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JAN 08 2009

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Where Values Make The Difference

MEMORANDUM **Public Works Department – Memo No. AP09-020**

DATE: JANUARY 8, 2009

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
PAT McDERMOTT, ASSISTANT CITY MANAGER
R. J. ZEDER, PUBLIC WORKS DIRECTOR
DANIEL W. COOK, DEPUTY PUBLIC WORKS DIRECTOR

FROM: GREG CHENOWETH, AIRPORT MANAGER

SUBJECT: APPROVAL OF ORDINANCE NO. 4102, AUTHORIZING THE CITY OF CHANDLER TO AMEND TWO GROUND LEASE AGREEMENTS WITH ARIZONA PACIFIC AVIATION, LLC. TO ADJUST THE DEVELOPMENT AND PHASING

RECOMMENDATION: Staff recommends Council introduce and tentatively approve Ordinance No. 4102 authorizing the City to amend two ground lease agreements with Arizona Pacific Aviation, LLC to adjust the development and phasing.

BACKGROUND/ DISCUSSION: Two ground lease agreements with Arizona Pacific Aviation, L.L.C. (Arizona Pacific) were approved through Ordinance No. 3846 in late 2007. Subsequently during ongoing design efforts by Arizona Pacific, some required changes were identified in the Exhibit "D" of both agreements. Exhibit "D" of both leases contains the number of structures and square footage for the proposed buildings. This amendment provides the current building information.

Also, the overall development was planned for two phases. Each phase contained parcels from each lease. Arizona Pacific was advised by their financing organization that this plan for mixing the parcels from each lease in the two phases would be problematic for the financing. This amendment puts the parcels of each lease area into separate phases.

Additionally, after the leases were approved, a planned development adjacent to the Arizona Pacific development decided not to proceed with the proposed development. In order to allow all development on this portion of the airport to have street access, adjustments are needed to the amount of roadway to be installed by Arizona Pacific. This amendment specifies changes to address this extra roadway.

No other terms of the agreements will change.

FINANCIAL IMPLICATIONS: There are no changes to the financial implications for the City from the original approval of the leases.

PROPOSED MOTION: Move to introduce and tentatively approve Ordinance No. 4102 authorizing the City to amend two ground lease agreements with Arizona Pacific Aviation, LLC to adjust the development and phasing.

Attachments: Diagram of Lease Locations
Ordinance No. 4102
Lease Amendments

ORDINANCE NO. 4102

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE CITY OF CHANDLER TO AMEND TWO GROUND LEASE AGREEMENTS WITH ARIZONA PACIFIC, LLC. TO ADJUST THE DEVELOPMENT PHASING

WHEREAS, pursuant to ordinance No 3846, adopted September 20, 2007, the City Council of the City of Chandler did authorize the City to enter into two Ground Leases with Arizona Pacific, L.L.C., for the development and operation of an aircraft hangar and office facility in two phases at the Chandler Municipal Airport; and

WHEREAS, both Ground Leases include an Exhibit "D" containing a description of Improvements to be constructed by Tenant; and

WHEREAS, the parties recognize and agree that the description of building square footage and total building area set out in the Exhibit "D" of both leases need to be revised and the parties desire to make this revision by replacing said exhibits with a New Exhibit "D" for each Lease; and

WHEREAS, Lessee desires to adjust the project phasing by grouping the parcels identified in the two leases as separate development phases; and

WHEREAS, Exhibits "B" and "G" address Offsite Roadway Improvements, and that additional roadway than was described in the Ground Leases is required to link all properties on this portion of the airport; and

WHEREAS, the parties additionally agree to replace Exhibit "B" and Exhibit "G" of the Ground Lease to describe and depict the revised Offsite Road Improvements alignment; and

WHEREAS, said amendments will not significantly affect the final aircraft hangar facility development.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION 1. The Chandler City Council does hereby authorize the City of Chandler to enter into a First Amendment to Airport Lease Contract No. 012 in substantially the form presented herein by staff to amend the Ground Lease with Arizona Pacific, LLC, affecting Chandler Municipal Airport Parcels Nos. 2b, 6c and 6d.

SECTION 2. The Chandler City Council does hereby authorize the City of Chandler to enter into a First Amendment to Airport Lease Contract No. 013 in substantially the form presented herein by staff to amend the Ground Lease with Arizona Pacific, LLC, affecting Chandler Municipal Airport Parcel Nos. 2a and 6e.

SECTION 3. The Mayor of the City of Chandler, upon approval as to form by the Chandler City Attorney, is hereby authorized to execute the first amendments for each of the ground leases referenced above.

INTRODUCED AND TENTATIVELY approved by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2009.

ATTEST:

_____ _____
CITY CLERK MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2009.

ATTEST:

_____ _____
CITY CLERK MAYOR

C E R T I F I C A T I O N

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4102 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2009, and that a quorum was present thereat.

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

PUBLISHED:

FIRST AMENDMENT TO
CITY OF CHANDLER
AIRPORT LEASE CONTRACT
(SASO Ground Lease)
NO. 012

THIS FIRST AMENDMENT TO CITY OF CHANDLER AIRPORT LEASE CONTRACT NO. 012 (this "First Amendment") is made and entered into this _____ day of _____, 2009, by and between the CITY OF CHANDLER, an Arizona municipal corporation, and ARIZONA PACIFIC AVIATION, LLC, an Arizona limited liability company.

RECITALS

A. On or about October 20, 2007, the CITY OF CHANDLER, an Arizona municipal corporation, as "Landlord," and ARIZONA PACIFIC AVIATION, LLC, an Arizona limited liability company, as "Tenant," entered into that certain ground lease identified as "Airport Lease Contract No. 012" (the "Ground Lease").

B. The premises leased pursuant to the Ground Lease includes all or part of three certain parcels of unimproved real property, which parcels are a part of the real property that comprises the Chandler Municipal Airport and which parcels are denoted as Parcel Nos. 2b, 6c and 6d (the "Premises").

C. The Ground Lease includes an Exhibit "D", which contains a description of the Improvements to be constructed by Tenant on each of the parcels that comprise the Premises.

D. The parties desire to revise Exhibit "D" to more accurately describe the building square footage and total building area of the Improvements to be constructed on the Premises.

E. The parties also desire to revise portions of the Ground Lease, including Exhibit "D", to eliminate the project phasing requirements existing in the Ground Lease and to re-designate when construction of the Improvements to be constructed on the Premises shall commence.

F. The Ground Lease also includes an Exhibit "B" and Exhibit "G". Exhibit "B" provides a centerline description of the Offsite Road Improvements required to be constructed by Tenant under paragraph 2.5 of the Ground Lease. Exhibit "G" depicts the site plan for the Offsite Road Improvements.

G. The parties recognize that adjacent property west of the Premises has not developed as had been anticipated when the Ground Lease was executed. Accordingly, the parties desire to amend the Ground Lease, including both Exhibits "B" and "G", in order to extend the limits of the Offsite Road Improvements further west than currently required under the Ground Lease.

NOW, THEREFORE, in consideration of mutual covenants set forth herein and for other good and valuable consideration, it agreed as follows:

1. REPLACEMENT EXHIBITS.

a. The original Exhibit "D" attached to and made a part of the Ground Lease is hereby replaced with New Exhibit "D", a copy of which is attached hereto and incorporated herein by this reference, for all of the following purposes: (i) to revise the description of the building square footage and total building area of the Improvements to be constructed on the Premises; (ii) to eliminate any project phasing requirements; and (iii) to better depict the Offsite Road Improvements to be constructed by Tenant.

b. The original Exhibit "B" and Exhibit "G", each of which is attached to and made a part of the Ground Lease, are hereby replaced with New Exhibit "B" and New Exhibit "G", with a copy of each exhibit attached hereto and incorporated herein by this reference, for the purpose of extending the limits of the Offsite Road Improvements further west from what was originally stated in the Ground Lease.

2. CHANGES IN SITE PLAN. The revisions shown in New Exhibit "D" and "G" shall also be shown in the site plan for the Premises submitted for building permit purposes.

3. REPLACEMENT PAGES. A copy of New Exhibits "B", "D" and "G" shall be inserted as pages in the Ground Lease in place of the existing Exhibits "B", "D" and "G". These replacement pages shall be so noted in the footer at the bottom of each page, along with the date of the replacement.

4. ONSITE IMPROVEMENTS. The following changes shall be made to subparagraphs (a), (b) and (c) of paragraph 2.3 of the Ground Lease:

a. Subparagraph (a) of paragraph 2.3 of the Ground Lease is deleted in its entirety and is replaced with new subparagraph (a) as follows:

> (a) Construction of the Improvements, as identified in Exhibit "D" of this Lease, shall commence within forty-eight (48) months from the Effective Date of this Lease and shall be completed within sixty (60) months from the Effective Date of this Lease.

b. Subparagraph (b) of paragraph 2.3 of the Ground Lease is amended to delete the words "for either phase."

c. Subparagraph (c) of paragraph 2.3 of the Ground Lease is amended to delete the words "regardless of the phase in which they are constructed."

5. OFFSITE IMPROVEMENTS. Paragraph 2.4 of the Ground Lease is amended to delete the words "of each phase."

6. OFFSITE ROAD IMPROVEMENTS. The last sentence of paragraph 2.5 of the Ground Lease is amended to replace the words "continuing to the extension of the southwest

boundary of Parcel 2b" with "continuing past the extension of the southwest boundary of Parcel 2b for a distance of approximately 148 feet."

7. SURETY BONDS. Paragraph 2.6 of the Ground Lease is amended as follows:

a. The introductory portion of paragraph 2.6 is amended to delete the words "for each phase of construction."

b. Subparagraph (a) of paragraph 2.6 is amended to delete the words "for the particular phase of construction" found in both the first sentence and the second sentence of the subparagraph.

c. Subparagraph (b) of paragraph 2.6 is amended to delete the words "for the particular phase of construction" found in both the first sentence and the second sentence of the subparagraph.

8. NO OTHER CHANGES. Except as expressly amended hereby, the Ground Lease shall remain in full force and effect as heretofore existing.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed as of the day and year first above written.

LANDLORD: CITY OF CHANDLER, an Arizona municipal corporation

By: _____

Its: Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM

_____

City Attorney

TENANT: ARIZONA PACIFIC, LLC, an Arizona limited liability company

By: _____

Its: _____

ATTEST:

_____

Its: _____

EXHIBIT "B" TO LEASE CONTRACT NO. 012
ACCESS ROAD IMPROVEMENT AREA
(Centerline Description)

A portion of the Southwest quarter of Section 12, Township 2 South, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 12, from which the Northwest corner of said Section 12 bears N.00°16'31"W., a distance of 5280.43 feet;

Thence N.00°16'31"W. along said line of said Section 12, a distance of 1306.51 feet

Thence departing said line N.49°39'54"E., a distance of 2095.41 feet;

Thence N.88°53'41"E., a distance of 968.86 feet to the center of said Section 12 which is marked with a rebar in the pavement;

Thence S.89°05'56"W., a distance of 23.02 feet to the intersecting point of the Ryan Road and Heliport Way alignments, which is marked with a brass cap and representing the **POINT OF BEGINNING** and the start of the road alignment centerline;

Thence N.71°46'50"W., a distance of 74.49 feet to a point on a curve concave to the Southwest having a radius of 156.16 feet (Radius bears S.18°13'10"W.) and a central angle of 20°56'17";

Thence along said arc for a distance of 57.07 feet;

Thence S.88°53'41"W., a distance of 794.92 feet to a point on a curve concave to the Southeast having a radius of 300 feet (Radius bears S.01°06'19"E.) and a central angle of 39°13'47";

Thence along said arc for a distance of 205.41 feet;

Thence S.49°39'54"W., a distance of 1048.28 feet;

Thence S.40°20'06"W., a distance of 16.50 feet terminating at a point which comprises the center of a cul-de-sac with a right-of way radius of 50 feet.

EXHIBIT "D" TO LEASE CONTRACT NO. 012
IMPROVEMENTS

Start within forty-eight (48) months of Lease Effective Date. Completion within sixty (60) months of Lease Effective Date. Consisting of:

- Improvements on Parcel 2b of at least three (3) hangar and office combination structures to consist of approximately 40,000 square feet total space.
- Improvements on Parcels 6c and 6d of at least two (2) hangar and office combination structures to consist of approximately 49,000 square feet total space.
- Taxilanes to access the hangars and to connect with the runway/taxiway system and aircraft staging areas.
- Auto parking of minimum size to meet City Code for the building sizes.

Roadway improvement construction in a timeline appropriate to accommodate earliest planned use of the facilities. All roadway construction to be completed at the same time regardless of project phasing.

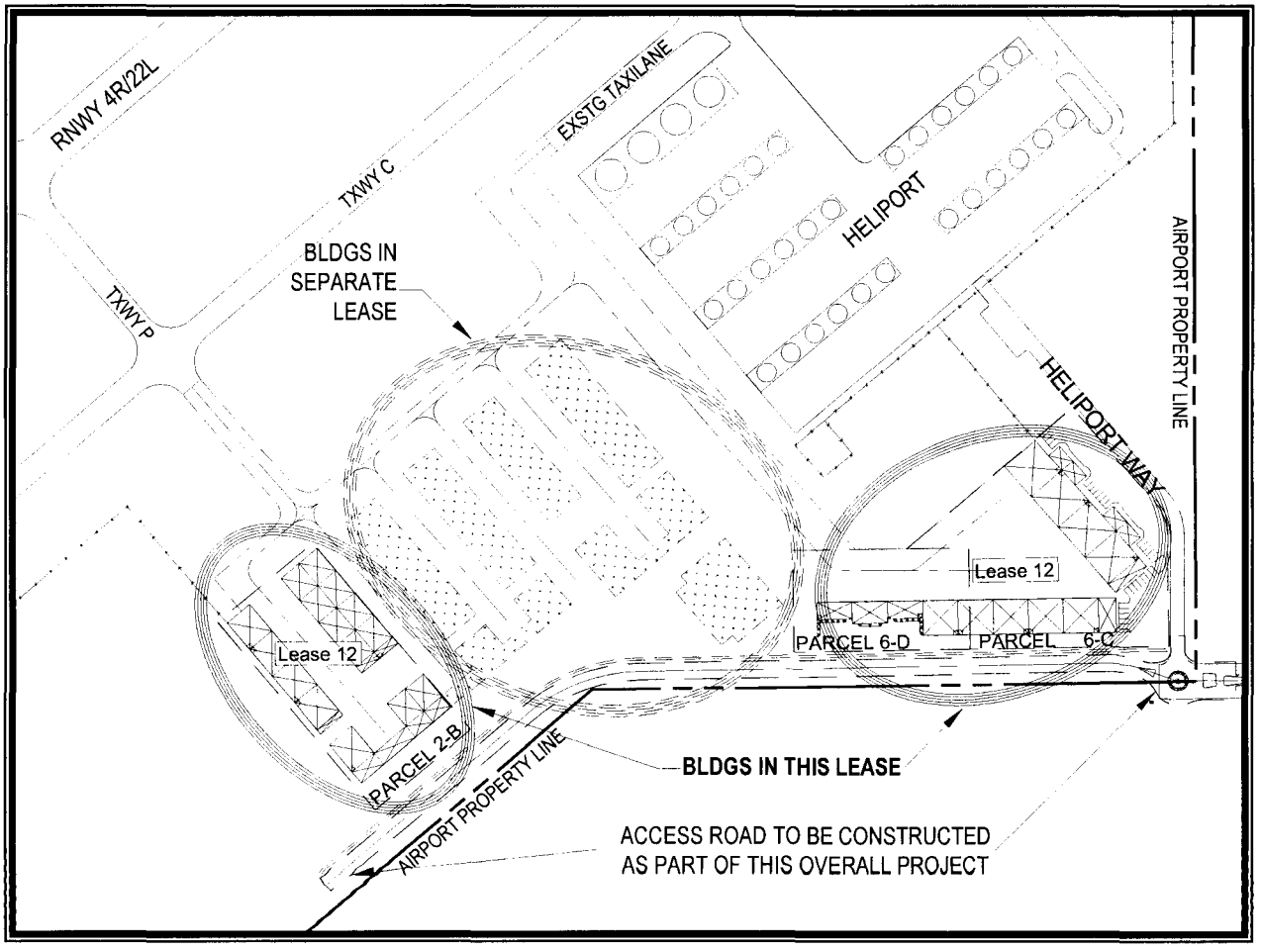
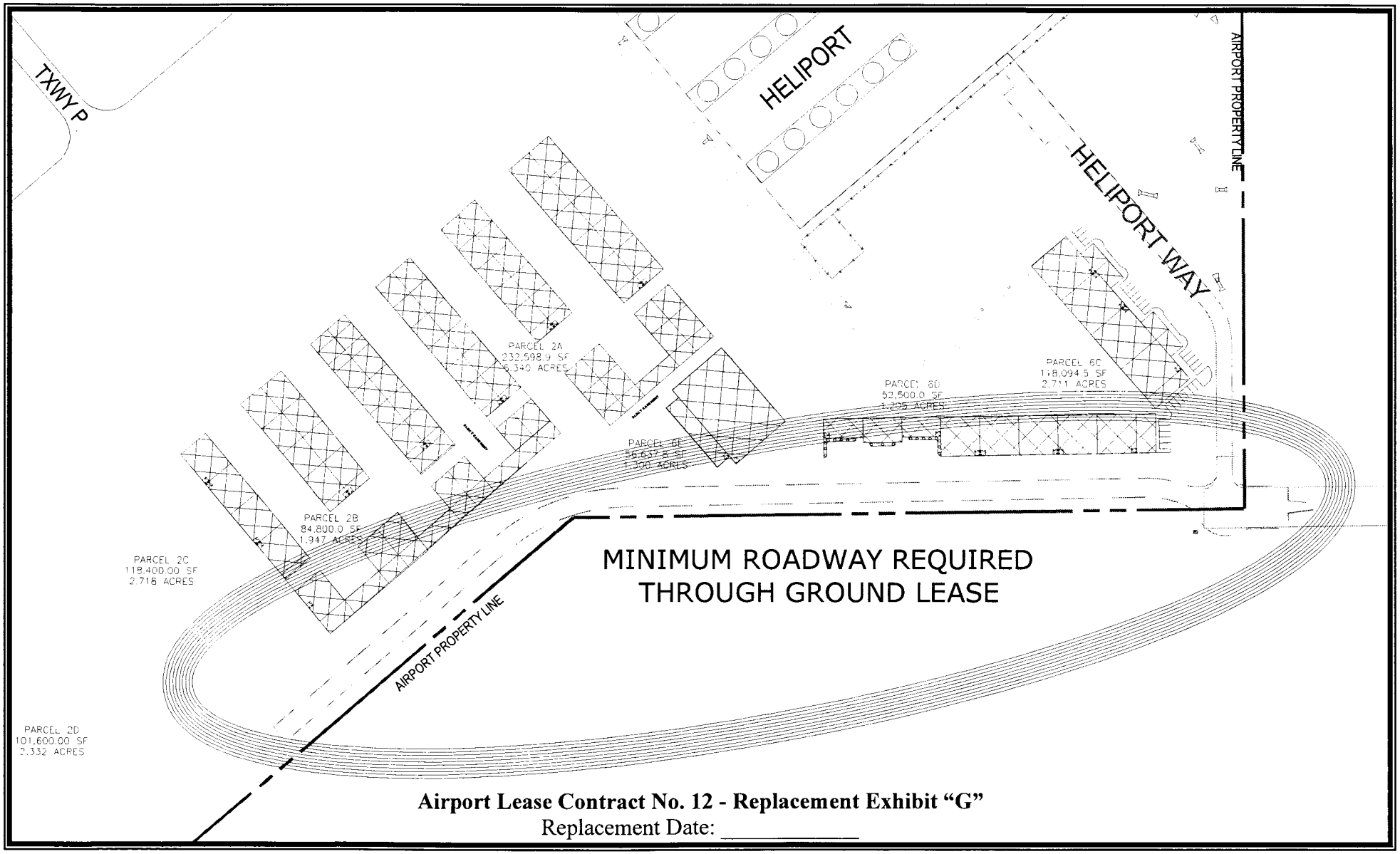


EXHIBIT "G" TO LEASE CONTRACT NO. 012
SITE PLAN FOR OFFSITE ROAD IMPROVEMENTS



Airport Lease Contract No. 12 - Replacement Exhibit "G"
Replacement Date: _____

FIRST AMENDMENT TO
CHANDLER MUNICIPAL AIRPORT
AIRPORT LEASE CONTRACT
NO. 013

THIS FIRST AMENDMENT TO CHANDLER MUNICIPAL AIRPORT, AIRPORT LEASE CONTRACT NO. 013 (this "First Amendment") is made and entered into this _____ day of _____, 2009, by and between the CITY OF CHANDLER, an Arizona municipal corporation, and ARIZONA PACIFIC AVIATION, LLC, an Arizona limited liability company.

RECITALS

A. On or about October 20, 2007, the CITY OF CHANDLER, an Arizona municipal corporation, as "Landlord," and ARIZONA PACIFIC AVIATION, LLC, an Arizona limited liability company, as "Tenant," entered into that certain ground lease identified as "Airport Lease Contract No. 013" (the "Ground Lease").

B. The premises leased pursuant to the Ground Lease includes all or part of two certain parcels of unimproved real property, which parcels are a part of real property that comprises the Chandler Municipal Airport and which parcels are denoted as Parcel Nos. 2a and 6e (the "Premises").

C. The Ground Lease includes an Exhibit "D", which contains a description of the Improvements to be constructed by Tenant on each of the parcels that comprise the Premises.

D. The parties desire to revise Exhibit "D" to more accurately describe the building square footage and total building area of the Improvements to be constructed on the Premises.

E. The parties also desire to revise portions of the Ground Lease, including Exhibit "D", to eliminate the project phasing requirements existing in the Ground Lease and to re-designate when construction of the Improvements to be constructed on the Premises shall commence.

F. The Ground Lease also includes an Exhibit "B" and an Exhibit "G". Exhibit "B" provides a centerline description of the Offsite Road Improvements required to be constructed by Tenant under paragraph 2.5 of the Ground Lease. Exhibit "G" depicts the site plan for the Offsite Road Improvements.

G. The parties recognize that property to the west of the Premises has not developed as had been anticipated when the Ground Lease was executed. Accordingly, the parties desire to amend the Ground Lease, including both Exhibits "B" and "G", in order to extend the limits of the Offsite Road Improvements further west than currently required under the Ground Lease.

NOW, THEREFORE, in consideration of mutual covenants set forth herein and for other good and valuable consideration, it agreed as follows:

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a. The original Exhibit "D" attached to and made a part of the Ground Lease is hereby replaced with New Exhibit "D", a copy of which is attached hereto and incorporated herein by this reference, for all of the following purposes: (i) to revise the description of the building square footage and total building area of the Improvements to be constructed on the Premises; (ii) to eliminate any project phasing requirements; and (iii) to better depict the Offsite Road Improvements to be constructed by Tenant.

b. The original Exhibit "B" and Exhibit "G", each of which is attached to and made a part of the Ground Lease, are hereby replaced with New Exhibit "B" and New Exhibit "G", with a copy of each exhibit attached hereto and incorporated herein by this reference, for the purpose of extending the limits of the Offsite Road Improvements further west from what was originally stated in the Ground Lease.

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4. ONSITE IMPROVEMENTS. Subparagraph (a) of paragraph 2.3 of the Ground Lease is deleted in its entirety and is replaced with new subparagraph (a) as follows:

> (a) Construction of the Improvements, as identified in Exhibit "D" of this Lease, shall commence within twenty-four (24) months from the Effective Date of this Lease and shall be completed within thirty-six (36) months from the Effective Date of this Lease.

5. OFFSITE IMPROVEMENTS. Paragraph 2.4 of the Ground Lease is amended to delete the words "of each phase."

6. OFFSITE ROAD IMPROVEMENTS. The last sentence of paragraph 2.5 of the Ground Lease is amended to replace the words "continuing to the extension of the southwest boundary of Parcel 2b" with "continuing past the extension of the southwest boundary of Parcel 2b for a distance of approximately 148 feet."

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a. The introductory portion of paragraph 2.6 is amended to delete the words "for each phase of construction."

b. Subparagraph (a) of paragraph 2.6 is amended to delete the words "for the particular phase of construction" found in both the first sentence and the second sentence of the subparagraph.

c. Subparagraph (b) of paragraph 2.6 is amended to delete the words "for the particular phase of construction" found in both the first sentence and the second sentence of the subparagraph.

8. NO OTHER CHANGES. Except as expressly amended hereby, the Ground Lease shall remain in full force and effect as heretofore existing.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed as of the day and year first above written.

LANDLORD: CITY OF CHANDLER, an Arizona municipal corporation

By: _____

Its: Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM

_____

City Attorney

TENANT: ARIZONA PACIFIC, LLC, an Arizona limited liability company

By: _____

Its: _____

ATTEST:

_____

Its: _____

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(Centerline Description)

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COMMENCING at the Southwest corner of said Section 12, from which the Northwest corner of said Section 12 bears N.00°16'31"W., a distance of 5280.43 feet;

Thence N.00°16'31"W. along said line of said Section 12, a distance of 1306.51 feet

Thence departing said line N.49°39'54"E., a distance of 2095.41 feet;

Thence N.88°53'41"E., a distance of 968.86 feet to the center of said Section 12 which is marked with a rebar in the pavement;

Thence S.89°05'56"W., a distance of 23.02 feet to the intersecting point of the Ryan Road and Heliport Way alignments, which is marked with a brass cap and representing the **POINT OF BEGINNING** and the start of the road alignment centerline;

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Thence along said arc for a distance of 57.07 feet;

Thence S.88°53'41"W., a distance of 794.92 feet to a point on a curve concave to the Southeast having a radius of 300 feet (Radius bears S.01°06'19"E.) and a central angle of 39°13'47";

Thence along said arc for a distance of 205.41 feet;

Thence S.49°39'54"W., a distance of 1048.28 feet;

Thence S.40°20'06"W., a distance of 16.50 feet terminating at a point which comprises the center of a cul-de-sac with a right-of way radius of 50 feet.

EXHIBIT "D" TO LEASE CONTRACT NO. 013
IMPROVEMENTS

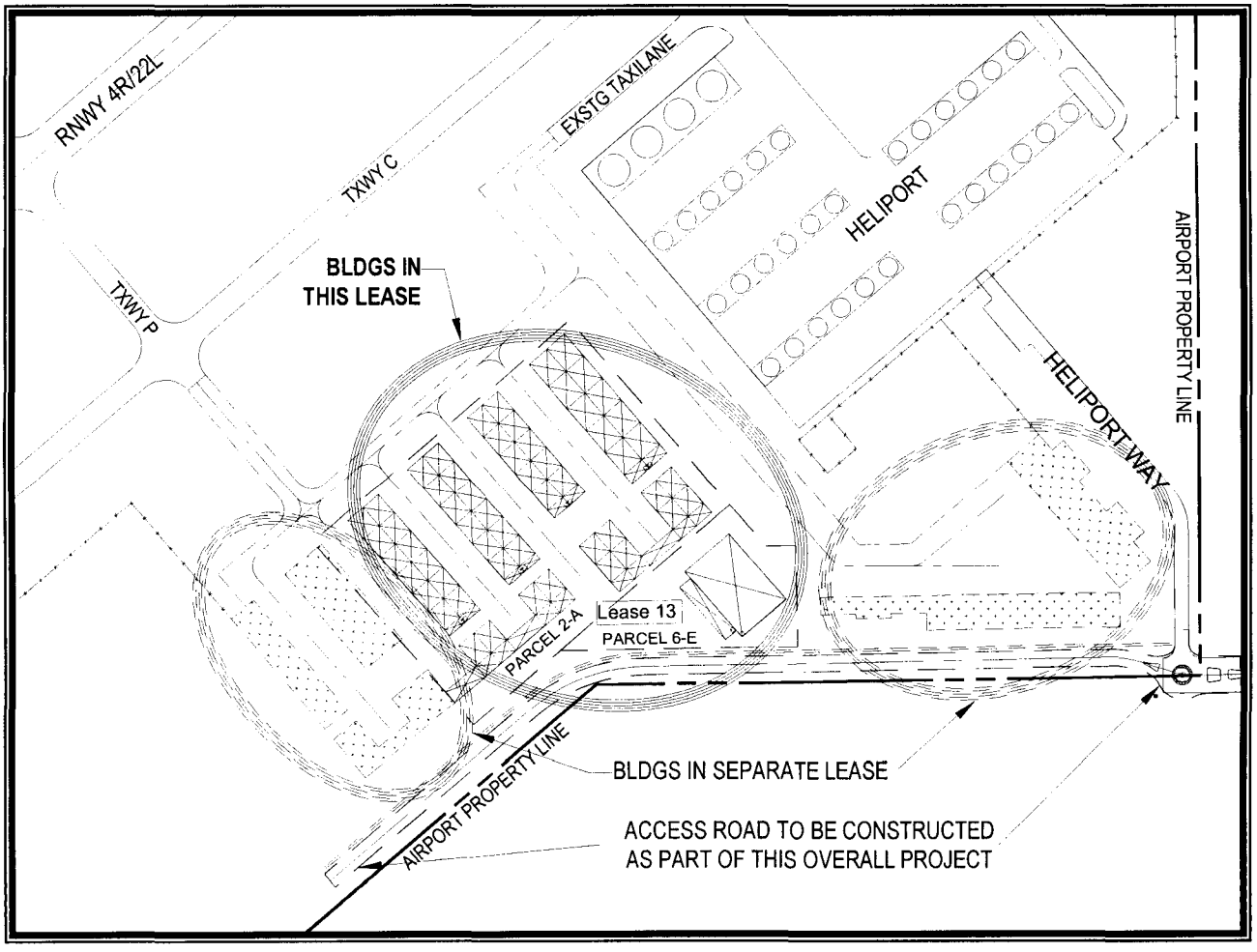
Start within twenty-four (24) months of Lease Effective Date. Completion within thirty-six (36) months of Lease Effective Date. Consisting of:

- Improvements on Parcels 2a and 6e of seven (7) structures to comprise approximately 116,000 total square feet, and consisting of approximately fifty-seven (57) hangar units comprising approximately 100,000 square feet and seven (7) office units comprising approximately 13,500 square feet.

- Taxilanes to access the hangars and to connect with the runway/taxiway system and aircraft staging areas.

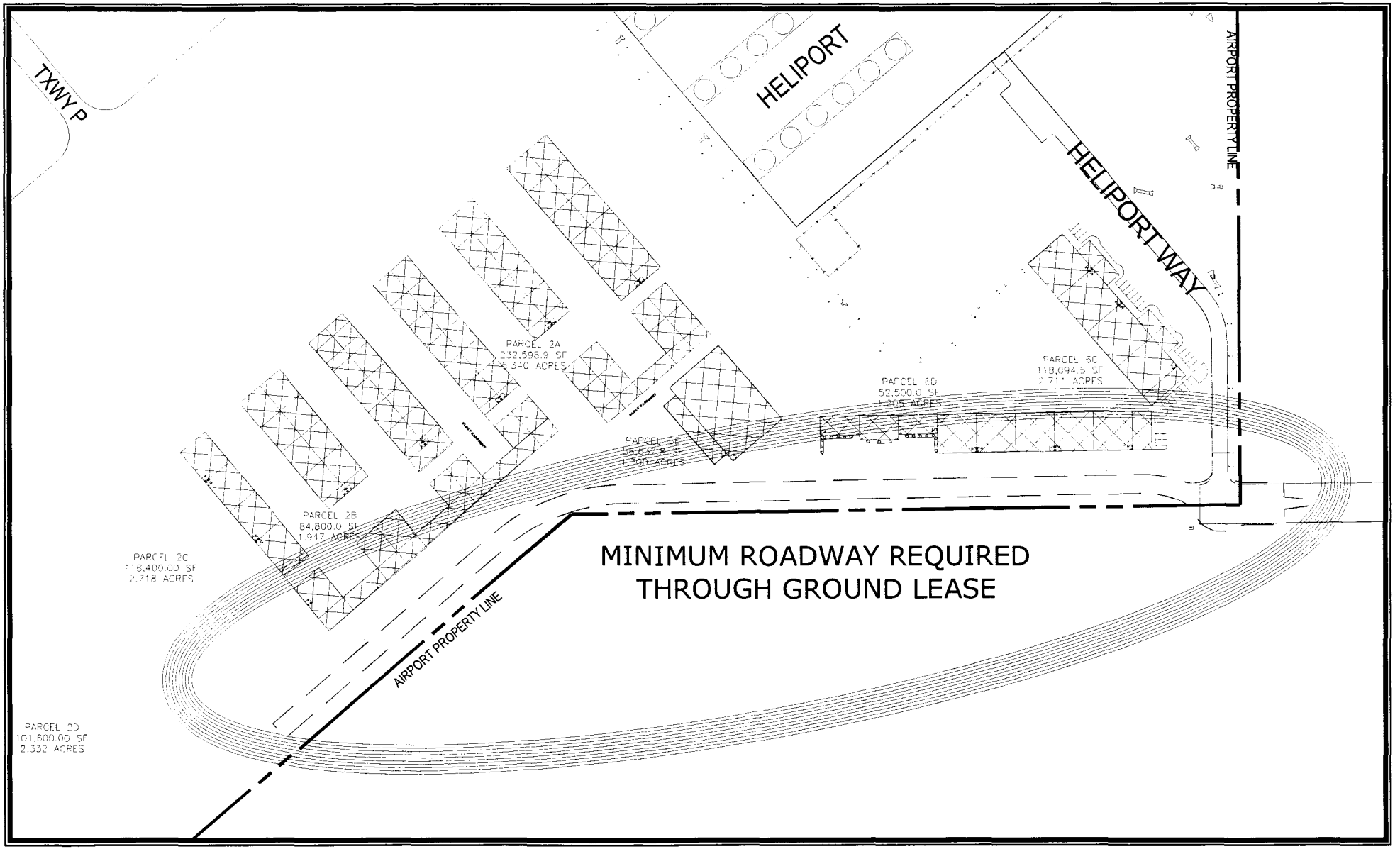
- Auto parking of minimum size to meet City Code for the building sizes.

Roadway improvement construction in a timeline appropriate to accommodate earliest planned use of the facilities. All roadway construction to be completed at the same time regardless of project phasing.



Airport Lease Contract No. 13 - Replacement Exhibit "D"
Replacement Date: _____

EXHIBIT "G" TO LEASE CONTRACT NO. 013
SITE PLAN FOR OFFSITE ROAD IMPROVEMENTS



Airport Lease Contract No. 13 - Replacement Exhibit "G"
Replacement Date: _____