



**Chandler • Arizona**  
*Where Values Make The Difference*

# 10

AUG 09 2007

**MEMORANDUM**

**Public Works Department – Memo No. AP08-004**

**DATE:** AUGUST 9, 2007

**TO:** MAYOR AND COUNCIL

**THRU:** W. MARK PENTZ, CITY MANAGER  
PAT McDERMOTT, ASSISTANT CITY MANAGER  
DANIEL W. COOK, ACTING PUBLIC WORKS DIRECTOR *DWC*

**FROM:** GREG CHENOWETH, AIRPORT MANAGER *G*

**SUBJECT:** RESOLUTION NO. 4107 AUTHORIZING THE CITY OF CHANDLER TO MUTUALLY TERMINATE AIRPORT LEASE CONTRACT #10 WITH TAILWIND FLIGHT CENTRE, LLC

RECOMMENDATION: Staff recommends Council pass and adopt Resolution No. 4107 authorizing the City of Chandler to mutually terminate Airport Lease Contract #10 with Tailwind Flight Centre, LLC.

BACKGROUND/ DISCUSSION: Airport Lease Contract #10 with Tailwind Flight Centre, LLC (Tailwind) dated September 25, 2006, is a ground lease for property on the airport. It provided a total of 3.08 acres to Tailwind (reference attached diagram for parcel locations) upon which they were to construct hangar and office structures for their ongoing business activity of flight instruction and related aviation activities.

In a notice to staff dated July 13, 2007 (attached) Tailwind requested that the ground lease be rescinded. They advised that their plans for development at Chandler Municipal Airport were no longer economically viable. They cited the failure of the bond question to extend the runway and increased costs of construction as the reason for this change in their development plans.

FINANCIAL IMPLICATIONS: Lease payments in the first year of this lease included a lease option renewal payment of \$70.00/month, which started on November 1, 2006, and the rent payment of \$1,826.29/month, which was scheduled to start on June 1, 2007. The termination of the lease will discontinue all lease payments. With the termination of the Tailwind lease, this prime airport property will become immediately available through the direct lease process.

PROPOSED MOTION: Move to pass and adopt Resolution No. 4107 authorizing the City of Chandler to mutually terminate Airport Lease Contract #10 with Tailwind Flight Centre, LLC.

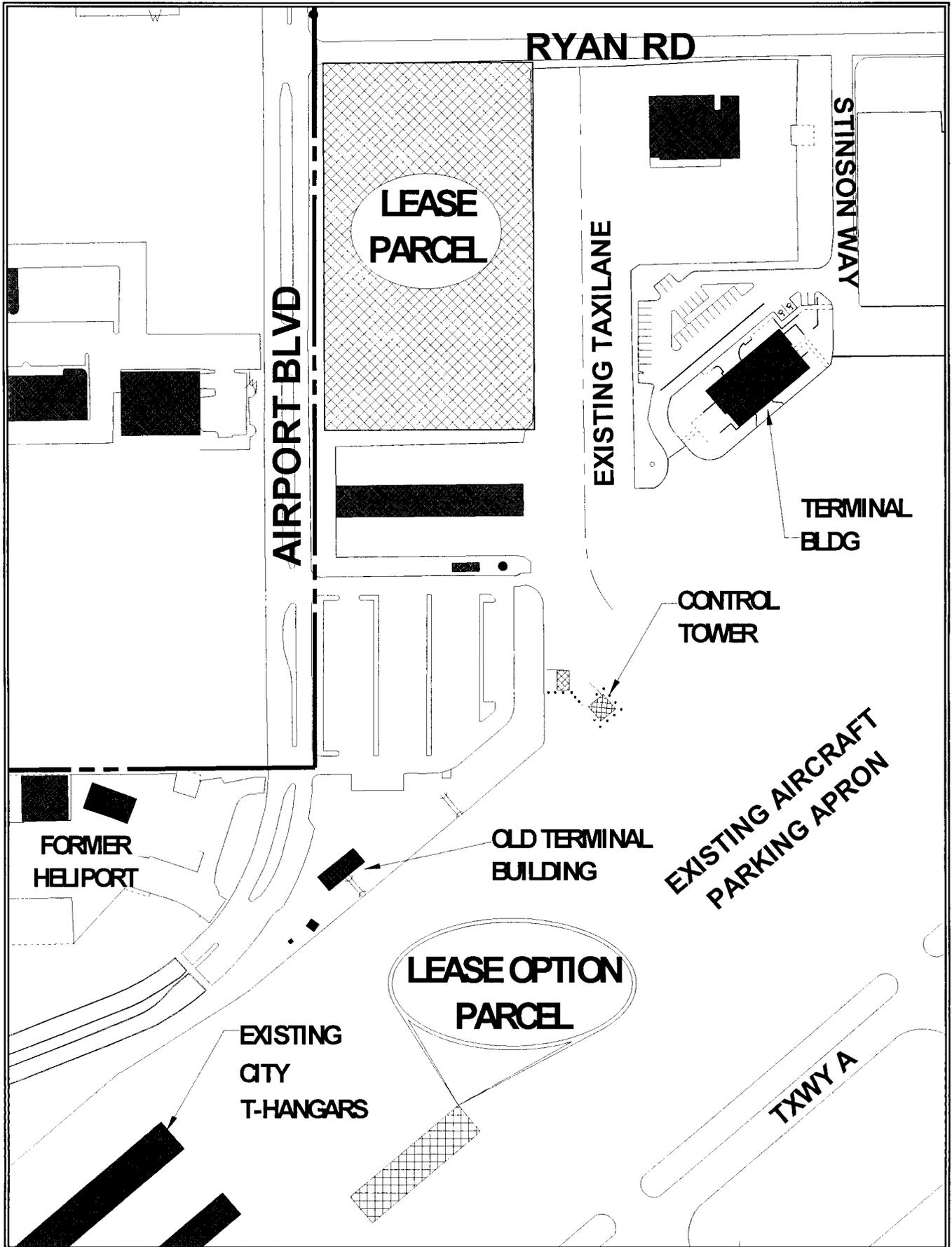
Attachments: Diagram of Lease Locations  
Resolution No. 4107  
Agreement  
Lessee request to end Lease

NORTH  
NO SCALE

# CHANDLER MUNICIPAL AIRPORT RESOLUTION NO. 4107



PARCEL LOCATIONS OF GROUND LEASE WITH TAILWIND FLIGHT CENTRE, LLC



RESOLUTION NO. 4107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING AN AGREEMENT WITH TAILWIND FLIGHT CENTER, LLC FOR THE MUTUAL TERMINATION OF AN AIRPORT LEASE CONTRACT AND MUTUAL RELEASES.

WHEREAS, pursuant to that certain written airport lease contract dated September 25, 2006, the City of Chandler (the "City") leased to Tailwind Flight Center, LLC ("Tailwind") certain unimproved real property at the Chandler Municipal Airport, as described in the written lease (the "leased premises"), for commercial aviation purposes; and

WHEREAS, the City has received written notice from Tailwind that Tailwind is not proceeding with its lease due to the failure of the runway extension approval and the lack of economic viability of their project in light of increased costs since the submittal of their original lease proposal; and

WHEREAS, the City and Tailwind have reached a tentative agreement for the mutual termination of the written lease and to settle all differences that may exist with respect to the written lease and the leased premises;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

Section 1. The City is authorized to enter into an agreement for the mutual termination of the existing airport lease contract with Tailwind and for the exchange of mutual releases for any matters arising out of or in connection with the airport lease contract and the use of the leased premises.

Section 2. The agreement shall be in a form approved by the Chandler City Attorney.

Section 3. The Mayor of the City of Chandler is authorized to execute and deliver said agreement on behalf of the City of Chandler.

PASSED AND ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this \_\_\_ day of August, 2007.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4107 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_ day of August, 2007, and that a quorum was present thereat.

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY *EAB*

# Memo

**To:** Dan Cook  
**From:** Tom Guilfooy (T1)  
**CC:**  
**Date:** 7/13/2007  
**Re:** SASO/FBO Ground Lease 010

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Pursuant to our conversation of the 11<sup>th</sup>, and previous conversations on this subject, we are not proceeding with this lease due to the failure to get the runway extension approved and the lack of economic viability of the project based on substantially increased costs since the response to the RFP.

Accordingly, would you proceed to have the appropriate documents drawn to rescind this lease.

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**AGREEMENT FOR MUTUAL TERMINATION OF AIRPORT LEASE CONTRACT**  
**AND MUTUAL RELEASES**

This Agreement For Mutual Termination of Airport Lease Contract and Mutual Releases (this "Agreement") is made and entered into this \_\_\_\_ day of August, 2007, by and between CITY OF CHANDLER, an Arizona municipal corporation ("City"), and TAILWIND FLIGHT CENTER, LLC, an Arizona limited liability company ("Tailwind").

**Recitals**

A. City leased to Tailwind certain unimproved real property (the "Leased Premises") at the Chandler Municipal Airport (the "Airport") pursuant to a written lease identified as "Airport Lease Contract (SASO/FBO Ground Lease), No. 10", which had an effective date of September 25, 2006.

B. On or about July 13, 2007, City received written notice from Tailwind that Tailwind was not proceeding with its lease due to the failure of the runway extension approval and the lack of economic viability of their project in light of increased costs since their original lease proposal.

C. City and Tailwind desire to mutually terminate the aforementioned written lease for the Leased Premises and to settle fully and finally all differences between them with respect the aforementioned written lease for the Leased Premises.

IN CONSIDERATION of the matters set forth in the Recitals set forth above and the covenants and conditions set forth below, City and Tailwind agree as follows:

1. City and Tailwind agree to the mutual termination of the aforementioned lease for the Leased Premises in its entirety, with the termination to be deemed effective as of June 1, 2007.

2. Upon full execution of this Agreement, Tailwind shall have no further rights of access to or use of the Leased Premises and shall have no further rent payment obligation as might otherwise be provided for or required under the aforementioned written lease for the Leased Premises.

3. As a material inducement to each of the parties to enter into this Agreement, Tailwind and City, each on behalf of itself, its predecessors, successors, assigns, governing body, officers, employees or agents, does hereby irrevocably and unconditionally release, acquit and forever discharge and covenant not to sue the other party and the other party's predecessors, successors, assigns, governing body, officers, employees or agents, or any of them, from any and all charges, complaints, claims, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including, but not limited to, attorneys' fees and costs actually incurred), of any nature whatsoever, known or unknown, which either party now has, owns, or holds, or claims to have, own, or hold, or which such party at any time heretofore had, owned, or held, or claimed to have, owned, or held, arising out of or in connection with the existing lease for the Leased Premises.

4. This Agreement shall be binding upon each party to this Agreement and upon each such party's successors and assigns, and it shall inure to the benefit of each of the parties being released, their successors and assigns.

5. This Agreement shall not in any way be construed as an admission of any wrongdoing or liability on the part of any party to this Agreement, and all parties specifically disclaim any wrongdoing or liability of any kind on the part of themselves, their governing body, officers, employees or agents.

6. Each of the parties represent and warrant that they have executed this Agreement solely in reliance upon their own judgment and advise of independent counsel and not in reliance upon any representations or promises of the other party hereto or the other party's attorneys or representatives. All of the parties hereto have been or have had an opportunity to be represented by legal counsel in connection with this Agreement. This Agreement is the product of extensive negotiations and the fact that this Agreement was prepared by one of the parties or its legal counsel shall not affect the interpretation or application of this Agreement.

7. The terms of this Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

8. This Agreement contains the entire agreement of the parties hereto with respect to its subject matter and supercedes all prior arrangements and understandings between the parties, and no other agreement, statement or promise made by any party hereto relating to the subject matter of this Agreement which is not contained herein shall be binding or valid.

9. The individual executing this Agreement for Tailwind represents and warrants that he or she is duly authorized to execute this Agreement on behalf Tailwind; that all corporate, partnership, trust or other actions necessary for Tailwind to enter into this Agreement have been duly taken by Tailwind; and that no other signature and/or authorization is necessary for Tailwind to enter into and perform the terms of this Agreement.

10. This Agreement is subject to approval of City's governing body, i.e. City Council. Such approval shall be indicated by the signature of the Mayor of the City of Chandler, or an official acting in said capacity, on this Agreement, or by a Resolution of the City Council authorizing or ratifying the execution of this Agreement on behalf of City.

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

CITY OF CHANDLER, an Arizona municipal corporation

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

ATTEST:

\_\_\_\_\_  
CITY CLERK

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