



REQUEST FOR PROPOSALS (RFP)

LOT 8 HANGAR DEVELOPMENT

AT SKY HARBOR AIRPORT

ISSUE DATE:	January 29, 2018
ONE ON ONE ON SITE PRE PROPOSAL CONFERENCE DUE DATE (NON MANDATORY):	March 2, 2018
WRITTEN QUESTIONS/COMMENTS DUE DATE:	March 16, 2018, at 3:00pm Central Standard Time
WRITTEN QUESTIONS/COMMENTS RESPONSE DUE DATE:	April 13, 2018, at 3:00pm Central Standard Time
PROPOSAL DUE DATE:	May 4, 2018 at 3:00pm Central Standard Time
MAILING ADDRESS:	3 Copies to: Duluth Airport Authority Attn: Brian Madsen 4701 Grinden Drive Duluth, MN 55811
CONTACT:	Brian Madsen, Airport Manager E-mail: <a href="mailto:bmadsen@duluthairport.com">bmadsen@duluthairport.com</a>

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## **I. Background**

The Sky Harbor Airport and Seaplane Base (Airport) is located 4.4 miles southeast of Duluth Minnesota's Canal Park Aerial Lift Bridge at the end of Park Point. The Airport is owned by the City of Duluth and operated by the Duluth Airport Authority (DAA).

The Airport is certified as a General Aviation Airport and Seaplane Base. The Airport is served by one asphalt runway, (Runway 14/32; 3500 feet long x 75 feet wide), and two water runways, (Water Runway 13/31; 10,000 feet long x 2,000 feet wide)(Water Runway 09/27; 5,000 feet long x 1,500 feet wide). The Airport is non-towered and is open 24 hours per day.

The Sky Harbor Airport is currently conducting a runway construction project. The runway relocation and environmental preservation project began after Labor Day 2017. The project will be constructed in three phases. Phase 1 was completed during the fall of 2017. This phase consisted of creating the new runway footprint and shoreline. Phase 2 will be conducted during the fall of 2018. This phase will be the placement of surcharge into the areas created during phase 1. The surcharge will provide weight for the soils below to compact over a time period of 10 months. Finally phase 3 will be conducted during the fall of 2019. This phase will be the removal of the surcharge, removal of the old runway, and the final construction of the new runway. Impacts on operations will be consisting of occasional short term closures of the old runway during phase 2 construction. The final phase the impacts will be a little more significant. During phase 3 construction runway closure will be estimated to be 2 to 3 weeks. Seaplane operations will not be affected by the runway construction besides increased barging activity in the bay. The final length and width of the runway, upon completion of the project, will be 2600 feet by 60 feet. A graphic of how the new runway is depicted can be found in the airport layout plan in exhibit A.

## **II. General Provisions**

The Duluth Airport Authority (DAA) is issuing this Request for Proposals (RFP) to seek proposals from interested parties (Proposers) who may be interested in leasing land to develop a private aircraft hangar on Lot 8 (Site) located at the Sky Harbor Airport (Airport). The proposed Site is identified on the attached Exhibit B is an overall airport site plan showing existing development, taxiways, apron, and runways.

Available utilities are also shown in Exhibit B. Electrical can be brought to the site from a transformer, with 240/120 split phase service, located behind hangar 10. City water runs through a 6 inch pipe from the parking lot, near hangar 1, under the apron along the

hangars, and ends between hangars 10 and 11. All requirements for a fire suppression system will be determined solely by the Duluth Fire Marshall. Phone lines are available and the nearest junction box is located at the Site. All utilities brought from the main utility location to the site are the responsibility of the Proposer. There is no space for septic systems to be installed for the proposed hangar. Public restrooms are available at hangar 1.

The Proposer must provide a detailed construction schedule. A construction schedule will be a determining factor in the award process.

The Proposer must complete and submit for approval by the FAA, the Notification of Proposed Construction or Alteration, FAA form 7460-1, prior to proposal submittal.

Construction hours will be limited between 8am and 7pm, Monday through Friday. Access will be granted to contractors names listed to the DAA.

Proposed construction will be of an aviation hangar. Uses and design of the hangar will solely be for aviation uses in compliance with FAA regulations and minimum standards as maybe amended from time to time.

***The DAA reserves and may exercise the following rights and options: (i) to reject any and all proposals and reissue the RFP at any time prior to execution of a final Land Lease Agreement if, in the DAA's sole opinion, it is in the DAA's best interest to do so; (ii) to supplement, amend, substitute, or otherwise modify this RFP at any time prior to selection of one or more proposer for negotiation and (iii) to cancel this RFP with or without issuing another RFP; (iv) to reject the proposal of any proposer who, in the DAA's sole judgment, has been delinquent or unfaithful in the performance of any contract with the DAA, is financially or technically incapable or is otherwise not a responsible responder; (v) To reject as informal or non-responsive, any proposal which, in the DAA's sole judgment, is incomplete, is not in conformity with applicable law, is conditional in any way, or deviates from the mandated requirements of the RFP and; (vi) to waive any informality, defect, non-responsiveness and/or deviation from this RFP that is not, in the DAA's sole judgment, material to the proposal.***

**All costs associated with the development of the RFP response will be the sole responsibility of the Proposer**

**Any exceptions to the specifications included in the RFP must be clearly stated in the proposal**



### III. Site

The Hangar 8 site is depicted in Exhibit B. The legal boundary is also stated below:

*Beginning at the southeasterly corner of the Duluth Airport Authority Hangar Concrete Ramp at the Sky Harbor Airport: Thence southeasterly along the northeast edge of the bituminous aircraft parking ramp 485' 11" to the point of beginning of the line described. Then deflect 90 degrees to the left and go 105' 0" to a point, then deflect 90 degrees to the right and go 80' 0" to a point, then deflect 90 degrees to the right and go 105' 0" to a point, then deflect 90 degrees to the right and go 80' 0" to the point of beginning, consisting of 8,400 square feet, more or less.*

The lot is 105 feet by 80 feet with a total of 8400 square feet of space. This is the entire space available for construction. Depending on setback requirements as determined by the City of Duluth the entire space may not be taken up by the hangar. The minimum hangar size must be at least 50 feet by 60 feet. Designs of proposed hangar must be compatible with structures currently at the Airport. Details of design must be submitted with the proposal.

Site elevations are provided in Exhibit C. FAA height restrictions are available in Exhibit D of this document.

The Airport is zoned AP for airport. Zoning requires a minimum setback requirement of 5 feet on all sides. However, the City may require up to 30 feet depending on building design and occupancy code. Determining further setback requirements will be the sole responsibility of the Proposer.

Maintenance of the site and proposed hangar are the sole responsibility of the Proposer, such as trash removal, snow removal, mowing, painting, and general up keep.

A paved apron connector to the proposed hangar is required and the sole responsibility of the Proposer.

### IV. Type of Operation

The site and hangar must be used for an aeronautical purpose. The Proposer must state in the proposal if the site and hangar will be used for private or commercial aeronautical use. An Aviation related business use is encouraged but not a requirement of a successful proposal.

## V. Submittal Information

As stated earlier, the proposals received from this RFP may be used in the development of a formal selection of a new hangar tenant for the Airport. In addition to the specific information requested below, we encourage you to provide detailed information on alternative plans.

**A. New Specialized Aviation Service Operation (SASO):** If applicable, please provide a detailed narrative description of any services that will be provided. Any new SASO must have a Commercial Aeronautical Operator Agreement with the DAA. Attachment G is the form of the Commercial Aeronautical Operator Agreement. Please provide a detailed business plan with the proposal. Aviation related business use is encouraged but not a requirement of a successful proposal.

**B. Ownership Status:** The Proposer must complete and submit the Proposer Questionnaire Form in Exhibit E with the proposal.

**C. Construction Details:** Provide an outline of the facilities you are proposing at the Airport including the type of facility, size, approximate cost and timeline to construct. Please include a site plan with your proposal. Design standards must meet all local, State, and/or Federal building code guidelines. All licenses and permits will be the sole responsibility of the Proposer. All required FAA documents must be included, such as FAA form 7460-1.

**D. Financial Information:** The Proposer will be required to demonstrate that it is financially capable of performing the obligations contained within this RFP. The determination of the Proposer's financial qualifications and ability to execute a Land Lease Agreement will be in the sole discretion of the DAA. The Proposer shall provide a written certification from Proposer's lender that the Proposer has the financial ability to consummate the transaction and pay the lease price to the DAA. If self funding the Proposer shall submit, with its proposal, a written statement from the bank where funds are kept, representing that the Proposer has the financial ability to consummate the transaction and pay the lease price to the DAA.

## VI. Land Lease Agreement

Exhibit F is a sample of the land lease document (or suggested language) including special terms and conditions expected to be incorporated in the lease agreement. Rate changes will be subject to Consumer Price Index. If Proposer does not commence or complete the project within sixty (60) days of the proposed date included in the proposal the Proposer will be considered in default and the proposal will be rejected.

The Land Lease proposed terms are as follows:

- Term:** Base Ten (10) Years with one (1) optional 10 year term beyond the base term. At the end of the lease the property reverts to the DAA.
- Rate:** For the term of the agreement, the Lessee agrees to pay rent on the Leased Premises in the amount of \$.21 cents per square foot (8,400 square feet) per year (prorated for portions thereof). Rate changes subject to Consumer Price Index.
- Utilities:** The Proposer shall be solely responsible for connecting the available electrical, phone, and or water (for fire suppression system only) from the main to the site and proposed hangar.
- Insurance:** Refer to Sections 7 and 8 of Exhibit F for insurance requirements

## **VII. Operator Agreement Document**

If applicable Exhibit G is a sample of the Operator Agreement document (or suggested language) including special terms and conditions expected to be incorporated in the lease agreement.

Operator Agreement Terms (if applicable):

- Term:** 3 Year base term with automatic month to month provision following base term expiration
- Rate:** A break down of rates can be found in Exhibit H.
- Utilities:** The Proposer shall be solely responsible for connecting the available electrical, phone, and or water (for fire suppression system only) from the main to the site and proposed hangar.
- Signage:** The Operator shall be allowed to erect suitable advertising signs on the Airport to identify its business in the Leased Premises, but the form, type, size and method of installation of any such signs shall be subject to the approval of the Executive Director.
- Insurance:** Refer to Section 8 of Exhibit G for insurance requirements

## VIII. Award Criteria

The following criteria will be used by the RFP Evaluation Committee during the evaluation and selection process:

### **Criteria Weight**

<b>1. Proposed Development for Property</b>	<b>30 points</b>
<b>2. Financial Ability to Perform</b>	<b>30 points</b>
<b>3. Schedule</b>	<b>30 points</b>
<b>4. Aviation Business Use being proposed</b>	<b>10 points</b>

Each Proposer will be ranked according to the evaluation criteria. The highest ranking Proposer will be recommended to enter into land lease agreement negotiations.

### **1. Proposed Development for Property**

Proposers will be evaluated on the feasibility of the property based on size, design, and exceptions. The Evaluation Committee will evaluate the proposed development of the property for compliance with Airport Minimum Standards, FAA regulations (including, but not limited to Compatible Land Use and 14 CFR Part 77) as well as City of Duluth Planning, Zoning and Building Code requirements. The Proposer should be prepared to discuss these plans before the Evaluation Committee, if requested.

### **2. Financial Ability to Perform**

The Evaluation Committee will evaluate financial statements from certified lenders or banks to determine the Proposer's ability to perform under the lease.

### **3. Schedule**

Proposers will be evaluated on the timing and schedule of the proposed hangar construction.

### **4. Aviation Business Use being proposed**

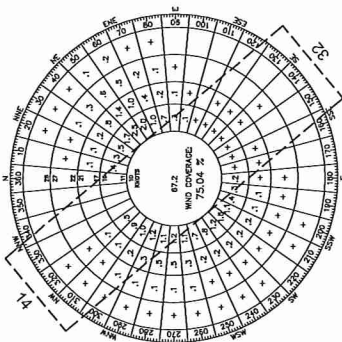
If applicable, additional evaluation points will be award for any proposed Aviation Business Use of the Site.

EXHIBIT A

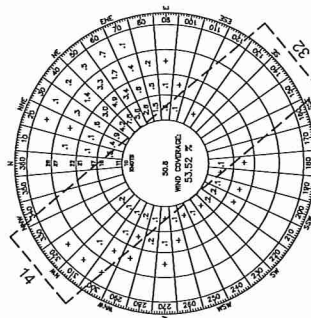
FAA APPROVAL LETTER

(LETTER TO BE ADDED TO THE FINAL  
ALP SET AFTER FAA APPROVAL)

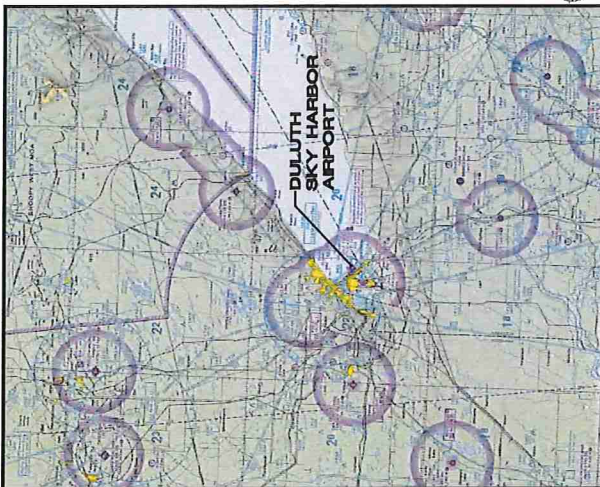
AIRPORT LAYOUT PLAN  
SKY HARBOR AIRPORT & SEAPLANE BASE  
DULUTH, MINNESOTA  
JULY 8, 2015



ALL WEATHER WIND ROSE  
(RWY 1432 = 10.5 kts)



INSTRUMENT FLIGHT WIND ROSE  
(RWY 1432 = 10.5 kts)

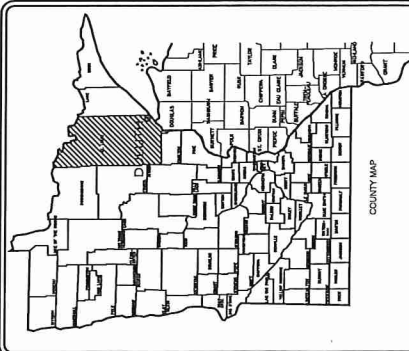
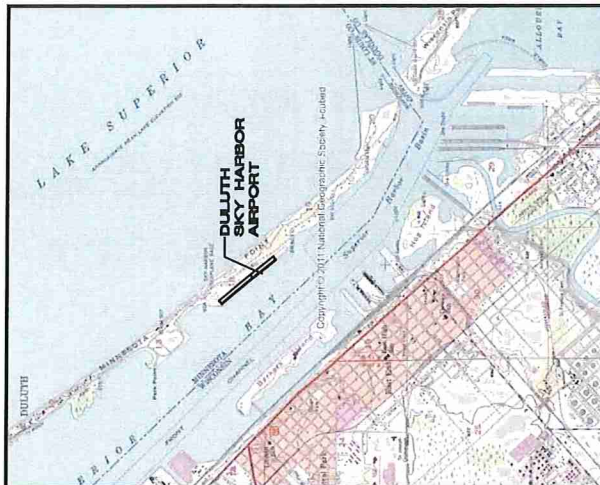


LOCATION MAP

NOT TO SCALE

VICINITY MAP

NOT TO SCALE



INDEX OF SHEETS

- 1...TITLE SHEET
- 2...EXISTING AIRPORT LAYOUT PLAN
- 3...FUTURE AIRPORT LAYOUT PLAN
- 4...FAR PART 77 IMAGINARY SURFACES
- 5...EXIST. RUNWAY 14 APPROACH PLAN & PROFILE
- 6...FUT. RUNWAY 14 APPROACH PLAN & PROFILE
- 7...EXIST. RUNWAY 32 APPROACH PLAN & PROFILE
- 8...FUT. RUNWAY 32 APPROACH PLAN & PROFILE
- 9...EXIST. & FUT. BUILDING AREA PLAN
- 10...LAND USE AND ZONING
- 11...AIRPORT PROPERTY MAP

WIND COVERAGE		13 KNOTS
10.5 KNOTS	ALL	82.85% ALL
75.04% ALL	ALL	85.01% VFR
77.54% VFR	ALL	83.59% IFR
53.32% IFR	ALL	
SOURCE: NATIONAL CLIMATIC DATA CENTER, ASHEVILLE, NC		
PERIOD: DULUTH SKY HARBOR AIRPORT, PERIOD 2000-2009		

AIRPORT DATA		EXISTING	FUTURE
AIRPORT ELEVATION	FEET ABOVE SEA LEVEL	602.2	602.2
AIRPORT REFERENCE POINT (LATITUDE)		46° 45' 19.85" N	46° 45' 19.85" N
AIRPORT REFERENCE POINT (LONGITUDE)		92° 02' 35.795" W	92° 02' 35.795" W
MEAN MAX. TEMP. OF HOTTEST MONTH		75° F (JULY)	N/A
TAXIWAY LIGHTING		NONE	MTL
NAVIGATIONAL AIDS & OWNERSHIP		BEACON - DULUTH-SKY HARBOR AIRPORT	GPS, BEACON - DULUTH-SKY HARBOR AIRPORT
MISCELLANEOUS FACILITIES		REIL, MRL, WIND CODE	AVGAS 100LL, PAWL, WIND CODE
NPIAS ROLE		GA	GA
MIN SASP CLASSIFICATION		INTERMEDIATE	INTERMEDIATE
AIRPORT REFERENCE CODE (ARC)		A4 SMALL	A4 SMALL
APPROACH MINIMUMS RUNWAYS 1432		VISUAL	NPI ≥ 1 MILE

FAA APPROVAL	
MINDOT APPROVAL	
PLAN APPROVAL	
AIRPORT SPONSOR	
Approved	
Title	EXECUTIVE DIRECTOR
Date	JULY 8, 2015
ALP REVIEW STATEMENT	
On behalf of Grant, Elliott, Hendrickson, Inc., the Airport Layout Plan has been reviewed and found to be in accordance with the applicable Advisory Circulars, the current version of the Order of the Federal Aviation Administration, and the current version of the design standards, except as noted.	
Signature	Karl F. Kowalski
Date	JULY 8, 2015

TITLE SHEET	
ISSUE DATE	MAY 27, 2015
DESIGNED BY	MR. J. M. J.
DRAWN BY	MR. J. M. J.
SEH FILE NO.	DULH 112937
SHORT SHEET TITLE: Duluth Sky Harbor Airport Layout Plan	
© 2015 Grant, Elliott, Hendrickson, Inc. (GEH)	
ALL RIGHTS RESERVED	
NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM GRANT, ELLIOTT, HENDRICKSON, INC.	
STATE OF MINNESOTA	
COUNTY OF ST. LOUIS	
CITY OF DULUTH	
DULUTH SKY HARBOR AIRPORT	
AIRPORT LAYOUT PLAN	
JULY 8, 2015	



## LAYOUT PLAN

SC# FILE NO. DULAN 112937  
ISSUE DATE MAY 27, 2015  
DESIGNED BY KAJAN  
DRAWN BY JMG  
Short Elliott Hendrickson, Inc. © (SEH)  
© 2004 Short Elliott Hendrickson, Inc.

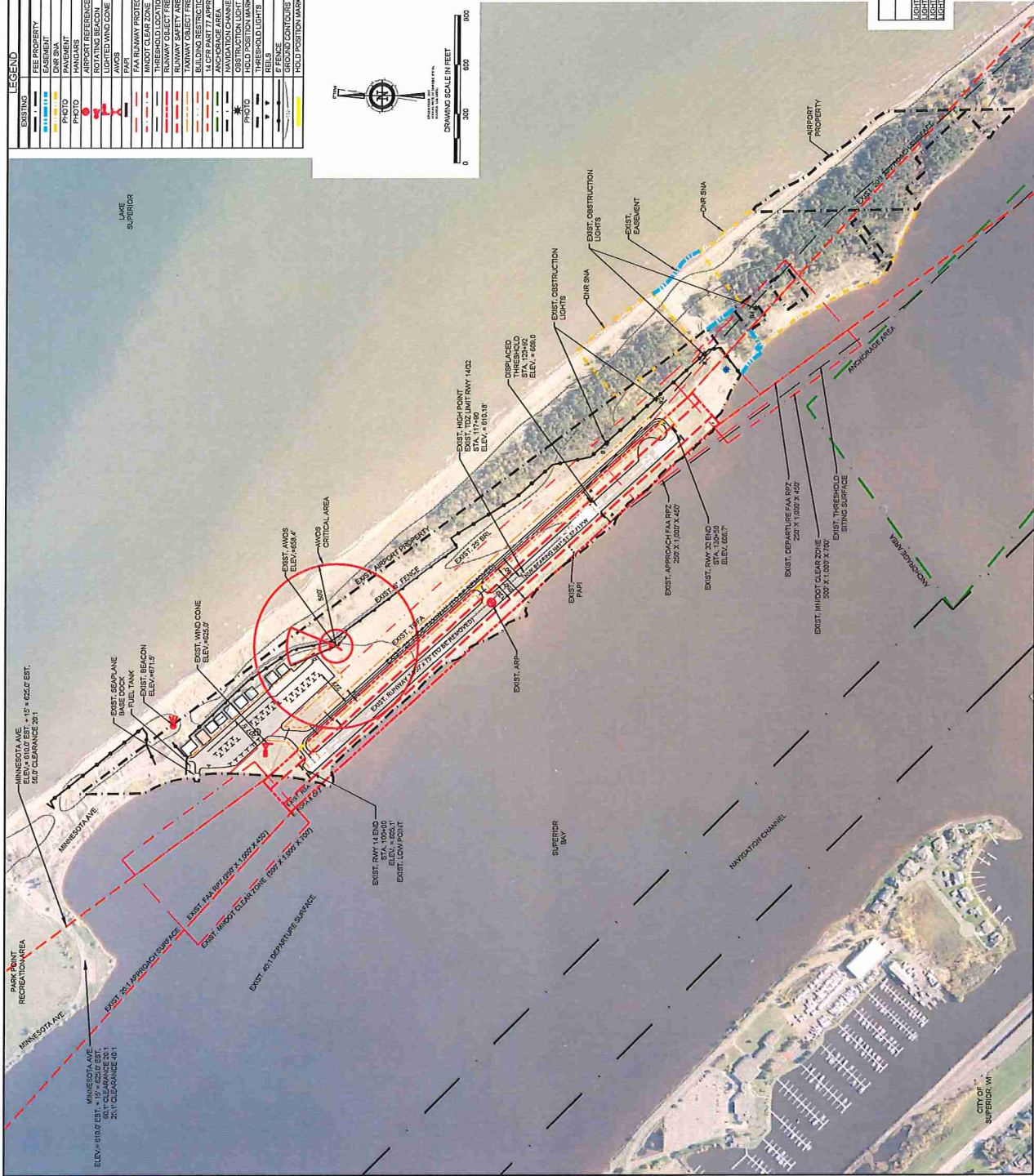
PK	DATE	DESCRIPTION	REVISIONS
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AIRPORT LAYOUT PLAN  
 FOR THE  
 DULUTH SKY HARBOR  
 AIRPORT

STATE OF MINNESOTA  
 SUPERIOR COURT AND DISTRICT COURT  
 IN AND FOR THE COUNTY OF HENRY  
 I HEREBY CERTIFY THAT THE FOLLOWING IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE COUNTY OF HENRY, MINNESOTA, ON MAY 22, 2013.  
 DATE: MAY 22, 2013  
 CLERK OF DISTRICT COURT

[illegible]

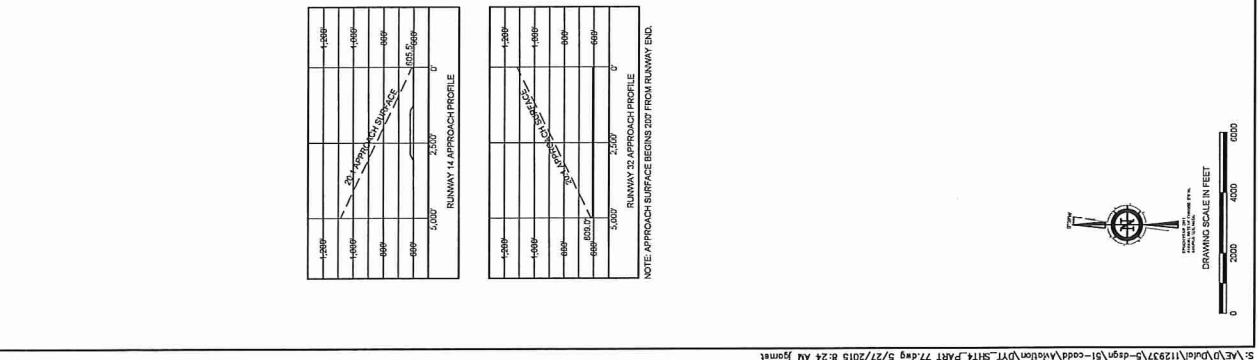
NOTE:  
1. NAD83 HORIZONTAL NAVD 88 VERTICAL COORDINATES.



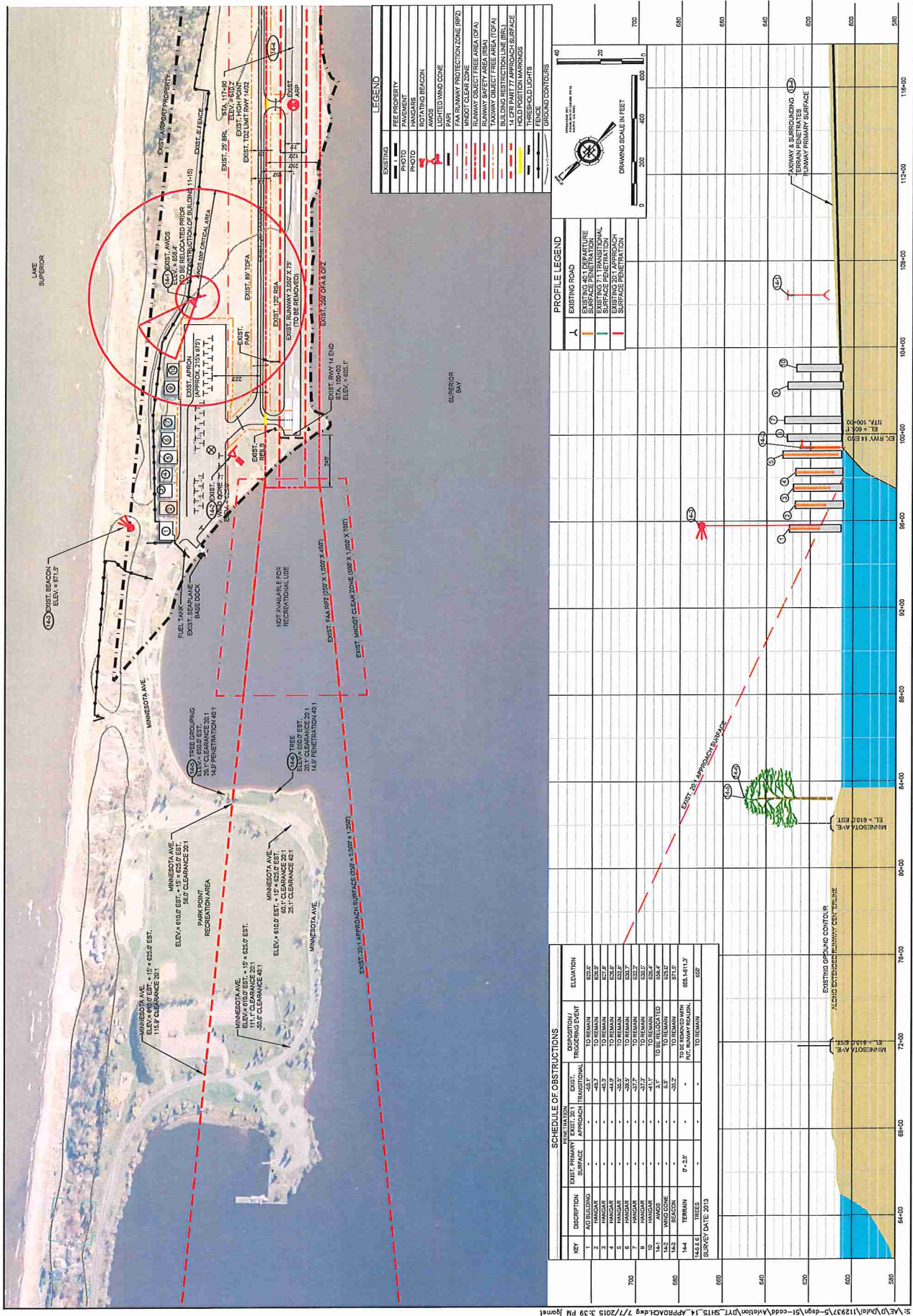






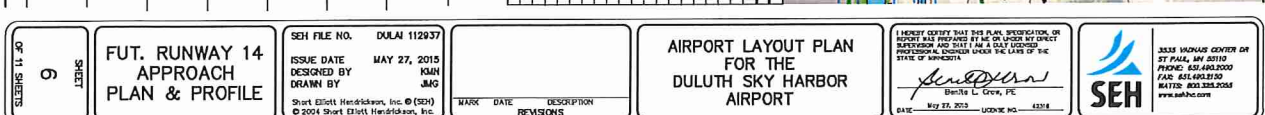






SCHEDULE OF OBSTRUCTIONS			
REF	DESCRIPTION	EXIST. SURFACE	ELEVATION
1	EXIST. TAXIWAY	ASPH	625.0
2	HANGAR	ASPH	625.0
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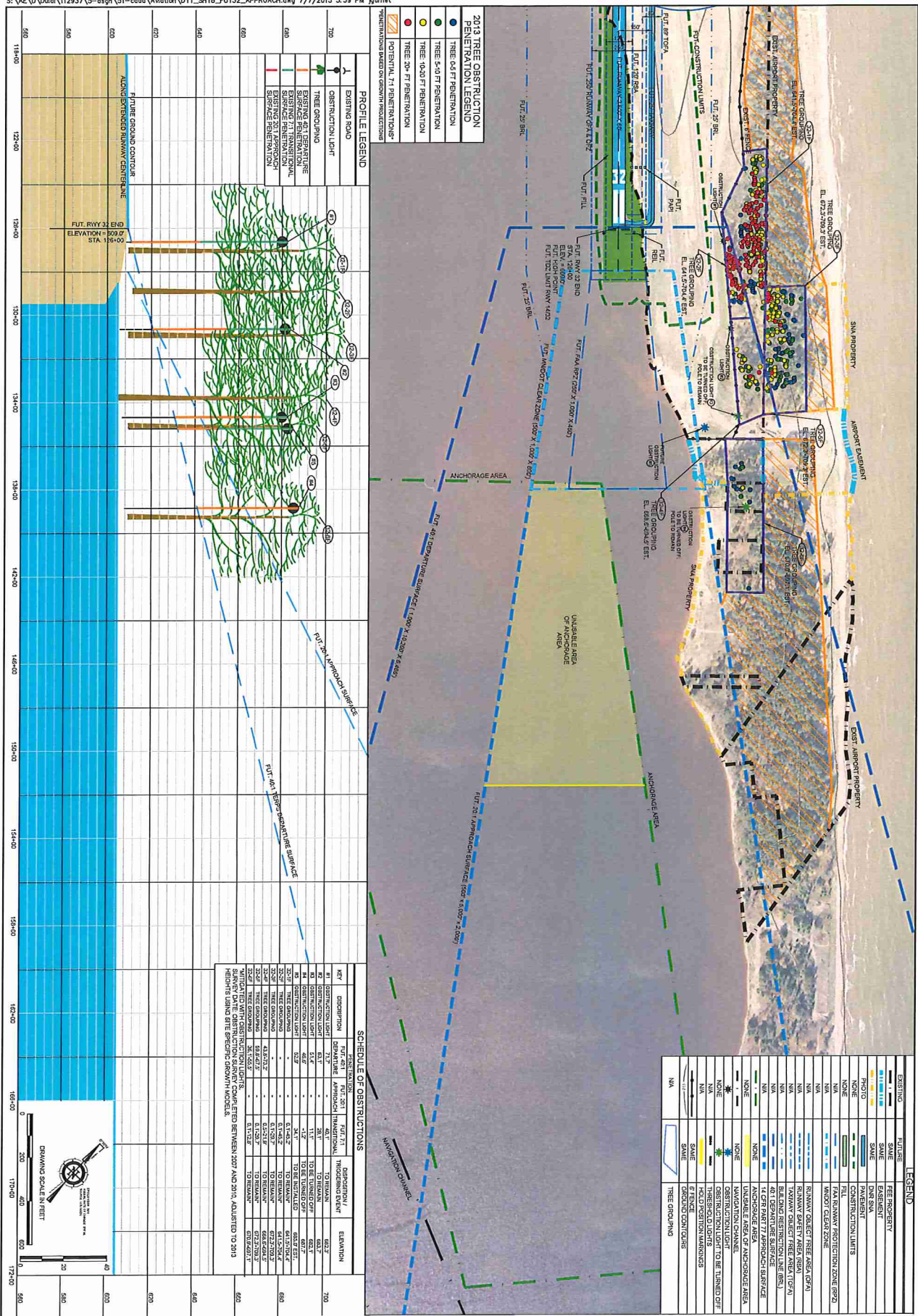












SCHEDULE OF LOSS FUNCTIONS						
REF	DESCRIPTION	PAI-01 APPROX.	PAI-02 APPROX.	PAI-03 APPROX.	DISSEMINATION TO EXAMINER	ELEVATION
#1	DEFLECTION LIGHT	5.1	5.1	20.1	TO EXAMINER	662.3
#2	DEFLECTION LIGHT	5.1	5.1	20.1	TO EXAMINER	662.3
#3	DEFLECTION LIGHT	5.1	5.1	20.1	TO EXAMINER	662.3
#4	DEFLECTION LIGHT	6.6	6.6	1.5	TO EXAMINER	661.7
#5	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#6	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#7	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#8	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#9	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#10	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#11	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#12	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#13	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#14	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#15	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#16	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#17	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#18	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#19	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#20	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#21	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#22	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
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#30	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
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#37	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#38	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#39	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#40	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#41	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#42	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#43	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#44	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#45	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#46	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#47	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#48	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#49	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#50	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#51	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#52	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#53	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#54	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#55	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#56	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#57	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#58	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#59	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#60	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
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#62	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#63	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#64	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#65	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#66	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#67	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#68	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#69	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#70	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#71	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#72	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#73	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#74	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#75	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#76	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#77	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#78	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#79	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#80	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#81	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#82	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#83	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#84	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#85	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#86	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#87	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#88	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#89	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#90	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#91	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#92	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#93	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#94	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#95	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#96	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#97	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#98	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#99	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7
#100	DEFLECTION LIGHT	5.2	5.2	1.5	TO EXAMINER	661.7

	EXISTING	FUTURE
FREE PROPERTY	SAME	SAME
PAVED	PAVED	PAVED
ELEMENT	SAME	SAME
DRAINAGE	NO CHANGE	NO CHANGE
CONSTRUCTION LIMITS	NO CHANGE	NO CHANGE
FILL	NO CHANGE	NO CHANGE
WINDY PROTECTION ZONE (WPZ)	NO CHANGE	NO CHANGE
UNDOCT CLEAN ZONE	NO CHANGE	NO CHANGE
STABILITY AND EROSION RISK (SEAR)	NO CHANGE	NO CHANGE
RUNWAY SAFETY AREA (RSA)	NO CHANGE	NO CHANGE
TAXIWAY SAFETY AREA (TSA)	NO CHANGE	NO CHANGE
BALDING RESTRICTION LINE (BRL)	NO CHANGE	NO CHANGE
HIGHLY SENSITIVE AREAS (HSA)	NO CHANGE	NO CHANGE
1. GATE PART 7 APPROACH SURFACE	NO CHANGE	NO CHANGE
AIRBORNE AREA	NO CHANGE	NO CHANGE
NAVIGATION CHANNEL	NO CHANGE	NO CHANGE
DIRECTION LIGHT NOT TO BE TURNED OFF	NO CHANGE	NO CHANGE
POLY POSITION MARKINGS	NO CHANGE	NO CHANGE
6. FENCE	NO CHANGE	NO CHANGE
CLEAR ZONES	NO CHANGE	NO CHANGE
THREE GROUPING	NO CHANGE	NO CHANGE



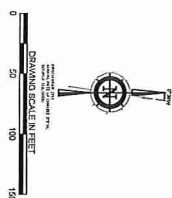
FUTURE BUILDING TABLE

LESS THAN THE 7:1 TRANSITIONAL SURFACE.

**NOTE**  
**AMCS CRITICAL AREAS (ORDER 6560.208):**

- ASER MUST BE CLEAR WITHIN 8 FEET OF THE FORWARD CANTY OF THE SENSOR
- INCHES OR LESS
- WITHIN 800 FEET OF THE SENSOR, IT IS DESIRABLE THAT ALL OBJECTS BE AT LEAST 1 FEET LOWER THAN THE HEIGHT FROM THE SENSOR
- IF AN OBJECT IS HIGHER THAN THE SENSOR, IT IS DESIRABLE THAT NO OBJECT BE NOT MORE THAN 10 FEET ABOVE THE SENSOR

THE AMOS SHOULD BE RELOCATED PRIOR TO CONSTRUCTION OF ALDOD. 11-15



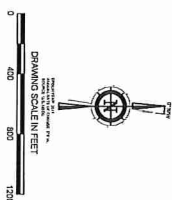




EXISTING AIRPORT PROPERTY						
PARCEL	ACRES	PARTICIPANT/DONOR	TYPE OF ACQUISITION	TYPE OF GRANTOR	RECORD INFO	DATE
6	10.89	CITY OF DULUTH	FEE SHARE	STATE OF MINNESOTA	880 PG 114	12/27/1975
7	17.85	CITY OF DULUTH	FEE SHARE	STATE OF MINNESOTA	880 PG 114	12/27/1975
8	3.27	CITY OF DULUTH	DOVATION	STATE OF MINNESOTA	880 PG 114	12/27/1975
9	9.70	CITY OF DULUTH	FEE SHARE	STATE OF MINNESOTA	880 PG 114	12/27/1975
11	9.24	CITY OF DULUTH	EMENDMENT	SPECIALTY MORTGAGE TRUST & POWER CO.	880 PG 114	12/27/1975
12	6.76	CITY OF DULUTH	EMENDMENT	SPECIALTY MORTGAGE TRUST & POWER CO.	880 PG 114	12/27/1975
14	6.24	CITY OF DULUTH	DOVATION	STATE OF MINNESOTA	880 PG 114	12/27/1975
15	0.68	CITY OF DULUTH	FEE SHARE	STATE OF MINNESOTA	880 PG 114	12/27/1975
16	0.68	CITY OF DULUTH	FEE SHARE	STATE OF MINNESOTA	880 PG 114	12/27/1975
18	2.47	CITY OF DULUTH	DOVATION	STATE OF MINNESOTA	880 PG 114	12/27/1975
19	2.47	CITY OF DULUTH	DOVATION	STATE OF MINNESOTA	880 PG 114	12/27/1975
20	2.47	CITY OF DULUTH	FEE SHARE	STATE OF MINNESOTA	880 PG 114	12/27/1975
21	2.05	GUYTON DALLIN	FEE SHARE	STATE OF MINNESOTA	880 PG 114	12/27/1975
TOTAL	622.2	ACRES IN FEE	DOVATION	STATE OF MINNESOTA	880 PG 114	12/27/1975
422.2 ACRES IN EMBURMENT						

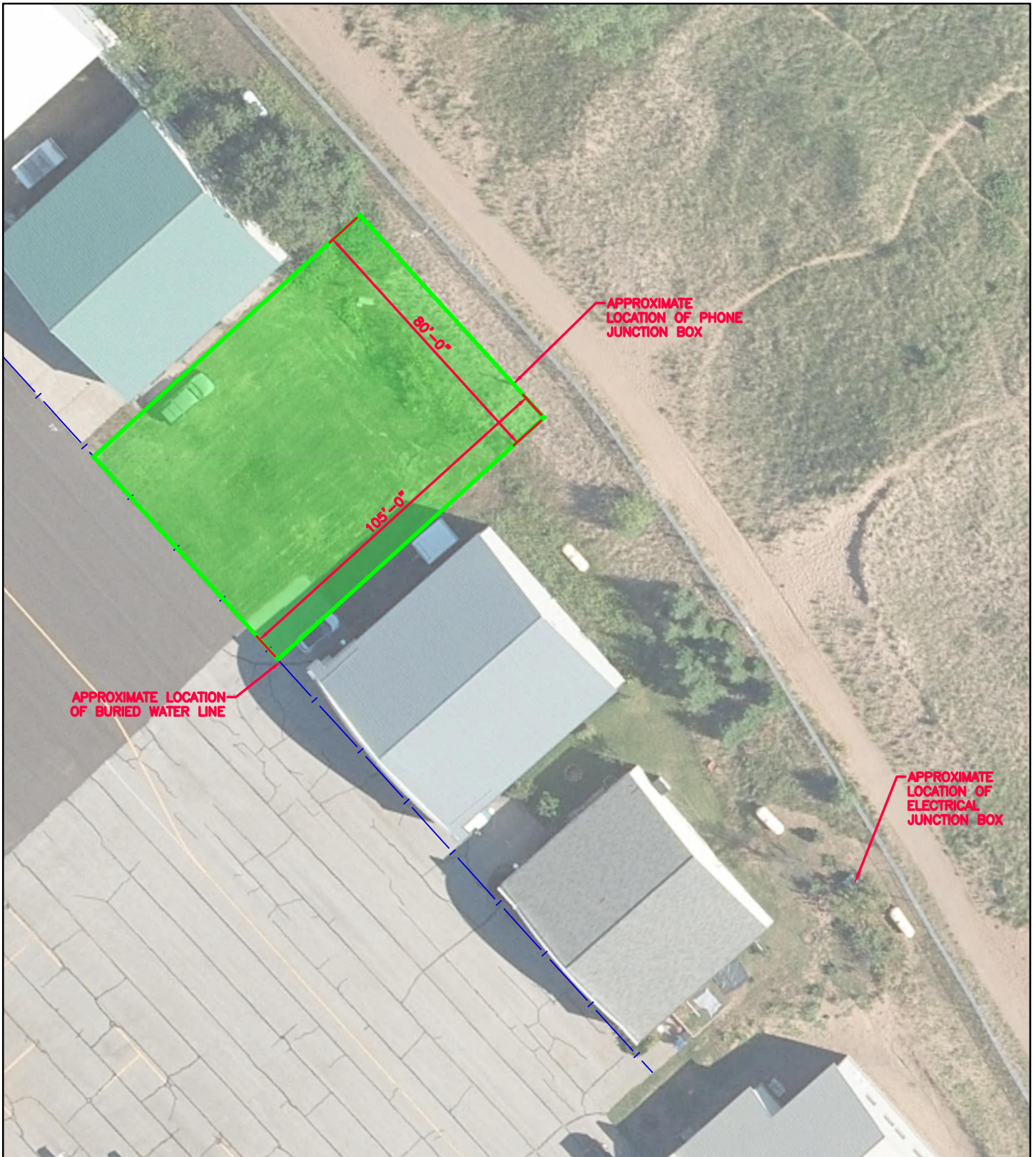
\*"7. UPON THE CONDITION THAT THE CITY OF DULUTH SHALL USE SAID LAND FOR PURPOSES OF PUBLIC RECREATION AND PUBLIC HEALTH AND THAT THE FACILITIES PROVIDED ON SAID LAND SHALL BE OPEN UPON EQUAL TERMS TO ALL PERSONS WHETHER RESIDENTS OF THE CITY OF DULUTH OR ELSEWHERE, AND THAT TITLE TO SAID LAND SHALL REVERT TO THE STATE AND THE STATE SHALL BE ENTITLED TO TAKE POSSESSION THEREOF UPON BREACH OF THE AFORESAID CONDITIONS."

LEGEND	
	FUTURE
	FEE PROPERTY
	EASEMENT
	DONT SVA
	CONTRACT
	HAWKERS
	FENCE
	GROUND CONTROLS
	SAME
	PARCEL NUMBER

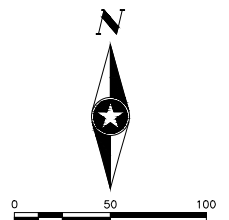




S:\AE\Drawings\Drawings\General Engineering Tasks\2018 Hangar Layout\2018 Hangar Location.dwg 1/11/2018 9:47 AM slatterman



Beginning at the southeasterly corner of the Duluth Airport Authority Hangar Concrete Ramp at the Sky Harbor Airport: Thence southeasterly along the northeast edge of the bituminous aircraft parking ramp 485'11" to the point of beginning of the line described. Then deflect 90 degrees to the left and go 105'0" to a point, then deflect 90 degrees to the right and go 80'0" to a point, then deflect 90 degrees to the right and go 105'0" to a point, then deflect 90 degrees to the right and go 80'0" to the point of beginning, consisting of 8,400 square feet, more or less.



SKY HARBOR AIRPORT  
PROPOSED HANGAR LOCATION  
DULUTH, MINNESOTA

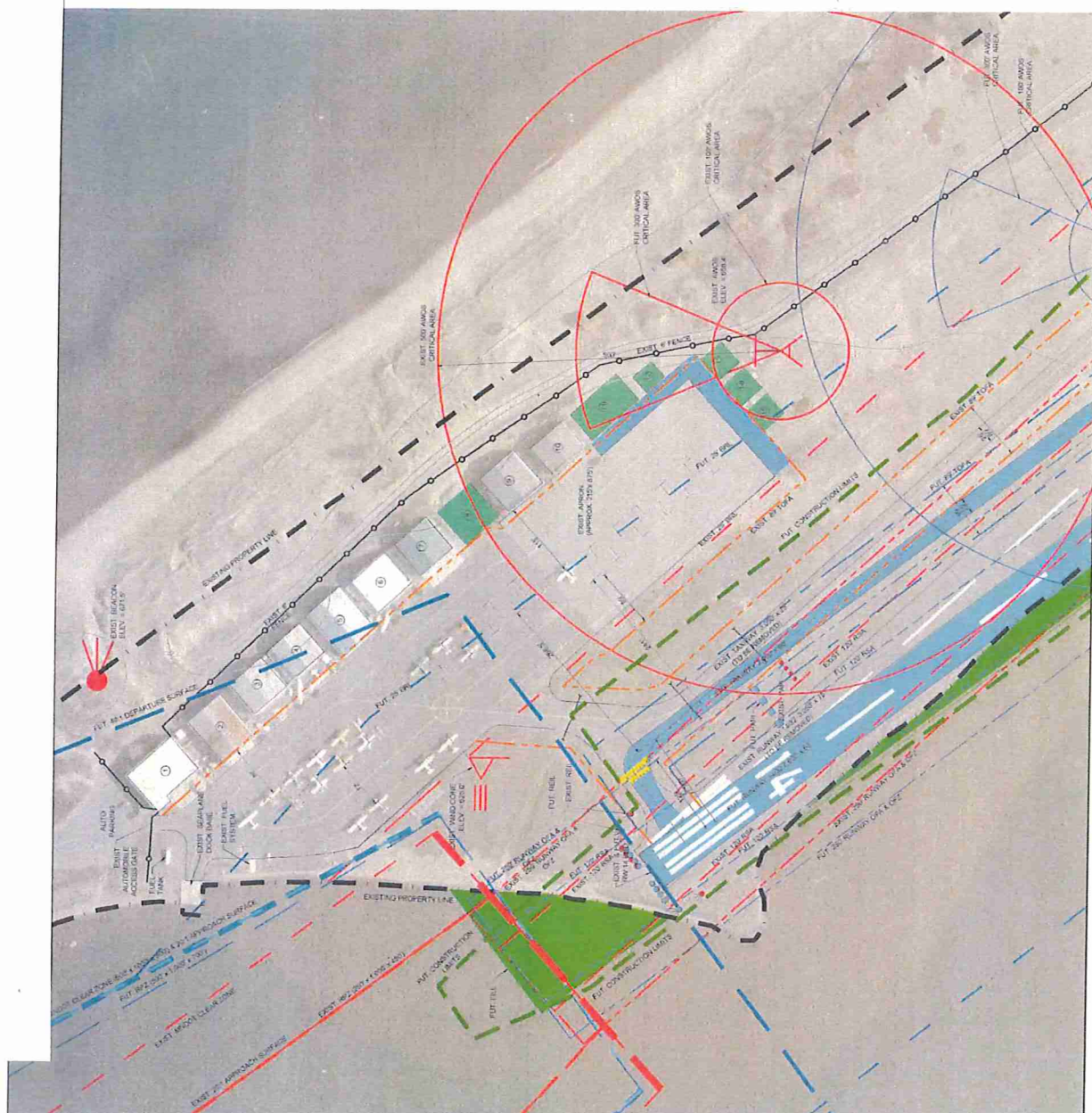
EXHIBIT B



EXHIBIT C



## EXHIBIT D



NO	DESCRIPTION	BUILDING ELEVATION	DISPOSITION
1	APPROXIMATE PAIR (EAST BUILDING AND HANGAR)	529' R	TO REMAIN
2	PRIVATE HANGAR	526' R	TO REMAIN
3	PRIVATE HANGAR	527' R	TO REMAIN
4	PRIVATE HANGAR	528' R	TO REMAIN
5	PRIVATE HANGAR	522' R	TO REMAIN
6	PRIVATE HANGAR	507' R	TO REMAIN
7	PRIVATE HANGAR	502' R	TO REMAIN
8	PRIVATE HANGAR	503' R	TO REMAIN
9	PRIVATE HANGAR	501' R	TO REMAIN

NO	DESCRIPTION	ELEVATION	DISPOSITION
8	PRIVATE HWY&AR	632' EST	TO BE CONSTRUCTED
11	PRIVATE HWY&AR	632' EST	TO BE CONSTRUCTED
12	GRG BUILDING	532' EST	TO BE CONSTRUCTED
13	PRIVATE HWY&AR	632' EST	TO BE CONSTRUCTED
14	PRIVATE HWY&AR	632' EST	TO BE CONSTRUCTED
15	PRIVATE HWY&AR	632' EST	TO BE CONSTRUCTED

[illegible]

NOTE: CRITICAL AREAS (ORDER 8640-200)  
AREA WITHIN 6 FEET OF SENSORS MUST BE FREE OF ALL VEGETATION.  
AREA MUST BE CLEARED WITHIN 300 FEET OF THE FORWARD OBTANT OF THE SENSOR  
WITHIN 100 FEET OF SENSOR, ALL VEGETATION MUST BE CLIPPED TO A HEIGHT OF 10  
INCHES OR LESS  
WITHIN 300 FEET OF THE SENSOR, IT IS DESIRABLE THAT ALL OBJECTS BE AT LEAST 15  
FEET FROM THE WEIGHT OF THE SENSOR  
FROM 500 FEET TO 1,000 FEET, IT IS DESIRABLE THAT NO OBJECT  
BE NO MORE THAN 10 FEET TALLER THAN THE SENSOR  
THE AREAS SHOULD BE RELOCATED PRIOR TO CONSTRUCTION OF ALDOS 15

EXISTING &  
FUTURE BUILDING  
AREA PLAN

SHEET  
9  
OF 11 SHEETS

AIRPORT LAYOUT PLAN  
FOR THE  
DULUTH SKY HARBOR  
AIRPORT

DATE	TIME	LOCATION	WIND DIRECTION	WIND SPEED	SEA STATE	TEMPERATURE	HUMIDITY	PRESSURE	REMARKS
1960-07-16	18:00								

ISSUE DATE MAY 27, 2015  
DESIGNED BY KAMN  
DRAWN BY KMO

1997-1998  
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*[Handwritten signature]*

**EXHIBIT E**  
**GENERAL INFORMATION QUESTIONNAIRE**

**NAME OF PROPOSING ENTITY:**

\_\_\_\_\_  
*(EXACTLY AS IT WOULD APPEAR ON AGREEMENT)*

**PRINCIPAL ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_

**Legal Structure of Entity:**

\_\_\_\_\_  
*(EXAMPLE: PRIVATE, CORPORATION, OR LLC)*

**PRIMARY CONTACT**

**NAME:**

\_\_\_\_\_

**POSITION:**

\_\_\_\_\_

**TELEPHONE:**

\_\_\_\_\_

**FAX:**

\_\_\_\_\_

**EMAIL:**

\_\_\_\_\_

**ALTERNATE CONTACT**

**CONTACT NAME:**

\_\_\_\_\_

**POSITION:**

\_\_\_\_\_

**TELEPHONE:**

\_\_\_\_\_

**FAX:**

\_\_\_\_\_

**EMAIL:**

\_\_\_\_\_

**Proposer's Operating Name**

Proposer has operated under its current name since \_\_\_\_\_, a period of \_\_\_\_\_ years,  
and Proposer (if such be the case) formerly operated under the name \_\_\_\_\_.

Proposer has provided similar services as requested in this RFP for \_\_\_\_\_ years.

The Proposer ☐is ☐is not currently involved in litigation. (If the answer is in the affirmative, please identify the business location and give such information as is required to explain the circumstances.)

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*(Use additional sheet(s) to explain circumstances if necessary.)*

## EXHIBIT F

### HANGAR LAND LEASE SKY HARBOR AIRPORT

Parties to this Agreement are the DULUTH AIRPORT AUTHORITY, hereinafter called "Authority" and \_\_\_\_\_, hereinafter referred to as "Lessee".

#### THE PARTIES ACKNOWLEDGE THE FOLLOWING:

Pursuant to Laws 1969, Chapter 577, the Authority is the operator of Duluth Sky Harbor Airport, located in the City of Duluth, State of Minnesota; and

Lessee is engaged in the pursuit of aviation and desires to maintain a hangar building for its use on said Airport;

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

#### SECTION 1 Definitions

The following terms, as used in this Agreement, shall have the meanings as ascribed to them hereunder.

- A. Airport: shall mean Sky Harbor Airport located in the City of Duluth, County of St. Louis, State of Minnesota.
- B. Consent or Approval of Authority and/or of Executive Director: where this Agreement calls for the consent or approval of the Authority, the same shall be in the form of a resolution approved by the Authority as provided by law; where the consent or approval of the Executive Director is required, the same shall be evidence by a written document signed by him/her.
- C. Executive Director: shall refer to the Executive Director of the Authority or his/her designee.
- D. Leased Premises: shall refer to that portion of the Airport leased to Lessee for its exclusive use as further described in SECTION 3, Subparagraph A of this Agreement and **Exhibit A** attached hereto and incorporated herein.
- E. Leasehold Improvements: shall refer collectively to all items located on, within, and attached to the Leased Premises provided or purchased by Lessee, including such items as buildings, structures, insulation, utilities from the building to the public utility mainline, systems, and connecting aprons.

**SECTION 2**  
Use of Leased Premises

Lessee is hereby authorized to utilize the Leased Premises only for the following purposes:

- A. To securely store and maintain aircraft in Lessee's hangar which aircraft is owned or controlled by Lessee for private and non-commercial aviation purposes.
- B. To safely store other personal property in Lessee's hangar as approved by the Executive Director.

**SECTION 3**  
Leased Premises

- A. Leased Premises - During the term of this Agreement and any extensions thereof, Authority does hereby lease to Lessee for its exclusive use that tract of land lying in Parcel 6 of the REFEREE'S PLAT OF MINNESOTA POINT as recorded in the St. Louis County Office of the Register of Deeds in Book "G" of Plats, Page 38, labeled as Hangar 8 on Exhibit A, more particularly described as follows:

Beginning at the southeasterly corner of the Duluth Airport Authority Hangar Concrete Ramp at Sky Harbor Airport; thence southeasterly along the northeast edge of the bituminous aircraft parking ramp 485' 11" feet to the point of beginning of the line described. Then deflect 90° to the left and go 105' 0" to a point, then deflect 90° to the right and go 80' 0" to a point, then deflect 90° to the right and go 105' 0" to a point, then deflect 90° to the right and to 80' 0" to the point of beginning, consisting of 8,400 square feet, more or less.

- B. Use of Airport Facilities - Authority does additionally hereby grant to Lessee a license for the use of all public facilities at the Airport to the same extent as other tenants, including, but not limited to, runways, ramps and taxiways.

**SECTION 4**  
Rent, Taxes, Assessments, License Fees, Utilities & Deposit

A. Rent

For the term of this Agreement, Lessee agrees to pay rent on the Leased Premises in the amount of \$.21 cents per square foot (8,400 square feet) per year (prorated for portions thereof), for a total annual rent of \$\_\_\_\_\_, payable in advance on or before January 1<sup>st</sup> of each year, except the initial year, with the initial year payment to be made upon execution of this Agreement.

On January 1 of each subsequent year during the term of this Agreement, or any extension, renewal or holding over thereof, the annual rent shall increase to the amount calculated by multiplying the previous year's rent by the rate of increase, if any, of the most recent Consumer Price Index, U.S. City Average, published by the U.S. Bureau of Labor Statistics

for the preceding twelve-month period. However, in no event shall the rent for any year be less than the rent for the previous year.

**B. Taxes, Assessments and License Fees**

Lessee shall be liable for the payment of all taxes, assessments, license fees or other charges that may be levied or assessed during the term of this Agreement arising in any manner out of this Agreement, charged by any governmental agency and shall provide evidence of payment of any such taxes to Authority as such taxes shall become due. If Lessee shall fail or neglect to pay any of said taxes, assessments, license fees or other charges when the same become due, the Authority may pay the same, together with any cost or penalty which may be accrued thereon, and collect the entire amount so paid from Lessee, and Lessee hereby agrees to pay such entire amount due to the Authority upon demand therefor.

**C. Utilities**

Authority is providing the following utilities up to the Leased Premises: \_\_\_\_\_. Lessee shall be responsible for connecting any such utilities, at its cost, to the Leased Premises. Lessee shall be responsible for any additional utilities at its cost. Lessee shall promptly establish accounts in its name for all utilities at the Leased Premises. Lessee shall be responsible for promptly paying the applicable monthly utility service charges and any other fees for use for the Leased Premises.

**SECTION 5**

**Term**

The Base Term of this Agreement shall be for ten (10) years commencing on \_\_\_\_\_, 2018 through \_\_\_\_\_, 2028, unless sooner or later terminated as herein provided.

The parties mutually reserve the right to exercise one (1) Option Term beyond the Base Term provided that Lessee provides written notice to the Authority of its interest in exercising the Option Term on or before \_\_\_\_\_. Within sixty (60) days of receipt of such notice, the Authority will provide a written response indicating whether or not it desires to exercise an Option Term. In the event that both parties desire to exercise the Option Term, said Option Term must be executed no later than \_\_\_\_\_. The Option Term shall be under the same terms and conditions as set forth herein. If the Option Term is not exercised as called for herein, the Agreement will terminate according to the provisions of this Agreement.

It is further agreed that after the Base Term, and the Option Term if exercised, expires, the Authority in its sole discretion may allow the Agreement to continue on a month-to-month basis under the terms and conditions of this Agreement subject to the adjustment of rates and charges at the sole discretion of the Authority and further subject to the right of either party to terminate said month-to-month tenancy upon twenty-nine (29) calendar days' written notice to the other party.

## **SECTION 6**

### Premises Maintenance

Lessee agrees to keep the Leased Premises in a clean, neat and orderly condition and in compliance with all laws and codes applicable to the Leased Premises. In the event that Lessee shall fail to so maintain any portion of the said Leased Premises, Authority shall have the right, but not the obligation, to itself perform or have performed said maintenance and to charge Lessee therefor, which charge Lessee shall be obliged to promptly pay. Lessee is responsible to perform all maintenance on its own personal property.

## **SECTION 7**

### Construction

In the event that Lessee wishes to make any modifications or Leasehold Improvements on the Airport, it shall present its request to the Executive Director in writing together with design development or construction drawings showing all details of said Leasehold Improvement. No Leasehold Improvement shall be made on the Leased Premises without the prior written approval of the Executive and then only in conformance with the approved plans and this Section. Color of building or roof, exterior construction material and decorations are subject to the discretion, approval and regulation of the Executive Director which will not be unreasonably withheld or delayed.

#### **A. Construction Standards and Approvals**

All work done by Lessee, or under its direction, shall conform to all applicable regulations, building codes and health standards, as well as the following requirements:

1. All construction shall meet the requirement of Type I (fire resistant) construction as set forth in the Minnesota State Building Code (current edition) and the building standards for the Airport, where relevant.
2. Complete contract drawings and specifications on all work, including alterations, additions or replacements, must be submitted for and receive prior written approval of the Executive Director.
3. All work must be done by competent contractors in the time and manner approved by the Executive Director and coordinated with him/her. Lessee shall comply with the indemnity and insurance and bond requirements of this Section.
4. An authorized representative of Lessee shall be available at all reasonable times at the site to coordinate the work of the Leasehold Improvements.
5. A complete "as built" set of drawings and a copy of same in Autocad shall be submitted to the Authority within sixty (60) calendar days following the issuance of a certificate of occupancy by the City.

#### **B. Construction Bonds and Insurance**

##### **1. Bonds**

During the term of this Agreement, when any modifications or Leasehold Improvements are constructed, installed or renovated, Lessee shall procure and furnish to Authority a



contractors' bond or bonds written by a company or companies authorized to write such bonds in the State of Minnesota and who are acceptable to the Authority, in an amount not less than the cost of such construction, installation or renovation, for the use obligee, Lessee and the Authority and all persons doing work or furnishing skills, tools, machinery, materials, insurance premiums, equipment or supplies incident to such construction, installation or renovation, such bond or bonds to be conditioned for payment of claims as required and in full compliance with Minnesota Statutes Section 574.26. Further, during the term of this Agreement, for any construction, installation or renovation, and before the commencement of work thereon, Lessee shall furnish to Authority performance bonds, written by similarly qualified companies, covering all work to be performed thereunder guaranteeing the performance of all such work.

Notwithstanding the foregoing, Lessee may furnish Executive Director with a personal indemnity and other evidences, at the sole option of and satisfactory to the Executive Director, of its ability to complete construction without liens.

## 2. Contractor's Public Liability and Property Insurance

Before commencing any Leasehold Improvement, work or equipment installation on the Airport, Lessee shall require all contractors and subcontractors to procure and maintain insurance during the life of such contracts, protecting both the Authority and the Lessee as follows:

- a. Workers' Compensation Insurance.
- b. Contractors Comprehensive Public Liability and Property Damage Insurance.
- c. Contractors Automobile Liability and Property Damage Insurance, including automobile and non-ownership and hired cars.
- d. Owners Protective Public Liability and Protective Property Damage Insurance.
- e. Builders Risk Insurance (fire, extended coverage, vandalism and malicious mischief, including sprinkler leakage).

Amounts shall be not less than One Million Five Hundred Thousand Dollars (\$1,500,000) for injuries, including accidental death to any one person, and subject to same limit for each person, and in an amount not less than One Million Five Hundred Thousand Dollars (\$1,500,000) on account of any one accident, and property damage in an amount not less than One Million Five Hundred Thousand Dollars (\$1,500,000) aggregate for the policy. Insurance, as above provided, shall be kept intact and in force throughout the term of construction work and equipment installation on the Leased Premises. Such insurance shall be subject to the approval of the Executive Director and copies furnished to the Executive Director prior to the commencement of construction. The amounts shall be subject to change by the Executive Director to the extent that the liability limits as provided in Minnesota Statute Section 466.04 are increased.

## C. Subsequent Leasehold Improvements

Any changes in, additions to or deletions from existing or later constructed Leasehold Improvements shall be at Lessee's sole expense and subject to the prior written approval of the Executive Director, and the Executive Director may impose such conditions as he/she shall deem necessary to protect and promote the Authority and the integrity of all operations at the Airport, including, but not limited to, bonding and insurance requirements.

**SECTION 8**  
**Indemnity, Insurance and Waiver of Claims**

**A. Indemnification**

Lessee shall indemnify, save, hold harmless, and defend Authority and the City of Duluth (the "City"), their officials, agents and employees, successors and assigns, individually or collectively, (1) from and against any and all claims including a claim for contribution or indemnity, demands, causes of action, loss, injury, liability, costs and expenses of whatsoever kind or nature (including but not limited to reasonable attorneys' fees, disbursements, court costs, and expert fees) and damages for or related to injury to or death of persons or damage to property, and (2) from and against any fines in any way arising from or based upon the violation by Lessee, its agents, employees, or successors and assigns of any federal, state, or municipal laws, statutes, resolutions, or regulations, including rules or regulations of the Authority now in effect or hereafter promulgated; all arising out of, resulting from, in conjunction with or incident to any act or omission of Lessee, its officials, agents or employees, successors or assigns, the performance of obligations under this Agreement, or the use and/or occupancy of the Leased Premises or of the Airport by Lessee, officials, its agents or employees, successors or assigns, and on ten (10) days' written notice from the Authority, the Operator shall appear and defend all claims and lawsuits against the Authority and/or the City growing out of any such injury or damage. The provisions of this paragraph shall survive the expiration, termination or early cancellation of this Agreement.

**B. Insurance**

Lessee shall carry comprehensive general liability insurance. All such insurance shall be in amounts and shall be in a form acceptable to the Executive Director, shall name the Authority and the City of Duluth as additional insureds and shall provide for thirty (30) days' written notice to the Authority of any cancellation, modification or non-renewal thereof. Certified copies thereof or appropriate certificates of insurance evidencing the existence thereof shall be delivered to the Executive Director. The minimum insurance requirements are set forth below. The Authority reserves the right and Lessee agrees to increases in the minimum insurance requirements to the extent that the liability limits as provided in Minnesota Statute Section 466.04 are increased. All insurance policies required below shall be primary and shall not require contribution from any coverage maintained by the Authority and/or the City:

1. Public Liability Insurance with a \$1,500,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate limit of \$1,500,000 and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance; and Automobile Liability Insurance covering all owned and non-owned automobiles or vehicles used by or on behalf of Lessee with a \$1,500,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate limit of \$1,500,000.
2. Workers Compensation Insurance sufficient to comply with the laws of the State of Minnesota for Lessee's employees.

**C. Authority's Fire Insurance**

Lessee covenants that it will not do or permit to be done any act which:

1. will invalidate or be in conflict with any fire insurance policies covering the Airport or any part thereof or upon the contents of any building thereof; or

2. will increase the rate of fire insurance on the Airport or any part thereof or upon the contents of any building thereof; or
3. in the opinion of the Authority, will constitute a hazardous condition so as to increase the risks normally attendant upon the operations contemplated by this Agreement.

If, by reason of Lessee's failure to comply with the provisions of this section, any fire insurance rate on the Airport or any part thereof or upon the contents of any building thereof, at any time, be higher than it otherwise would be, then the Lessee shall, upon demand, reimburse the Authority for that part of all fire insurance premiums paid or payable by the Authority which shall have been charged because of Lessee's failure to comply with this section.

**D. Insurance Not Limitation**

It is understood that the specified amounts of insurance stated in this paragraph shall in no way limit the liability of Lessee under this Section.

- E. Disclaimer. Authority does not represent or guarantee that these types or limits of coverage are adequate to protect the Lessee's interests and liabilities. It shall be the obligation and responsibility of Lessee to insure, as it deems prudent, its own personal property, against damage. Authority does not have insurance coverage for Lessee's property and Authority expressly disclaims any and all liability for any and all losses, damage and/or claims to vehicles and/or personal possessions of Lessee.

**F. Waiver of Claims**

Lessee waives all claims or causes of action against the Authority, its officers, agents or employees for any failure of the Authority to properly maintain, operate and manage the Airport at all times in a safe manner resulting from any reason or cause beyond the control of the Authority, including, but without the generality of the foregoing, war, strikes, riots, civil commotion and similar causes.

**F. Hazardous Waste**

Notwithstanding any provision of this Agreement, it is specifically agreed between the parties that Lessee shall be responsible in all aspects for the use of or generation of any petroleum based substance or product, or any volatile organic compound, or any substance classified as a pollutant or as a contaminant, or as waste, or as a "hazardous waste" by either the Environmental Protection Agency of the Government of the United States or the Minnesota Pollution Control Agency, or any laws or rules they administer. Lessee shall specifically be responsible for the disposition of all such substances and for the cleanup of any environmental condition deemed by those agencies or either of them to require environmental response or cleanup activities of any kind which need arises, directly or indirectly, out of Lessee's operations at the Airport; and Lessee specifically agrees that the obligations of Paragraph A above shall apply specifically to any costs or obligations of Authority or City of Duluth arising out of any such disposition or cleanup.

G. Attorneys' Fees

In the event the Authority prevails in any action or suit or proceeding to enforce compliance with this Agreement or for the failure to observe any of the covenants of this Agreement by Lessee, Lessee shall pay the Authority such sums as the court may adjudge reasonable as attorneys' fees and costs to be allowed in such action, suit or proceeding.

**SECTION 9**

Laws, Ordinances, and Rules

A. Laws, Ordinance and Rules

The Lessee shall comply with all laws of the United States and the State of Minnesota, the ordinances of the City of Duluth and the ordinances, rules, regulations and orders of the United States and the State of Minnesota or of any agency, department or governmental subdivision of appropriate jurisdiction thereof or of the Authority relating to Lessee's activities at the Airport.

B. Non-discrimination

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 otherwise subjected to discrimination in the use of said facilities, and
2. In the construction of any improvement on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and
3. That the Lessee shall use the premises in compliance with all of the requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

**SECTION 10**

Authority's Rights Upon Default

A. Rights

If at any time Lessee shall be in default, as defined in this Section, with regard to the requirements of this Agreement, it shall be lawful for the Authority, and the Authority may at any time thereafter:

1. Immediately or at any time thereafter without further notice to Lessee, re-enter onto or upon the Leased Premises or any part thereof and take possession of the same fully and absolutely without such re-entry working a forfeiture of the charges to be paid and of the covenants, terms and conditions to be performed by Lessee for the full term of this Agreement, and in the event of such re-entry, the Authority may proceed with the collection of charges to be paid under this Agreement or to recover properly measured damages; or

2. Authority may at its election terminate this Agreement upon written notice in the manner hereinafter provided and re-enter upon said Leased Premises as of its former estate therein, and the Lessee covenants in case of such termination to indemnify the Authority against all loss of rents and expense which the Authority has suffered or paid by reason of such termination, during the residue of the term; or
3. The Authority shall further have all other rights and remedies including injunctive relief, ejectment or summary proceedings for unlawful detainer, and any and all legal remedies, actions and proceedings and all such remedies shall be cumulative.

Pursuit of any of the foregoing remedies shall not preclude Authority from pursuing any other remedies provided by law, nor shall pursuit of any remedy provided herein constitute a waiver of any other obligation due to Authority herein. Forbearance by Authority to enforce one or more of the remedies herein provided upon an event of Lessee's default shall not be deemed or construed to constitute a waiver of such default.

#### **B. Default Defined**

For the purposes of this Section only "default" shall be defined when any of the following circumstances exists:

1. If the Lessee has failed to pay rent, fees, taxes or other charges when due hereunder and such failure to pay shall continue for ten (10) calendar days after notice in writing in the manner hereinafter provided for.
2. If the Lessee fails in the observance or performance of any of the other terms, covenants and conditions of this Agreement and such failure shall continue for thirty (30) calendar days after Authority has given Lessee written notice, or the Lessee shall have failed to commence the rectification of such failure within ten (10) calendar days after such notice and to diligently prosecute the same where the same cannot be completed within thirty (30) calendar days, or
3. If a petition to reorganize the Lessee or for its arrangement of its unsecured debts shall be filed, or
4. If the Lessee shall be adjudicated bankrupt, or
5. If a receiver or trustee of the Lessee's property shall be appointed by any court, or
6. If the Lessee shall make a general assignment for the benefit of creditors, or
7. If all of the interest of the Lessee in its property shall be taken by garnishment, attachment, execution or other process of law, or
8. If the Leased Premises shall be deserted or vacated.

#### **SECTION 11** **Force Majeure**

If war, civil insurrection, natural disaster, change in law, action of the federal, state or city government, or other force beyond the control or expectation of the parties render the continuance of this Agreement impossible, then it shall terminate on thirty (30) days' notice to the other party.

**SECTION 12**  
Waiver of Breach

The waiver by the Authority of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

**SECTION 13**  
Subleases and Assignments

The Lessee shall not assign or transfer, in whole or in part, in any manner, this Agreement, nor any interest therein, nor permit the Agreement to become transferred by operation of law, including inheritance, or otherwise, nor do or suffer any acts to be done whereby the same may be or become assigned in whole or in part, unless the written consent of the Executive Director shall first be obtained in each and every case of such assignment or transfer. The parties expressly agree that a majority change in ownership of the controlling interest in Lessee, if any, shall be deemed to be an assignment hereunder. It is expressly agreed by the Lessee that in the event consent is granted by the Executive Director as herein provided, the assignee or transferee shall be required to assume and agree to perform the covenants of this Agreement. The parties agree that Executive Director shall meet and confer in good faith with any party Lessee proposes as an assignee or transferee of this Agreement for the purpose of reaching an accord on occupation of the Leased Premises.

**SECTION 14**  
Erection of Signs

The Lessee shall be allowed to erect suitable signs on the Leased Premises to indicate its location or occupancy, but the form, type, size and method of installation of any such signs shall be subject to the prior written approval of the Executive Director.

**SECTION 15**  
Governmental Commitments

This Agreement shall be subordinate to the provisions of and requirements of any existing or future agreements between the Authority and the United States, or other governmental authorities, relative to the development, operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds, or other governmental authority funds, for the development of the Airport, to the extent that the provisions of any such existing or future agreements are generally required by the United States, or other governmental authorities, of other civil airports receiving such funds.

**SECTION 16**  
Sponsor Assurances

Should the FAA determine that any term or provision of this Agreement results in, or could result in, a violation by the Authority of its obligations as an airport sponsor under grant assurances

contained or incorporated in any grant agreement, existing or future, to which the Authority is a party ("Sponsor Assurances"), Lessee and the Authority unconditionally agree to modify or amend this Agreement to remedy any such violation, or potential violation, and bring this Agreement into strict compliance with the Authority's Sponsor Assurances.

## **SECTION 17**

### **Severability**

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in force and effect and shall be binding upon the parties to this Agreement.

## **SECTION 18**

### **Surrender**

Upon the expiration or other termination of this Agreement, Lessee's authority to use the Leased Premises, rights and facilities herein granted shall cease and Lessee shall, upon such expiration or termination, promptly and in good condition, ordinary wear and tear excepted, surrender the same to Lessor. Upon termination, any improvements which have become part of the realty (to include any hangars) shall become the property of the Authority, and the same, together with the Leased Premises shall be immediately returned to the control of the Authority. Any improvements not part of the realty shall be removed therefrom within fifteen (15) days after the termination of this Agreement or the same shall be deemed to have been abandoned to the Authority and the right of Lessee to possession thereof shall cease.

## **SECTION 19**

### **No Third Party Rights**

Nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement.

## **SECTION 20**

### **Immunity**

Nothing in this Agreement shall be construed as a waiver by the Authority or the City of any immunities, defenses, or other limitations on liability to which the Authority or the City is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466.

## **SECTION 21**

### **Modification of the Agreement**

Any of the terms of this Agreement may be changed upon the mutual consent of the Authority and the Lessee, but to be valid any such changes must be in writing, dated and must be executed with the same formalities as this Agreement.

## SECTION 22

### Notices

All notices to be given by Lessee to the Authority shall be deemed to have been given by depositing written notice in the United States Mail addressed to Authority at the Duluth International Airport, 4701 Grinden Drive, Duluth, Minnesota, 55811, Attn: Executive Director. All notices to be given by Authority to Lessee shall be deemed to have been delivered by depositing the same in writing in the United States Mail addressed to Lessee at \_\_\_\_\_, at \_\_\_\_\_.

## SECTION 23

### Applicable Law

This Agreement, together with all of its articles, terms and provisions, is made in the State of Minnesota and shall be construed and interpreted according to the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota.

## SECTION 24

### Entire Agreement

This Agreement, including Exhibit A, constitutes the entire Agreement between the Authority and Service Provider and supersedes all prior written or oral agreements and negotiations between the parties relating to the subject matter hereto.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**DULUTH AIRPORT AUTHORITY**

**LESSEE**

By \_\_\_\_\_  
President

By \_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

By \_\_\_\_\_

By \_\_\_\_\_  
Assistant City Attorney



## **DULUTH AIRPORT AUTHORITY**

### **Acknowledgement:**

On this \_\_\_\_ day of \_\_\_\_\_, 2018, appeared before me \_\_\_\_\_ and \_\_\_\_\_, the president and secretary respectively, of the **Duluth Airport Authority**, and acknowledged that this lease had been approved at a legal meeting of the Authority, by majority vote, a quorum being present and proper notice of meeting being given and duly executed this agreement.

\_\_\_\_\_  
Notary Public

### **LESSEE:**

#### **Acknowledgement:**

On this \_\_\_\_ day of \_\_\_\_\_, 2018 appeared \_\_\_\_\_ before me the Lessee, and executed this agreement as the \_\_\_\_\_ of \_\_\_\_\_, on behalf of the \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

### **Certificate of Secretary**

The foregoing instrument was approved at a duly held meeting of Duluth Airport Authority by a majority vote of directors, a quorum being present and proper notice of meeting having been previously given, and the signatures of the proper officials are genuine and were executed before me.

By \_\_\_\_\_  
Secretary

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## **EXHIBIT G**

### **OPERATOR AGREEMENT SKY HARBOR AIRPORT**

PARTIES TO THIS AGREEMENT are the DULUTH AIRPORT AUTHORITY, the governmental authority organized and existing under the Laws of Minnesota, 1969, Chapter 577, hereinafter referred to as "Authority", and \_\_\_\_\_, a \_\_\_\_\_, hereinafter referred to as "Operator";

#### **THE PARTIES ACKNOWLEDGE THE FOLLOWING:**

1. The Authority is the operator of the Sky Harbor Airport, located in the City of Duluth, County of St. Louis, State of Minnesota and is in the business of promoting and managing aviation activity at the airport; and
2. Operator desires to offer \_\_\_\_\_ to the public at the Sky Harbor Airport.
3. The Authority desires to allow this service to be provided at Sky Harbor Airport.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **SECTION 1 DEFINITIONS**

The following terms, as used in this Lease Agreement, shall have the meanings as ascribed to them hereunder.

- A. Airport: shall mean the Sky Harbor Airport located in the City of Duluth, County of St. Louis, State of Minnesota.
- B. Consent or Approval of Authority and of Executive Director: where this Agreement calls for the consent or approval of the Authority, the same shall be in the form of a resolution approved by the Authority as provided by law; where the consent or approval of the Executive Director is required, the same shall be evidenced by a written document dated and signed by him/her or by a person designated by him/her to sign such document.
- C. Executive Director: shall mean the Executive Director of the Authority, or designee.
- D. Leased Premises: shall refer to the premises located at Sky Harbor Airport and described in Section 2.

### **SECTION 2 LICENSED PREMISES AND OPERATIONS AT THE AIRPORT**

- A. Leased Premises  
Operator has been granted a lease for the use of the Leased Premises at the Airport of that tract of land lying in Parcel 6 of the REFEREE'S PLAT OF MINNESOTA POINT as recorded in the St. Louis County Office of the Register of Deed in Book "G" of Plats, Page 38, labeled as Hangar 8. Operator may use the Leased Premises for the purpose of

\_\_\_\_\_, as defined by Federal Aviation Administration ("FAA"), to the public for a fee. Operator may, by approved signs or handbills, solicit customers on the public business areas of the Airport that are approved by the Executive Director. Operator shall not engage in any other business at the Airport.

B. Common Premises

Authority does grant to Operator and to its employees' access in common with the access granted to members of the general public to all public portions of the airport, roads, dock and parking facilities.

C. Operation

\_\_\_\_\_ may be operated only during the days of the week and hours of the day approved in writing by the Executive Director  
[Include additional details of operation]

D. Compliance

Operator shall comply with all applicable MnDOT and Federal Aviation Administration laws, rules, regulations and certifications.

### **SECTION 3 EQUIPMENT**

Operator agrees to provide or cause to be provided any and all equipment needed for its business. Authority will not be responsible for Operator's equipment. Equipment must be kept on the Leased Premises.

### **SECTION 4 FEES, TAXES AND OTHER CHARGES**

- A. Operator Fee: Operator agrees to pay the Authority a minimum annual guarantee fee of \$\_\_\_\_\_ or two and one-half (2.5) percent of gross sales and services, whichever is greater, derived from its business operations pursuant to this Agreement.
- B. "Gross Sales" Defined: The term "Gross Sales", for the purposes of this Agreement, shall include all monies paid or payable to the Operator for sales made and for services rendered at the Airport pursuant to this Agreement; provided, however, that any sales taxes or similar taxes imposed by law which are separately stated and paid by the consumer and which are directly payable to a taxing authority by Operator shall be excluded therefrom.
- C. Monthly Statements: Within ten (10) days of the month following the month in which Gross Sales arose, Operator shall submit to Authority a monthly statement, showing the amount of Gross Sales for the preceding month and an itemization of all claimed exclusions therefrom. This duty shall survive termination of this Agreement.
- D. Payment Dates: All payments of the monthly consideration referred to in Paragraph A above shall be due and payable within ten (10) days of the month following the month in which Gross Sales arose. All other payments required by this Agreement shall be due and payable

immediately upon being billed to Operator by Authority. If Operator is delinquent for thirty (30) days or longer in paying any amounts owed to the Authority under this Agreement, Operator shall pay to the Authority a late payment charge assessed on the delinquent amount at the Authority's then-prevailing rate on delinquent accounts (the rate at the date of execution of this Agreement is one and one-half percent (1½%) per month). The late payment charge shall accrue from the date the delinquent amount was due until paid. The remedy provided by this Section is in addition to all the other remedies the Authority may have for a breach of this Agreement by Operator, and nothing in this Section shall be deemed to be a waiver by the Authority or prevent the Authority from asserting any other remedy.

- E. Utilities: No utilities will be provided by Authority as part of this Agreement.
- F. Refuse and Garbage: Operator assumes all responsibility at its sole cost for the disposal of refuse and garbage generated by its operations on the Licensed Premises during the term this Agreement.
- G. Fee for Repair and Replacement: Operator shall promptly repair or replace any property of the Authority lost, destroyed or damaged by its operations hereunder. If Operator fails to promptly repair or replace such property following written notice by the Executive Director of such deficiency and a reasonable cure period as determined solely by the Executive Director, Authority may repair or replace it and Operator agrees to reimburse for the direct and indirect costs incurred by Authority for such repair or replacement plus a fifteen (15%) percent administrative fee, due and payable upon receipt.
- H. Fee for Unpaid Licenses, Fees, Taxes, and Assessments: Operator shall be liable for the payment of all taxes, assessments, license fees or other charges that may be levied or assessed during the term of this Agreement arising in any manner out of this Agreement, or on account of the transaction of business thereon by Operator, charged by any governmental agency and to provide evidence of payment of any of such taxes, assessments, license fees or other charges when the same become due. Should Operator fail to pay such amounts following written notice of such deficiency and a reasonable cure period as determined solely by the Executive Director, it is expressly agreed that Authority may pay the same on behalf of Operator, and Operator agrees to reimburse Authority for said amounts paid plus a fifteen percent (15%) administrative fee due and payable upon receipt.
- I. Payment Obligations Unconditional: The obligations of Operator to pay any amounts due to Authority under this Lease Agreement in accordance with the terms hereof shall be absolute and unconditional, irrespective of any defense or rights of set off, recoupment or counterclaim which may at any time be available against Authority. Such payments shall be due without notice or demand therefore except as specifically provided for herein.
- J. Books and Records: Operator shall maintain full and accurate financial books of accounts and records conforming to sound and accepted accounting principles consistently applied from which Gross Sales can be determined. These books of accounts and records shall be kept at the Airport or at a convenient location which Operator shall designate within the City of Duluth. Any and all books and records shall be kept, maintained and preserved by the Operator throughout the course of this Agreement and for not less than six (6) years after the termination or expiration of this Agreement. The records so required to be kept and maintained shall include all federal, state and local tax returns; records of daily bank deposits of the entire receipts from transactions at the Airport; sales slips; daily dated cash register tapes; sales books; duplicate bank deposit slips, and bank statements. Until the end of the six-year period, the Authority shall have the right to inspect and audit all books and records and

all other papers and files of the Operator relating to Gross Sales. Any such inspection or audit shall be conducted during regular business hours and Operator shall produce the appropriate books and records upon the request of the Authority. In the event any audit discloses that the amount of Gross Sales on any statement was understated by one percent (1%) or more of Gross Sales for any month, the Operator shall pay to the Authority the cost of its audit and investigation, plus any arrearage in fees due to the Authority under this Agreement.

## **SECTION 5 TERM**

The term of this Agreement shall commence on [insert date] and shall continue through [Insert Date] unless terminated sooner as herein provided. Either party may terminate without cause upon thirty (30) days written notice.

## **SECTION 6 OPERATOR'S OBLIGATIONS**

- A. Diligent Operation: Operator covenants and agrees that it shall be diligent in the prosecution of its business, including the activities listed in Section 2, on the Airport and do all things reasonably necessary and advisable to serve the customer adequately and fairly and to conduct its business in such a manner as will not reflect discredit upon the Authority or cause Authority loss or damages and will furnish prompt and efficient service as shall be adequate to meet the demands of the customers.
- B. Maintenance of Structures and Facilities: Operator agrees to keep the Airport and Leased Premises used in a clean, neat and orderly condition. Operator agrees to perform all janitorial services and all maintenance of the Leased Premises it controls. In the event that Operator shall fail to so maintain any portion of said Leased Premises as stated above, Authority shall have the right, but not the obligation, to itself perform or have performed said maintenance and to charge Operator therefor, which charge Operator shall be obliged to promptly pay.
- C. Fair and Nondiscriminatory Services: Operator, in the conduct of its authorized activities on the Airport, shall furnish good, prompt and efficient service adequate to meet the demands for its services at the Airport, and shall furnish such service on a fair, equal and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable, and not unjustly discriminatory prices for each such unit of sale or service; provided, however, that Operator shall be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types or price reductions to volume purchasers.
- D. Authority's Fire Insurance: Operator covenants that it will not do or permit to be done any act which:
  - 1. will invalidate or be in conflict with any fire insurance policies covering the Airport or any part thereof or upon the contents of any building thereof; or
  - 2. will increase the rate of any fire insurance on the Airport or any part thereof or upon the contents of any building thereof; or
  - 3. in the opinion of the Authority, will constitute a hazardous condition so as to increase the risks normally attendant upon the operations contemplated by this Agreement.

If, by reason of Operator's failure to comply with the provisions of this section, any fire insurance rate on the Airport or any part thereof or upon the contents of any building thereof, at any time, be higher than it otherwise would be, then the Operator shall, upon demand, reimburse the Authority for that part of all fire insurance premiums paid or payable by the Authority which shall have been charged because of such violation by the Operator.

- E. Airport Promotion: Operator agrees to use its best efforts to actively promote the Airport and its utilization by members of the flying public. Operator shall, at all times, purchase fuel at the Airport while operating as defined herein.

## **SECTION 7 INDEMNITY**

- A. Defense and Indemnity: Operator shall indemnify, save, hold harmless, and defend Authority and the City of Duluth (the "City"), their officials, agents and employees, successors and assigns, individually or collectively, (1) from and against any and all claims including a claim for contribution or indemnity, demands, causes of action, loss, injury, liability, costs and expenses of whatsoever kind or nature (including but not limited to reasonable attorneys' fees, disbursements, court costs, and expert fees) and damages for or related to injury to or death of persons or damage to property, and (2) from and against any fines in any way arising from or based upon the violation by Operator, its agents, employees, or successors and assigns of any federal, state, or municipal laws, statutes, resolutions, or regulations, including rules or regulations of the Authority now in effect or hereafter promulgated; all arising out of, resulting from, in conjunction with or incident to any act or omission of Operator, its officials, agents or employees, successors or assigns, the operation of business and/or performance of obligations under this Agreement, or the use and/or occupancy of the Leased Premises or of the Airport by Operator, its officials, agents or employees, or successors or assigns, and on ten (10) days' written notice from the Authority, the Operator shall appear and defend all claims and lawsuits against the Authority and/or the City growing out of any such injury or damage. The provisions of this paragraph shall survive the expiration, termination or early cancellation of this Agreement.
- B. Environmental Liability: In addition to the general indemnity stated above, and as part of it, it is specifically agreed between the parties that Operator shall be responsible in all respects for Operator's use of or Operator's generation of or release or threatened release of any petroleum based substance or product, or any volatile organic compound, or any substance classified as a pollutant, contaminant, toxic substance, solid waste or a "hazardous waste" by either the Environmental Protection Agency of the Government of the United States or the Minnesota Pollution Control Agency. Operator shall specifically be responsible for the disposition of all such waste or substances and for the environmental response activities and costs, monitoring, or cleanup of any environmental condition deemed by those agencies or either of them to require environmental response, monitoring or cleanup activities of any kind which arises directly or indirectly out of Operator's use of or Operator's generation of such substances in its operations at the Airport; and Operator specifically agrees that the obligations of Paragraph A above shall apply specifically to any costs or obligations of Authority arising out of any such disposition, cleanup, or environmental response.

- C. Survival: The provision of this Section shall survive the expiration, termination and early cancellation of this agreement.

## **SECTION 8 INSURANCE**

- A. Insurance: Operator shall carry and maintain in full force and effect during the term of this Agreement the minimum amounts of insurance set forth below. The Operator shall carry workers' compensation insurance on all of its employees employed on the Airport. Operator may request the Authority to approve alternative types of insurance providing at least equal protection. All such insurance shall be in at least the following amounts and shall be in a form acceptable to the Authority and approved by the City Attorney, shall name the Authority and the City of Duluth as additional insureds on each liability policy and shall provide for thirty (30) days' written notice to the Authority of any cancellation or modification thereof. To the extent that the "Accord" form of certificate is used, the words "endeavor to" shall be stricken from the notification provisions. Certified copies thereof or appropriate certificates of insurance evidencing the existence thereof shall be delivered to the Authority prior to the execution of this agreement. The Authority reserves the right and Operator agrees to revisions upward or downward in the minimum insurance requirements hereinafter set forth. The use of an "Accord" form as a certificate of insurance shall be accompanied by two forms – 1) ISO Additional Insured Endorsement (CG-2010 pre-2004) and 2) Notice of Cancellation Endorsement (IL 7002) – or equivalent, as approved by the City Attorney. All insurance required under this Agreement shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota. All insurance policies required below shall be primary and shall not require contribution from any coverage maintained by the Authority and/or the City.
1. Commercial general liability insurance, including contractual, completed operations, premises and operations and products liability coverage in an amount of not less than \$1,500,000 combined single limit or \$1,500,000 bodily injury per occurrence; \$1,500,000 property damage per occurrence and \$1,500,000 in aggregate.
  2. Owned, non-owned and hired vehicles in an amount not less than \$1,500,000 combined single limit or \$1,500,000 bodily injury per occurrence; \$1,500,000 per occurrence.
  3. (Where applicable). Aircraft Liability insurance from an admitted aviation insurance carrier in limits per each occurrence of not less than \$1,000,000 and Aircraft Passenger Liability insurance in limits of not less than \$100,000 for each passenger seat.
  4. (Where applicable). Worker's Compensation insurance in accordance with the laws of the State of Minnesota.
- B. Insurance Primary: All insurance policies required above shall be primary and shall not require contribution from any coverage maintained by Authority and/or City.
- C. Insurance Not Limitation: It is understood that the specified amounts of insurance stated in this paragraph shall in no way limit the liability of Operator under this Section.

- D. Disclaimer: Authority does not represent or guarantee that these types or limits of coverage are adequate to protect the Operator's interests and liabilities. It shall be the obligation and responsibility of Operator to insure, as it deems prudent, its own personal property, against damage. Authority does not have insurance coverage for Operator's property and Authority expressly disclaims any and all liability for any and all losses, damage and/or claims to vehicles and/or personal possessions of Operator.

## **SECTION 9 LAWS, ORDINANCES, RULES AND NON-DISCRIMINATION**

- A. Laws, Ordinances and Rules: The Operator shall comply with all laws of the United States and the State of Minnesota, the ordinances of the City of Duluth and the ordinances, rules, regulations and orders of the United States and the State of Minnesota, or of any agency, department or governmental subdivision of any of the above, or of the Authority relating to Operator's activities at the Airport.
- B. Non-discrimination: The Operator 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 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 otherwise subjected to discrimination in the use of said facilities; and
  2. In the construction of any improvement on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and
  3. That the Operator shall use the premises in compliance with all of the requirements imposed by or pursuant to Title 49, Code of Federal Regulations, and Department of Transportation of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

## **SECTION 10 INDEPENDENT CONTRACTOR**

Operator is an independent contractor and not an employee of the Authority or the City. No statement contained in this Agreement shall be construed so as to find Operator to be an employee or agent of the Authority or the City, and Operator shall not be entitled to any of the rights, privileges, or benefits of Authority or City employees. Nothing contained herein is intended nor shall be construed as in any manner creating or establishing a partnership relationship or as constituting Operator to be the agent representative or employee of the Authority or the City for any purpose.



## SECTION 11 AUTHORITY'S RIGHTS UPON DEFAULT

- A. Authority's Rights: If at any time Operator shall be in Default, as defined in this Section, with regard to the requirements of this Agreement, it shall be lawful for the Authority, and the Authority may at any time thereafter:
1. Immediately, or at any time thereafter without further notice to Operator, re-enter into or upon the Airport or any part thereof and take possession of the same fully and absolutely without such re-entry working a forfeiture of the charges to be paid and of the covenants, terms and conditions to be performed by Operator for the full term of this Agreement, and in the event of such re-entry, the Authority may proceed with the collection of charges to be paid under this Agreement or to recover properly measured damages; or
  2. Authority may at its election terminate this Agreement upon written notice in the manner hereinafter, and the Operator covenants in case of such termination to indemnify the Authority against all loss of operator fees, revenues and expenses which the Authority has suffered or paid by reason of such termination, during the residue of the term; or
  3. The Authority shall further have all other rights and remedies including injunctive relief, ejectment or summary proceedings for unlawful detainer, and any or all legal remedies, actions and proceedings and all such remedies shall be cumulative.
- B. Default Defined: For the purposes of this Section only, "Default" shall be defined when any of the following circumstances exist:
1. If the Operator has failed to pay operator fees, taxes or other charges when due hereunder and such failure to pay shall continue for ten (10) days after notice in writing to the Operator in the manner hereinafter provided for.
  2. If the Operator fails in the observance or performance of any of the other terms, covenants and conditions of this Agreement and such failure shall continue for thirty (30) days after Authority has given Operator written notice, or the Operator shall have failed to commence the rectification of such failure within thirty (30) days after such notice and to diligently prosecute the same where the same cannot be completed within thirty (30) days, or
  3. If a petition to reorganize the Operator or for its arrangement of its unsecured debts shall be filed, or
  4. If the Operator shall be adjudicated bankrupt, or
  5. If a receiver or trustee of the Operator's property shall be appointed by any court, or
  6. If the Operator shall make a general assignment for the benefit of creditors, or
  7. If all of the interest of the Operator in its property shall be taken by garnishment, attachment, execution or other process of law, or
  8. If the Leased Premises shall be deserted or vacated.
- C. Attorneys' Fees: In the event Authority shall prevail in any action or suit or proceeding brought by Authority to enforce compliance with this Agreement or for the failure to observe any of the covenants of this Agreement, Operator agrees to pay Authority such sums as the court may adjudge reasonable as attorneys' fees and costs to be allowed in such action, suit or proceeding.

## **SECTION 12 WAIVER OF BREACH**

The waiver by the Authority of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

## **SECTION 13 ASSIGNMENTS**

The Operator shall not assign or transfer this Agreement in whole or in part, in any manner, nor any interest therein, nor permit the foregoing agreement to become transferred by operation of law or otherwise, nor do or suffer any acts to be done whereby the same may be or become assigned in whole or in part, unless the written consent of the Executive Director shall first be obtained in each and every case of assignment or transfer. It is expressly agreed by the parties that a change in ownership of the controlling share of stock in Operator, if any, shall be deemed to be an assignment hereunder. It is expressly agreed by the Operator that in the event consent is granted by the Executive Director as herein provided, the assignee or transferee shall be required to assume and agree to perform the covenants of this Agreement.

## **SECTION 14 ERECTION OF SIGNS - DECORATIONS**

The Operator shall be allowed to erect suitable advertising signs on the Airport to advertise its business in the Leased Premises, but the form, type, size and method of installation of any such signs shall be subject to the approval of the Executive Director. Decorations, graphics outdoor advertising, paint schemes, promotional structures, must comply with all regulations, be safe for air terminal operations, and be approved in writing by the Executive Director. No audio advertising or amplified audio solicitation shall be allowed.

## **SECTION 15 WAIVER OF CLAIMS**

Operator waives all claims or causes of action against the Authority, its officers, agents or employees for any failure of the Authority to properly maintain, operate and manage the Airport at all times in a safe manner resulting from any reason or cause beyond the control of the Authority, including, but without the generality of the foregoing: war, strikes, riots, civil commotion and similar causes.

## **SECTION 16 NON-EXCLUSIVE RIGHTS**

Operator shall have the right and privilege of engaging in and conducting a limited service on the premises of the Airport under the terms and conditions as set forth herein. However, this

Agreement shall not be construed in any manner to grant Operator or those claiming under it the exclusive right to the use of the premises and facilities of said Airport other than those premises leased exclusively to Operator hereunder. The parties to this agreement do not intend to create any rights in any third party beneficiary.

## **SECTION 17 GOVERNMENTAL COMMITMENTS**

This Agreement shall be subordinate to the provisions of and requirements of any existing or future agreements between the Authority and the United States, or other governmental authorities, relative to the development, operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds, or other governmental authority funds, for the development of the Airport, to the extent that the provisions of any such existing or future agreements are generally required by the United States, or other governmental authorities, of other civil airports receiving such funds.

## **SECTION 18 SPONSOR ASSURANCES**

Should the FAA determine that any term or provision of this Agreement results in, or could result in, a violation by the Authority of its obligations as an airport sponsor under grant assurances contained or incorporated in any grant agreement, existing or future, to which the Authority is a party ("Sponsor Assurances"), Operator and the Authority unconditionally agree to modify or amend this Agreement to remedy any such violation, or potential violation, and bring this Agreement into strict compliance with the Authority's Sponsor Assurances.

## **SECTION 19 SEVERABILITY**

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in force and effect and shall be binding upon the parties to this Agreement.

## **SECTION 20 MODIFICATION OF THE AGREEMENT**

Any of the terms of this Agreement may be changed upon the mutual consent of the Authority and the Operator, but to be valid any such changes must be in writing, dated and duly executed by the parties.

## **SECTION 21 NOTICES**

All notices to be given by Operator to the Authority shall be deemed to have been given by depositing written notice in the United States Mail addressed to Authority at the Duluth International Airport, 4701 Grinden Drive, Duluth, Minnesota, 55811. All notices to be given by

Authority to Operator shall be deemed to have been delivered by depositing the same in writing in the United States Mail addressed to Operator at \_\_\_\_\_.

## **SECTION 22 IMMUNITY**

Nothing in this Agreement shall be construed as a waiver by the Authority or the City of any immunities, defenses, or other limitations on liability to which the Authority or the City is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466.

## **SECTION 23 APPLICABLE LAW**

This Agreement, together with all of its sections, terms and provisions, is made in the State of Minnesota and shall be construed and interpreted according to the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota.

## **SECTION 24 ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the Authority and the Operator and supersedes all prior written or oral agreements and negotiations between the parties relating to the subject matter hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

**DULUTH AIRPORT AUTHORITY**

By \_\_\_\_\_  
President

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Secretary

Approved to form:

\_\_\_\_\_  
Assistant City Attorney

**DULUTH AIRPORT AUTHORITY**

Acknowledgement:

On \_\_\_\_\_ appeared before me \_\_\_\_\_ and \_\_\_\_\_, the President and Secretary of Duluth Airport Authority acknowledged that this lease had been approved at a legal meeting of the Authority, by majority vote, a quorum being present and proper notice of meeting being given and duly executed this agreement.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

\_\_\_\_\_  
Acknowledgement:

On \_\_\_\_\_, 201\_\_\_\_ appeared before me \_\_\_\_\_(Operator), and executed this agreement.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

## EXHIBIT H

### Sample Operator Rates

Operator Fee: Operator agrees to pay the Authority a minimum annual guarantee fee of \$200 or percentage of gross sales and services listed below; which ever is greater, derived from its business operations pursuant to the Agreement.

The following are percentages of gross receipts which are defined as Authority's User Fees:

1. Rental/Storage Hangar Fees	2.5%
2. Equipment Rental & Catering	2.5%
3. Leased Area Tie Down/Parking Fees	5%
4. Aircraft Maintenance, Oil, Liquids	2.5%
5. Aircraft Parts	1%
6. Flight Training	2.5%
7. Charter Service & Aircraft Rental	1%
8. Ground Handling Fees	15%
9. Airplane Rides/Sightseeing Tours	2.5%
10. Merchandise Sales	10%