrument and acknowledged that he executed the same on behalf of the Administrator of the Federal Aviation Agency and the United States of America.

WITNESS my hand and official seal.

Donald T. [unclear]  
Notary Public in and for the County of Los Angeles, State of California

STATE OF CALIFORNIA )  
                                  )ss  
COUNTY OF LOS ANGELES)

On this 1st day of June, 1962, before me  
Constance L. Kelly, a Notary Public in and for the County of  
Los Angeles, State of California, personally appeared Charles W. Sawyer  
known to me to be the Chief, Airports Division, Western Region, Federal Aviation  
Agency and known to me to be the person whose name is subscribed to the within  
Instrument and acknowledged that he executed the same on behalf of the  
Administrator of the Federal Aviation Agency and the United States of America.

WITNESS my hand and official seal.

Constance L. Kelly  
Notary Public in and for the County  
of Los Angeles, State of California

My Commission Expires:

March 15, 1966

Filed and Recorded at Request of City of Phoenix  
AUG 14 1962 2:42 Min. Past 2 o'clock P.M.  
in book 127 of DEEDS Page 10-15  
Records of Mohave County, Arizona.

By [Signature] Deputy Recorder  
[Signature] Recorder

11768

EXHIBIT "D"

AGREEMENT BETWEEN UNITED STATES  
OF AMERICA AND CITY OF KINGMAN

THIS AGREEMENT, made this 19th day of December, 1988, by the UNITED STATES OF AMERICA, acting by and through the FEDERAL AVIATION ADMINISTRATION, as represented by the Chief, Airports Division, Western Region (or other appropriate official), hereinafter referred to as "FAA", and the CITY OF KINGMAN, a municipal corporation functioning under the laws of the State of Arizona, hereinafter referred to as "CITY".

W I T N E S S E T H:

WHEREAS, Resolution No. 1271 was adopted by City Council of the City of Kingman on the 5th day of December, 1988, a copy of which is attached hereto and is hereby incorporated herein and made a part hereof by reference; and

WHEREAS, Resolution No. 1271 obligates the CITY to expend an amount equal to the proceeds that could or will be realized from the sale or disposition of any portion of land at the Kingman Airport for specific items of improvement at the airport or other specified public airports within Five (5) Years and further

authorizes the Mayor of the City of Kingman to enter into this Agreement in behalf of the City of Kingman.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, FAA and CITY mutually agree as follows:

#### ARTICLE I

Pursuant to the authority contained in Public Law 81-311 and Part 155 of the Federal Aviation Regulations, FAA shall deliver to CITY an instrument of release releasing a portion of that real property covered by the "Instrument of Transfer" dated the 28th day of November, 1949, in effect at the Kingman Airport, formerly the Mohave County Airport, from all reservations and restrictions found in said Instrument of Transfer. Said portion of real property is more fully described by Exhibit "A" attached hereto and by reference made a part hereof.

#### ARTICLE II

The CITY shall expend an amount equal to the net proceeds derived or which could be derived from the sale of any portion of the released real property and otherwise perform in accordance with all the

requirements of Resolution No. 1271, dated December 5, 1988, as attached hereto and by reference incorporated herein and made a part hereof.

### ARTICLE III

The CITY shall submit to FAA a current appraisal for each portion of the released real property prior to the sale of each portion for concurrence by FAA in the appraised value of that portion, and after each sale the CITY shall advise FAA of the amount for which that portion sold.

### ARTICLE IV

Incident to performing under Article II above, the CITY agrees that for purposes of this Agreement, the terms and conditions of Resolution No. 1271, dated December 5, 1988, as attached hereto are controlling and shall remain in full force and effect throughout the life of this Agreement.

### ARTICLE V

This Agreement shall remain in effect until FAA determines that the CITY has complied with all the terms thereof and FAA so informs the CITY.



ARTICLE VI

The parties hereto agree that this Agreement is personal and does not run with the land.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

UNITED STATES OF AMERICA  
The Administrator of the  
Federal Aviation Adminis-  
tration

CITY OF KINGMAN

By \_\_\_\_\_  
Chief, Airports Div.  
Western Region

By \_\_\_\_\_  
Carol Anderson, Mayor

# Exhibit C

CITY OF KINGMAN

RESOLUTION NO. 1271

A RESOLUTION OF THE CITY COUNCIL, CITY OF KINGMAN, OBLIGATING THE CITY OF KINGMAN TO EXPEND THE PROCEEDS OF THE SALE OF EXCESS LAND AT THE AIRPORT UPON THE KINGMAN AIRPORT WITHIN A FIVE-YEAR PERIOD.

WHEREAS, the City of Kingman, a municipal corporation functioning under the laws of the State of Arizona, will acquire the Kingman Airport, formerly known as the Mohave County Airport, from the County of Mohave, a political subdivision of the State of Arizona, all pursuant to that Agreement between the County of Mohave and the City of Kingman dated the 19th day of December, 1988, subject only to the approval of the Federal Aviation Administration; and

WHEREAS, the Federal Aviation Administration has advised the City of Kingman that the Administrator of the Federal Aviation Administration has adopted a policy requirement that, as a condition to the release of any excess land for sale from the terms, conditions and assurances contained in the various grant agreements under which the United States of America participated in the cost of land and/or improvements at the Kingman Airport, the City of Kingman shall agree to spend an amount equal to the next proceeds which will or can be derived from such sale for specified items of airport improvement as set forth herein within a specific time; and

WHEREAS, the City Council of the City of Kingman has contemplated the sale of land subject to its release for that purpose by the Federal Aviation Administration, and recognizes the need for the continued provision of adequate public airport facilities to be provided the residents of the City of Kingman, County of Mohave, Arizona.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kingman, that in consideration of the Federal Aviation Administration's approval and release for sale of land at the Kingman Airport, that the City Council of the City of Kingman does hereby promise, covenant and agree with the Federal Aviation Administration of the United States of America to expend, within Five (5) Years from the date on which the City of Kingman subsequently sells any portion of the released property, an amount equal to the net proceeds which do or would result from the sale of such land, for the improvement of the Kingman Airport within Five (5) Years of each such sale of each parcel of land sold hereunder, as follows:

- A. Acquire land for approach protection;
- B. Reconstruct existing airport apron;
- C. Reconstruct existing airport taxiway;
- D. Improvements made pursuant to the Airport Improvement Program (AIP).

The City Council for the City of Kingman further hereby promises, covenants and agrees with the Federal Aviation Administration of the United States of America that in the event the cost of the above items of improvement is less than the net proceeds that is or could be realized from the sale of such land, the City of Kingman shall, with the Federal Aviation Administration's approval, expend within Five (5) Years of each sale of each parcel of land sold hereunder, any excess funds upon items of development within the following priority categories, and it is further provided that all currently needed development within the highest priority category must be accomplished before improvements in the next category are begun.

- A. Approved items of airport development set forth in FAR Part 152 (and as appropriate, set forth in the NASP by priority of need) to be accomplished in accordance with currently applicable FAA design criteria.
- B. Any aeronautical items of airport development ineligible for direct Federal aid under the Airport Development Aid Program.
- C. Deposit to the airport fund for deferred use within a reasonable time for items A and B above.
- D. Retirement of airport bonds which are secured by pledges of airport revenue. Includes repayment of loans from other Federal agencies for such development.
- E. Development of common use facilities and utilities of the dedicated revenue production property of the airport now owned or subsequently acquired.
- F. Current expenses for repair, maintenance and operation of airport use properties.

The City Council of the City of Kingman hereby empowers, authorizes and directs the Mayor of the City of Kingman to enter into an Agreement with the United States of America, acting by and through the Federal Aviation Administration for the purposes of binding the City of Kingman to all its promises, covenants and agreements, as set out in this Resolution.

I HEREBY CERTIFY that the foregoing Resolution was introduced and read at a regular meeting of the City Council of the City of Kingman on the 5th day of December, 1988, and was duly adopted at said meeting.

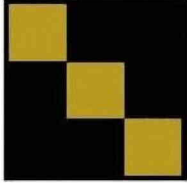
CITY OF KINGMAN

  
CAROL S. ANDERSON, Mayor

ATTEST:

  
DOROTHY HELMER, City Clerk

# Exhibit D



BAIRD WILLIAMS  
& GREER LLP  
Attorneys at Law

6225 N. 24<sup>th</sup> Street, Suite 125  
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Business • Trials  
Aviation

Daryl M. Williams  
[DarylWilliams@bwglaw.net](mailto:DarylWilliams@bwglaw.net)

October 6, 2017

**Sent via email**

Andrew M. Federhar  
*Spencer Fane LLP*  
2425 E. Camelback Rd., Suite 850  
Phoenix, AZ 85016-4251  
[afederhar@spencerfane.com](mailto:afederhar@spencerfane.com)

**Re:** Kingman Airport Authority

Dear Andy:

It was nice to talk to you on the phone this morning. I look forward to your responses to my inquiries after you have had time to consult with your client. Essentially, I want to know how you think the airport authority can hire you as its lawyer to take a position adverse to the city when the airport authority, quoting the statute, “Performs an essential governmental function as an agency or instrumentality of the city . . . .”

The lease between the City of Kingman and the Kingman Airport Authority is the mechanism by which the airport authority became vested with its public-function status as an agency or instrumentality of the city, so it is not really a lease in the normal sense. The lease was created pursuant to the legislative action of the City of Kingman, so I asked you, and would appreciate an answer, why the City of Kingman cannot exercise its legislative authority to simply de-authorize the lease of the Kingman Airport Authority.

Legislative action, of course, is nonreviewable by a court because of separation of powers. But it seems to me that the City of Kingman and the citizens of Kingman would be better served if there were simply an amicable abandonment of the airport by the airport authority. I propose that the airport authority recognize its status rather than having the city and the airport authority run up attorneys fees which, I believe, you would eventually have to disgorge anyway. Perhaps we can talk about this at our lunch this coming Thursday.

CL12645

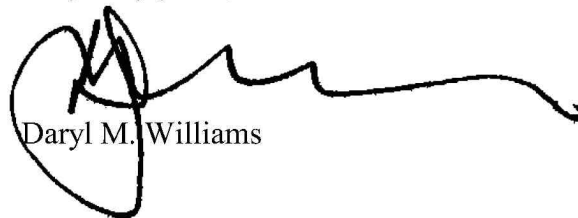
Andrew M. Federhar  
October 9, 2017  
Page 2

Take notice that the City of Kingman does not approve, consent to, or acquiesce to your employment as a lawyer adverse to the city. The airport authority is obligated to use its funds for airport improvement purposes only. Self-perpetuation of an airport authority that has rankled the city and engaged in misfeasance and malfeasance (as witnessed by the very condition of the airport—when I landed there last Tuesday: there were weeds growing up through the cracks in the main runway) is not an authorized expenditure of airport funds. The recent PowerPoint presentation made to the city council by the Kingman Airport Users Association identifies at least some of the shortcomings of the airport authority. I encourage you to watch this September 27, 2017, presentation, the link for which is <http://www.cityofkingman.gov/Government/AgendasMinutes/NEW!AgendasandMinutes.aspx>, before our meeting on Thursday.

I would appreciate it if you would reconsider letting me talk to the airport authority's board. I find it hard to believe that these volunteer citizens of Kingman really want to engage in a dispute with the city. I need to understand what interest they have to protect. I know they may be concerned about personal liability for what the board has and has not done, but it seems to me that a frank discussion will assist in resolving concerns they may not have considered. They may not have considered, for example, that your employment is *ultra vires*, which may make the individual board members personally liable for your fees and costs.

I look forward to meeting with you. Hopefully we can resolve this.

Very truly yours,



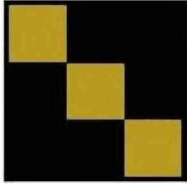
Daryl M. Williams

DMW/dlc

CL12646

# Exhibit E





BAIRD WILLIAMS  
& GREER LLP  
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Business • Trials  
Aviation

Daryl M. Williams  
[DarylWilliams@bwglaw.net](mailto:DarylWilliams@bwglaw.net)

February 23, 2018

**Sent via e-mail:**

Andrew M. Federhar  
*Spencer Fane LLP*  
2425 E. Camelback Rd., Suite 850  
Phoenix, AZ 85016-4251  
[afederhar@spencerfane.com](mailto:afederhar@spencerfane.com)

**Re:** *Kingman v. Kingman Airport Authority*

Dear Andy:

On October 9, 2017, I wrote a letter to you as attorney for the Kingman Airport Authority. I told you, "Take notice that the City of Kingman does not approve, consent to, or acquiesce in your employment as a lawyer adverse to the city. The airport authority is obligated to use its funds for airport improvement purposes only." I, again, reiterate Kingman's disapproval of any of your actions on behalf of Kingman Airport Authority, which is merely the city's administrative agent for operation of the airport.

An agent owes fiduciary duties to its principal that prevent the agent from taking a position adverse to the principal. Any such adverse position disqualifies the agent and terminates the principal/agent relationship. Your letter to me of October 13, 2017, manifests the Kingman Airport Authority's adverse position against the city and the breach of its fiduciary duty as the city's administrative agent. You should have known this and acted accordingly.

To eliminate any possibility of misunderstanding, be advised that administrative agency relationship between the City of Kingman and the Kingman Airport Authority is terminated and has been since October 13, 2017. Any actions by the Kingman Airport Authority since termination of

CL12647

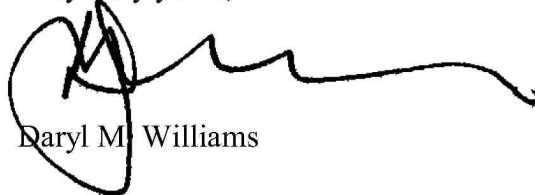
Mr. Andrew Federhar  
February 23, 2018  
Page 2

the agency relationship have been unauthorized, and the agent, including you and the individual members of the board, are liable for all damages and waste of the city's assets.

I know you have fastened upon language in *DBT Yuma, LLC v. Yuma County Airport Authority*, 238 Ariz. 394 (2015), that you believe makes your client unanswerable as Kingman's agent. The *DBT* case does not say that, and your belief and apparent advice to Kingman Airport Authority to the contrary is wrong.

Let me reiterate what I said in my October 9, 2017, letter. I cautioned you and the board, "They may not have considered, for example, that your employment is *ultra vires*, which may make the individual board members personally liable for your fees and costs." Let me add, in addition, that the receipt by you of monies that belong to the Kingman Airport Authority's principal, monies that were paid without authorization and in the face of the city's express disapproval, will have to be disgorged.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daryl M. Williams". The signature is stylized with a large, circular initial "D" and a long, horizontal flourish extending to the right.

Daryl M. Williams

DMW/dlc

cc: JHE

CL12648