



**City of Sedona Community Development Department**

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124



**AGENDA**  
**Board of Adjustment**  
**Monday, April 27, 2015 - 1:00 p.m.**  
**Vultee Conference Room – Sedona City Hall**  
**102 Roadrunner Drive, Building 106, Sedona, Arizona 86336**

Pursuant to A.R.S. §38-431.02 notice is hereby given to the members of the Sedona Board of Adjustment and to the general public that the Board of Adjustment will hold a public hearing open to the public on **Monday, April 27, 2015, at 1:00 p.m.**, at City of Sedona in the Vultee conference room located at 106 Roadrunner Drive, Sedona, Arizona.

The Order of Business shall be as follows:

1. Verification of Notice, Call to Order, Pledge of Allegiance and Roll Call.
2. Approval of the following minutes: March 26, 2015 (R)
3. **CONSIDERATION OF THE FOLLOWING REQUESTS THROUGH PUBLIC HEARING PROCEDURES:**

**Continuation of the March 26, 2015 public hearing. Discussion/possible action on an appeal filed by Ms. Krista Cline on behalf of Mr. Tanner Bryson of Bryson Ranch LLC, dba Horsin' Around Sedona concerning the operation of Horsin' Around Sedona at the Sedona Airport.** The appeal is regarding an interpretation of the City of Sedona Land Development Code made by the Zoning Administrator (Community Development Director) pertaining to allowable uses within a Community Facilities District and mechanisms available for authorizing the use proposed by the applicant.

**Applicant:** Ms. Krista Cline agent for Mr. Tanner Bryson, Bryson Ranch LLC, dba Horsin' Around Sedona  
**Case Number:** AP2015-01

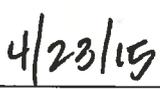
4. Adjournment

**NOTE:** This is to notify the public that members of the City Council and other City Commissions may attend the Board of Adjustment meeting. While this is not an official City Council meeting, because of the potential that four or more Council members may be present at one time, public notice is therefore given for this meeting and/or event.

Pursuant to A.R.S. §38-431.02(B) notice is hereby given to the members of the Board of Adjustment and to the general public that the Board of Adjustment will hold the above open meeting. The Board of Adjustment may vote to go into executive session on any agenda item, pursuant to A.R.S. §38-431.03(A)(3) for discussion and consultation for legal advice with the City Attorney.

The City of Sedona Vultee conference room is accessible to people with disabilities, in compliance with the Federal "504" and "ADA" laws. Those with needs for special typeface print, may request these at the Clerk's Office. All requests should be made twenty-four hours prior to the meeting.

  
\_\_\_\_\_  
Audree Juhlin, Director  
Department of Community Development

  
\_\_\_\_\_  
Posted Date

  
\_\_\_\_\_  
By



**Meeting Date:** March 26, 2015; Continued to April 27, 2015

**Hearing Body:** Board of Adjustment

**Action Requested:** Consideration of an appeal of the decision of the Zoning Administrator (Community Development Director) relative to the interpretation of the Sedona Land Development Code.

**Land Development Code:** Section 6 (District Regulations)

**Location:** Airport Road/Sedona Airport

**Parcel Number:** 408-27-001

**Appellant:** Essential Design, LLC, Ms. Krista Cline, agent for Mr. Tanner Bryson, Bryson Ranch LLC, dba Horsin' Around Sedona

**Community Plan Designation:** P/SP (Public/Semi-Public)

**Current Zoning:** CF (Community Facility)

**Report Prepared By:** Michael Goimarac, Sedona City Attorney

**Exhibits:**

1. Notice of Violation
2. Appeal Notice – Essential Design, LLC
3. Amended Airport Lease Agreement
4. City Attorney's Letter re: Bryson Ranch Board of Adjustment Appeal dated February 10, 2015 to Krista Cline
5. Building permits issued by the City of Sedona for projects at the Airport
6. Sedona Land Development Code, Article 6, CF Zone District Regulations



## BACKGROUND

This appeal comes before the Board of Adjustment pursuant to Land Development Code §304.01(B). This section authorizes the Board of Adjustment to hear, review and act on appeals from Decision of the Community Development Director regarding an interpretation of the Land Development Code.

### I. Procedural History

After the Community Development Director issued a Notice of Violation to Bryson Ranch LLC, dba Horsin' Around Sedona, on January 7, 2015, (Exhibit 1) a request to have the Director's interpretation appealed to the Board of Adjustment was submitted by Essential Design, LLC, as representing Bryson Ranch LLC, (Exhibit 2). This matter initially was set for consideration by the Board of Adjustment on March 26, 2015; however, at the applicant's request, a continuance was granted by the Board and the matter was reset for April 27, 2015.

### II. Facts and Legal Argument

In the fall of 2014, the Sedona Community Development Department was made aware of the fact that a horse riding business was operating on Airport Mesa. Upon contacting the proprietors, it was discovered that, Bryson Ranch LLC, dba Horsin' Around Sedona (Hereinafter referred to as HA) had erected fencing, constructed trails and was engaged in a full-fledge equestrian riding business. A check of business license records revealed that an application for a business license had been received, but no license was issued by the City and no record of a Certificate of Occupancy was found. Representatives of HA met with the Community Development Department. At that time, it was explained to HA that the property upon which they had begun their business was zoned CF (Community Facilities).

Per Land Development Code §625 this zoning district is 'intended primarily for the accommodation of public/semi-public uses; the identification of public-accessible areas where all persons would have the opportunity to be involved in and enjoy civic, cultural and recreational pursuits; and the identification and preservation of areas of historic significance.' This section further provides for a limited number of uses **that are allowed solely by way of a Conditional Use Permit (CUP)**. It is undisputed that HA never applied for or obtained a CUP prior to commencing business.

Airport Mesa is owned by Yavapai County. They have entered into a long-term lease with the Airport Authority who then operates the Airport (see Exhibit 3). Apparently at some time last year, the Airport Authority, without even obtaining the approval of Yavapai County, entered into a contract with HA that allowed it to start up a private commercial horseback riding business on airport property. At no time did HA ever come to the City for a Conditional Use Permit for authorization to conduct their riding stable operation.

The question arises as to whether or not the Airport Authority even had the authority under its lease to authorize this private commercial business. Section 6 of the lease describes the use of the land. It states in part:

*“LESSEE [the Airport Authority] agrees to operate the airport for the use and benefit of the public, to make available all airport facilities and services to the public without unjust discrimination and to refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges of fees for any use of the airport or its facilities for any airport service.”*

Likewise, in Section 8 entitled, Administration and Promotion of Airport Operations, it states in part:

*“LESSEE [the Airport Authority] shall diligently promote aeronautical activities at the airport and to secure sub-tenants who wish to base aeronautical activities at the airport and to promote other types of revenue producing activities as appropriate.”*

Finally, this lease says that the Airport Authority is to act and behave as a public body. Paragraph 29 states:

*“Since LESSEE’s activities affect significant public interests, its decision processes must be visible to the public. LESSEE shall be considered a public body pursuant to ARS §38-431(5).” (This statute concerns Open Meeting Laws.)*

The lease goes on to state that all of the Airport Authority’s records shall be considered public records and subject to public disclosure as required by law for such records.

The City raises these facts because they demonstrate that the Airport is to be operated as a public facility rather than a private commercial enterprise. This is entirely consistent with the Community Facility (CF) zoning within which the airport lies

As previously stated, the land comprising the Sedona Airport is zoned CF Community Facilities. The only specific uses permitted within this zone all require a CUP. There are 14 specific uses listed. They include things such as public buildings, public parks, public educational institutions, public community centers, public utility stations, and offices. In this entire list, the only reference to “commercial” uses is “commercial” uses *incidental* and *accessory* to other listed uses such as concession stands and small gift shops.

This distinction between public and governmental uses and private or commercial uses is important in another related context. And, that context is the fact that here we have County land within the Sedona City limits. A legal question arises concerning to what extent the City government can impose its land use laws on land owned and controlled by the County Government, in this case Yavapai County. In Arizona this issue has been litigated a number of times and there are some general legal principles that govern this issue. What the case law says essentially is that if the County is conducting a government-related activity on land within the City, the City cannot impose its zoning regulations on that activity. But, in contrast, if the County is allowing a private commercial activity not related to its government function on that land, then the City’s zoning regulations do apply.

The case law defining the status of the airport property with respect to City zoning codes was articulated in the City's Notice of Violation letter dated January 7, 2015 (see Exhibit 1). It was noted there that if a municipality seeks to impose its land use regulations upon property owned by another political subdivision, the State's appellate courts hold that the governmental body whose property a municipality seeks to zone is not subject to a municipal land use ordinance if it is acting "in a governmental capacity" or performing a "governmental function," but is subject to such ordinances if it is acting in a "proprietary capacity." Book-Celler Inc., v. City of Phoenix, 150 Ariz. 42 (1986), Tovrea v. Trails End Improvement Association, 130 Ariz.108 (1962), City of Scottsdale v. Municipal Court of the City of Tempe, 90 Ariz. 303 (1962); Board of Regents of the Universities and State Colleges of Arizona v. City of Tempe, 88 Ariz. 299 (1960). Pima County v. Clear Channel Outdoor, Inc., 212 Ariz 48 (2006).

Some of the tests articulated in these opinions to distinguish between a "governmental" and a "proprietary" function are as follows: Under the "legal powers" test set forth in the City of Tempe case, constitutional and statutory provisions are scrutinized to determine if the power to do an act is mandated or authorized. If it is mandated the function is deemed to be governmental.

Under the "essence-of-government" test articulated in the Book-Celler decision, if the activity is not a "fundamentally inherent function or encompassed within the basic nature of government," then it is a proprietary function and is subject to the regulations of the municipality.

Like with the City of Scottsdale decision, many decisions across the country have equated a "governmental" function with that which is done "for the common good of all" and have used that description to differentiate between governmental activity that is principally or exclusively public in nature as opposed to that which involved special corporate benefits or profits. One court held that "[g]overnmental functions are those which are performed for the general public with respect to the common welfare and for which no compensation or particular benefit is received, while proprietary functions are exercised when an enterprise is commercial in character or is usually carried on by private individuals or is for the profit, benefit, or advantage of the governmental unit conducting the activity," State ex rel. Schneider v. McAfee, 578 P.2d 281 (1978). Another Court has stated: "Activities performed as part of the police power of a municipal corporation in providing for the health, safety, and general welfare of the citizens fall clearly within the governmental functions of a city." Dallas v. Moreau, 718 S.W.2d 776, 779 (Tex. App. Corpus Christi 1986)

While this legal discussion concerning the applicability of the City's zoning authority over airport property is important to understand, it should be noted that HA is not contesting the applicability of City zoning regulations in this case. As HA's appeal letter indicates, they are not disputing the fact that the City's zoning laws apply to them. They are a private commercial enterprise that has no governmental purpose at all. Therefore they are subject to the City's zoning.

Given this fact, the question may arise: "Why are we here then if the facts establish that this business is operating in a CF zone that allows only public/semi-public activities that are approved through a CUP, and we have a private commercial business that was told that they cannot operate on this land unless the zoning is changed?" That is the interpretation that the Director has given to the LDC with regard to this issue. That is what the Notice of Violation letter sent to HA on January 7<sup>th</sup> of this year

says. And in reading HA's appeal letter, it becomes apparent that they are not disputing this interpretation directly. Instead, they are saying that the City is being unfair in how it enforces this interpretation. To quote the letter directly: *"The City is currently ignoring the other 114 contract uses and businesses operating at the airport property in its enforcement."*

The City is unaware of exactly what these 114 separate businesses operating on Airport Mesa are. It is acknowledged that there is a restaurant, a hotel, the Sky Ranch Lodge and that there are helicopter tour companies. Most if not all of these commercial uses mentioned existed prior to the incorporation of Sedona. As such they are legal non-conforming uses. In other words, when the City incorporated and eventually enacted its zoning ordinance, the City was bound by law to accept these uses as they existed at the time, and could not shut them down because their activity was inconsistent with the imposed zoning. That would be a regulatory taking of private property.

Even if this Board accepts for the sake of argument HA's contention that there are in fact 114 private businesses operating on airport mesa and HA is the first and only one that the City has required to abide by the current zoning, this isn't a problem or an issue that this Board of Adjustment has the authority to resolve. This Board's duties as set forth in the LDC, Section 304 lists three separate duties. The first one is "hearing, reviewing and acting on variance applications." That doesn't apply here. The second duty is: "hearing, reviewing and acting upon appeals for the decisions of the Director regarding an interpretation of this Code." This is the basis for this hearing. The third duty of this Board is "hearing, reviewing and acting upon any property owner appeal pursuant to SLDC 404.09 and ARS Sec. 9-500.12 and 9-500.13." What these statutory sections are referring to are City Council or Commission decisions that require the dedication or exaction of property as a condition for granting approval for the development of property. This is not what we are dealing with here.

What the City has done to precipitate this hearing is that it has issued a notice of violation letter to HA. In that letter the Community Development Director very clearly tells HA how she is interpreting the Land Development Code. And at the end of the letter she says, per the LDC that if HA doesn't agree with this interpretation, then he can appeal that interpretation to the Board of Adjustment.

In response to this invitation, the City received HA's appeal letter. (Exhibit 2) In that letter, HA raises three objections. 1. The *'targeted'* application of the City's jurisdictional code enforcement towards HA, 2. Predetermination by the Director that a CUP would not be allowed for this project, and 3. The general plan amendment and zone change process proposed in the letter as the only path to compliance for this project.

Concerning objection number 1; the claim that the City is engaging in targeted enforcement against HA. This is not an issue that this Board has the jurisdiction to take up. In essence, HA is claiming that the City is violating its constitutional equal protection rights, or that the City is somehow discriminating against them. That is a claim that the Courts can decide, but it isn't a claim that this Board can decide. It is therefore the City's position that it doesn't have to get bogged down in factual arguments about

how many businesses there are on Airport Mesa and whether or not the City has ever subjected other businesses such as Sky Ranch Lodge to its zoning regulations.<sup>1</sup>

HA's second objection was that the Community Development Director erroneously predetermined that a CUP would not be allowed for a riding stable facility such as theirs. The insinuation behind this claim was that the CD Director was somehow preventing HA from even filing an application. And to make it clear that this was not the case, the City Attorney, in behalf of the City, after getting HA's appeal letter sent a letter to Ms. Cline. (See Exhibit 4) As this letter indicates, the Director's role per the LDC is to consult with potential CUP applicants. The director, Audree Juhlin, did just that, and in so doing explained that in her opinion, the proposed commercial activity was not a permitted use that would be granted a CUP within a CF district. The letter goes on to state that her client could apply for a CUP immediately.

Clearly, there has been no premature determination by the Director precluding HA from applying for a CUP. Instead, HA has chosen not to apply.

Having said this, there is still the question of whether or not the Director was correct in her interpretation of the LDC that a private commercial horse stable is not a use allowed within a CF district. HA's appeal letter focuses on language in Sec. 625.02 that says: "*All other uses not specifically listed or determined to be similar to those described below shall be prohibited and unlawful.*" HA's representative, Ms. Cline then points to Land Development Code §625.02(A)(12) which describes as one permitted use subject to a CUP: "*Public and semi-public community centers and recreational facilities (such as swimming pools and youth activity centers.)*" HA then makes the claim, "For this project, we believe that Horsin' Around Sedona is similar to a recreational center."

In response, it should be emphasized that the LDC CF list of permitted CUP uses focuses primarily on *public and semi-public uses*. In the purpose section it says right at the outset, "The CF district is intended primarily *for the accommodation of public/semi-public uses*. The only reference to allowed commercial uses are those commercial uses that are "*Incidental and accessory to other listed uses. (such as concession stands and small gift shops.)*"

As an example of legitimate CF recreational uses, we need only look to the Posse Ground Park area. There is located a public playground, public pool, and public ball fields. All of the public facilities are available free of charge to the citizens of Sedona. They are not owned or operated as private commercial enterprises.

Clearly, the LDC makes an obvious distinction between the types of public recreational facilities that are allowed in the CF zone and private commercial facilities that are not incidental to other uses, and that are clearly not allowed. Otherwise, to allow such is to essentially turn all CF zones into Commercial zones. The City submits that this is an improper interpretation of the purpose and intent of the LDC,

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<sup>1</sup> As indicated in Exhibit 5, and contrary to the assertions of the HA, the City has frequently exercised its zoning and regulatory authority over businesses on Airport Mesa.

and that the interpretation that was made by the Community Development Director was the proper one. We ask you to sustain that interpretation.

If this Board does sustain the Director's interpretation that HA's private commercial horseback riding business would not be a business that falls within any of the permitted uses subject to a CUP, the next question that HA raises is whether or not the Director was correct in her interpretation of the LDC that a general plan amendment and zone change are the only available ways by which HA could ever legally operate at the airport. It should be noted that HA has not suggested any other method. Instead HA argues that only the airport authority, after seeking the authorization of Yavapai County would have the authority to request a zone change. This may be the case; however, there is no reason why Yavapai County could not choose to authorize HA to request a zone change. None of this however changes the fact that if HA's private commercial horseback riding business is not a permitted use within this Community Facility zone, the only way they could comply with the LDC is by changing the zoning for the area in which they intend to operate their business.

For all of the above reasons, the City respectfully requests that the decision of the Community Development Director be sustained.



Please note that the following motions are offered as samples only and that the Board may make other such motions as appropriate.

- I (Board member) move to uphold the interpretation of the Zoning Administrator (Community Development Director) and deny the appeal as set forth in case number AP2015-01.
- I (Board member) move to overrule the interpretation of the Zoning Administrator (Community Development Director) for the following reasons (state reasons) and approve the appeal as set forth in case number AP2015-01.



## City of Sedona Community Development Department

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### NOTICE OF VIOLATION

January 7, 2015

Bryson Ranch LLC, dba Horsin' Around Sedona  
C/O Tanner Bryson  
PO Box 373  
Sedona, AZ 86339

Dear Mr. Bryson,

City of Sedona staff conducted a visual inspection at 0 Airport Road on November 13, 2014 and contacted you directly on November 14, 2014. Based on the visual inspection and verbal conversation with you, it was determined that Horsin' Around Sedona is unlawfully operating at 0 Airport Road, parcel # 408-27-001. As a result of this determination, I left you a voice message requesting that you contact me about the City's concerns related to the operation of Horsin' Around Sedona at the Sedona Airport. In response, you came to City Hall and requested an impromptu meeting with me. During this meeting, I explained the City's position, its jurisdictional authority, zoning concerns and provided you with several options to seek City approvals that may allow you to continue to operate your business in the future.

At the conclusion of this meeting, we both agreed we did not want to go down the legal route of enforcement and rather voluntarily work together to address the concerns and comply with City Codes. You indicated that you would voluntarily cease business activities and asked that you be allowed to continue to conduct tours through December 31, 2014 as you had previously arranged tours scheduled. I agreed that this was a reasonable request. You further indicated that you would work with the Sedona Airport Authority and City staff to seek all necessary approvals.

On January 5, 2014, City of Sedona staff conducted a follow-up inspection to confirm that you had ceased your business activities as previously discussed. Unfortunately, based on this visual inspection, Horsin' Around Sedona continues to operate without proper City approvals to do so. It was also noted by staff that you have constructed a fence to contain your horses. This fence was constructed without the required building permit from the City of Sedona; this is a violation of the Sedona Code. As a result of the visual inspection, on this same date I contacted you by phone inquiring as to your status, at which time you indicated that you have no intentions of discontinuing operations.

Since we were not able to achieve voluntary compliance with City Codes and regulations, and you have instead chosen to continue to operate Horsin' Around Sedona without proper City approvals, the City has no other option but to begin enforcement actions. Therefore, this letter serves as official notice that the City of Sedona has determined that your business, Horsin' Around Sedona, is in violation of the Sedona Land Development Code and Sedona City Code.

It is the City's position that while the property is owned by Yavapai County and leased by the Sedona Airport Authority, any proprietary use or non-aeronautical activity on this property, such as Horsin' Around Sedona, is subject to the City's jurisdictional authority.

Exhibit 1



## City of Sedona Community Development Department

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This position is based on case law, in that if a municipality seeks to impose its land use regulations upon property owned by another political subdivision, the State's appellate courts hold that the governmental body whose property a municipality seeks to zone is not subject to a municipal land use ordinance if it is acting "in a governmental capacity" or performing a "governmental function," but is subject to such ordinances if it is acting in a "proprietary capacity." Book-Celler Inc. v. City of Phoenix, 150 Ariz. 42 (1986); Tovrea v. Trails End Improvement Association, 130 Ariz.108 (1962); City of Scottsdale v. Municipal Court of the City of Tempe, 90 Ariz. 303 (1962); Board of Regents of the Universities and State Colleges of Arizona v. City of Tempe, 88 Ariz. 299 (1960) and Pima County v. Clear Channel Outdoor, Inc., 212 Ariz 48 (2006).

Some of the tests articulated in these opinions to distinguish between a "governmental" and a "proprietary" function are as follows: Under the "legal powers" test set forth in the City of Tempe case, constitutional and statutory provisions are scrutinized to determine if the power to do an act is mandated or authorized. If it is mandated, the function is deemed to be governmental.

Under the "essence-of-government" test articulated in the Book-Celler decision, if the activity is not a "fundamentally inherent function or encompassed within the basic nature of government," then it is a proprietary function and is subject to the regulations of the municipality.

Similarly, with the City of Scottsdale decision, many decisions across the country have equated a "governmental" function with that which is done "for the common good of all" and have used that description to differentiate between governmental activity that is principally or exclusively public in nature as opposed to that which involved special corporate benefits or profits. One court held that "[g]overnmental functions are those which are performed for the general public with respect to the common welfare and for which no compensation or particular benefit is received, while proprietary functions are exercised when an enterprise is commercial in character or is usually carried on by private individuals or is for the profit, benefit, or advantage of the governmental unit conducting the activity," State ex rel. Schneider v. McAfee, 578 P.2d 281 (1978). Another Court has stated: "Activities performed as part of the police power of a municipal corporation in providing for the health, safety, and general welfare of the citizens fall clearly within the governmental functions of a city." Dallas v. Moreau, 718 S.W.2d 776, 779 (Tex. App. Corpus Christi 1986)

Therefore, because your business is not acting "in a governmental capacity" or performing a "governmental function," and is acting in a "proprietary capacity" your business is subject to any and all City ordinances and regulations.

As you are aware, the property is zoned Community Facilities (CF) and has a Sedona Community Plan designation of "Public/Semi Public". The CF zoning district is "intended primarily for the accommodation of public/semi-public uses"; further zoning regulations state that "the identification of public-accessible areas where all persons would have the opportunity to be involved in and enjoy civic, cultural and recreational pursuits." The CF zoning district also specifies that all uses in a CF zoning district are subject to a conditional use permit (CUP) and that "buildings, structures or premises shall be used and buildings and structures shall be erected, altered or enlarged only for the uses listed [section 624.02A]... All other uses not specifically listed or determined to be similar to those described [section 624.02A]...shall be prohibited and unlawful."

Your business, Horsin' Around Sedona, is a private commercial enterprise and is not listed as a conditionally allowable use. Additionally, a conditional use permit was not applied for prior to commencing your business activities.



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On a related note, Section 5.05.020 of the Sedona City Code requires that all businesses must be in compliance with any and all regulations specified in the Sedona City Code, Sedona Land Development Code, and Arizona Revised Statutes. Compliance includes but is not limited to compliance with any and all zoning ordinances and specified building uses. Per Section 5.05.040(A) of the Sedona City Code, a business license may be suspended, revoked or deemed invalid if it is determined that a business owner has violated or is not in compliance with either the City Code, Land Development Code or the Arizona Revised statutes, or that the business is delinquent in paying taxes or fees to the City. Since you are not currently in compliance with this section as a result of the below-referenced violations of the Sedona Land Development Code and Sedona City Code, your business license is subject to revocation and your right to continue to do business within the City can be lost if you do not come into complete compliance.

### **VIOLATIONS:**

- Sedona Land Development Code, Article 6 (District Regulations). You are in violation of Sedona Land Development Code, Article 6 for operating a commercial business at 0 Airport Road which is not an allowable use in the Community Facilities (CF) zoning district.
- Sedona City Code (Building Code) Section 1505.020.C (Amendments to the International Building Code). You are in violation of Sedona City Code Section 15.05.020.C for constructing a fence at 0 Airport Road without a building permit.
- Title 5 (Business Licenses). You are in violation of Sedona City Code, Title 5, (Business Licenses and Regulations) by virtue of the fact that you are not complying with any and all regulations set forth in the Sedona City Code, Sedona Land Development Code and the Arizona Revised Statutes. Because of this fact, your business license may be suspended, revoked or deemed invalid.

### **CORRECTIVE ACTION NECESSARY:**

Immediately cease all commercial activities at 0 Airport Road. If you wish to use these properties in the future for commercial purposes, please schedule a meeting with Community Development staff to discuss your options. You do have the option to file for a major amendment to the Sedona Community Plan and a rezoning of the Community Facilities zoning designation to general commercial. In accordance with Arizona State Law, major amendments to the Community Plan are considered once per year and our next application submittal is tentatively scheduled for April 2015. The Planning and Zoning Commission and City Council would consider the major amendment application in the summer and fall of 2015. Your zone change application could also be filed at the same time as the major amendment.

Regarding the unpermitted construction of the fence, the fence must be removed immediately.

### **PENALTIES:**

Failure to voluntarily comply with this Notice of Violation may result in a citation or other enforcement action(s). Please note that any person found guilty of violating any provisions of the Sedona City Code or Sedona Land Development Code may be guilty of a Class I misdemeanor and, upon conviction, may be punished by a fine not to exceed \$2,500 or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment.

### **APPEAL:**

In accordance with the Code, you have the right to appeal the Director's Interpretation of the Code regulations pertaining to allowable and conditionally allowable uses to the City of Sedona Board of Adjustment based on Article 3 (Decision Making & Administrative Bodies) Section 304.01B, Duties (Board of



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Adjustment). The Board of Adjustment has the authority to conduct hearings, review and act on appeals of the decisions of the Director regarding an interpretation of the Sedona Land Development Code. You must submit in writing your appeal with the Community Development Department within 30 days after the date of this letter. The fee to submit an appeal is \$150, which is non-refundable. If you choose to appeal the Director's Interpretation, not later than 30 days after receipt of your appeal, the City shall schedule a time for the appeal to be heard by the City of Sedona Board of Adjustment.

Thank you in advance for your cooperation and prompt attention to this matter. If you require further information or have questions regarding this Notice, your appeal rights or methods of compliance, please contact me at (928) 204-7107.

Sincerely,

A handwritten signature in cursive script that reads "A. Juhlin".

Audree Juhlin, Director  
Community Development Department

cc: Nick Gioello, Development Services Manager  
Glenn Sharshon, Senior Code Enforcement Officer  
Ray Cota, Police Chief  
Mike Goimarac, City Attorney  
Tim Ernster, City Manager  
Karen Daines, Assistant City Manager  
Tabatha Miller, Finance Director  
Sandy Moriarty, Mayor  
Phil Bourdon, Yavapai County Administrator  
Rod Propst, General Manager, Sedona Airport Authority

## Essential Design, LLC

160 Quail Ridge Lane  
Sedona, AZ 86336  
928 301-9238

City of Sedona  
Attn: Community Development Director, Audree Juhlin  
102 Roadrunner Drive  
Sedona, AZ 86336

Re: Bryson Ranch, LLC dba Horsin' Around Sedona

Dear Ms. Juhlin, et al:

Please consider this letter as notification of the objection of the code, process and zoning interpretations presented in the Notice of Violation ("Notice") letter and Stop Work Order relating to Bryson Ranch, LLC dba Horsin' Around Sedona ("Horsin' Around Sedona"). In compliance with the provisions in the Sedona Land Development Code, this letter along with the accompanying fee are intended to establish the formal proceedings and review of this matter in front of the City of Sedona Board of Adjustments.

First of all, thank you for the letter addressing the concerns of my client, Bryson Ranch LLC dba Horsin' Around Sedona. I think we can all agree that when it comes to the interpretation of law and process and how its direct interpretation affects business, it is in everyone's best interest to have these matters in writing.

The contents of this letter refer to the Notice of Violation letter dated and postmarked January 7, 2015 attempts to answer of the initial questions asked by my client regarding municipal jurisdiction over a county or federal property within city limits. The letter further identifies several interpretations of the Sedona Land Development Code by the Director of the Community Development Department, Audree Juhlin.

After carefully reviewing the letter, there are areas of disagreement with the interpretation of and conclusions drawn by the Director. As such, please consider this letter as a part of the application to the Board of Adjustment as per the City Sedona Land Development Code.

The basis for the disagreement with the presented interpretation of the code is essentially threefold. Those objections include 1) the targeted application of the City's jurisdictional code enforcement towards Horsin' Around Sedona; 2) predetermination by the Director that a Conditional Use Permit would not be allowed for this project; and

Exhibit 2

3) the general plan amendment and zone change process proposed in the letter as the only path to compliance for this project.

In addition to these objections with the interpretations presented in the Notice of Violation, there are additional items that are contained within the Notice and within the interactions to date with the City regarding this project that are objectionable. Those items are identified at the end of this document.

#### Targeted Jurisdictional Code Enforcement

The Notice contains two different statements of interpretations of jurisdictional authority. The first statement presented is:

"It is the City's position that while the property is owned by Yavapai County and leased by the Sedona Airport Authority, any proprietary or non-aeronautical activity on the property, such as Horsin' Around is subject to the City's jurisdictional authority."

In the first statement, we object to the term "non-aeronautical activity." No interpretation of case law or precedence supports the non-aeronautical definition applied. While it may seem like minutia, it is in fact a clear indication that the City is overreaching in interpreting case law in an attempt to defend its selective enforcement actions against Horsin' Around Sedona. The City is currently ignoring the other **114 contract uses and businesses operating** at the airport property in its enforcement efforts. This statement tries to exclude some of these other businesses in an effort to defeat a selective application argument.

The second statement in the Notice is presented after a list of case law citations. This statement is:

"Therefore because your business is not acting "in a governmental capacity" or performing a "governmental function," and is acting in a "proprietary capacity" your business is subject to any and all City ordinances and regulations."

This statement is supported by the case law citations included within the Notice. We do not dispute the case law citations or the second statement (referenced above) that government uses are exempt from municipalities. Again, what we do dispute is the selective or targeted application of the enforcement of that jurisdiction to this project and this project only. No other use or business located and operating at the airport has received any similar enforcement action.

The Notice defines Horsin' Around Sedona as a "private commercial enterprise" and therefore by that definition is subject to municipal jurisdiction. All of the other businesses located at the airport property are private commercial enterprises and yet no

enforcement action has commenced. These businesses include as a small example, a restaurant, car rentals, jeep tours, and tour companies. None of these businesses are "governmental" in capacity or function.

It is because no code enforcement action has arisen previously that the SAA has been actively leasing portions of this property to businesses for its entire operational history without coordination or consideration of the City's Land Development Code. In this instance enforcement of the City's regulations has been completely nonexistent, so much so that the jurisdictional basis for municipal regulations was not known to the SAA or even to City Staff. It was only after the request by Horsin' Around Sedona for an explanation of jurisdiction in writing, that the case law and municipal jurisdiction were identified.

Further, the implication in the Notice that the municipal jurisdiction was so well established a fact that the actions of my client were in in direct defiance of that jurisdiction is clearly not accurate and in fact attempts to establish an impression of the my client as intentionally noncompliant.

For the record upon the posting of the property with a stop work order, operations were immediately stopped. It was the City's misapplication of the enforcement process as will be described later in this document and the targeted or selective enforcement actions as described above that created confusion and animosity in this project to date.

#### Predetermination of project as not allowable under a Conditional Use Permit

The "Community Facility (CF)" zoning designation, for this property is singularly atypical for airports in the State of Arizona. All other airports in Arizona are zoned for industrial and commercial designations with the only exception being the Grand Canyon airport which is zoned a Transportation classification. We honestly question the wisdom in this zoning designation for the airport; however, my client does not have the legal standing to dispute or process that matter. A lease does not have the legal standing to apply for a change to the legal designation of property unless specifically authorized under the terms of the lease. The lease between the SAA and Bryson Ranch LLC dba Horsin' Around Sedona does not include such a provision. The lease that the SAA has consistently used for years does not include this ability. It should be noted that this has a direct impact on all on this property as under the zoning designation **all uses require a Conditional Use Permit**.

The Notice states that the Horsin' Around Sedona does not conform to the CF zoning designation and is there for unallowable. We dispute staff's interpretation of the zoning ordinance especially in light of the other active businesses at the airport.

The following is the full text section of the Sedona Land Development Code for Community Facility.

**625 CF Community Facilities District.**

**625.01 Purposes.** *This district is intended primarily for the accommodation of public/semi-public uses (other than street rights-of-way); the identification of public-accessible areas where all persons would have the opportunity to be involved in and enjoy civic, cultural and recreational pursuits; and the identification and preservation of areas of historic significance.*

**625.02 Use Regulations.** *Buildings, structures or premises shall be used and buildings and structures shall be erected, altered or enlarged only for the uses listed below. All other uses not specifically listed or determined to be similar to those described below shall be prohibited and unlawful.*

A. Uses Subject to Conditional Use Permit.

1. Accessory uses and structures, located on the same site as a conditional use.
2. Cemeteries, columbariums and related facilities.
3. Commercial uses incidental and accessory to other listed uses (such as concession stands and small gift shops).
4. Cultural centers.
5. Educational institutions, including charter schools and private schools, provided they offer a curriculum of general instruction similar to public schools subject to the requirements set forth in SLDC 914.
6. Historical landmarks.
7. Libraries and museums.
8. Municipal golf courses.
9. Public buildings and grounds.
10. Public parks and parks maintenance facilities intended for regular parks and recreation maintenance purposes. On-site long-term storage of heavy earth-moving equipment and large trucks is prohibited.
11. Public or private nonprofit educational institutions.
12. Public and semi-public community centers and recreational facilities (such as swimming pools and youth activity centers).
13. Public utility and public service substations, water tanks, pumping plants and similar installations, including public utility repair and storage facilities. On-site long-term storage of heavy earth-moving equipment and large trucks is prohibited.

14. Public utility offices.

**625.03 Approvals Required.** Prior to the construction of physical improvements and the issuance of a building permit for all uses, development review approval shall be obtained as outlined in SLDC 401. Where required, conditional use permits shall be obtained as outlined in SLDC 402 and temporary use permits shall be obtained as outlined in SLDC 407.

**625.04 Property Development Standards.** The following property development standards shall apply to the site of a permitted or conditional use; these requirements are minimums unless otherwise noted.

A. Lot Area. Each lot shall have a minimum lot area of 10,000 square feet.

B. Lot Dimensions.

1. All lots shall have a minimum width of 100 feet.

2. All lots shall have a minimum depth of 100 feet.

C. Lot Coverage. Maximum lot coverage shall not exceed 25%.

D. Floor Area Ratio. Floor area ratio shall not exceed 0.50.

E. Yards.

1. Front Yard. There shall be a front yard having a depth of not less than 30 feet.

2. Side Yard. There shall be a side yard of not less than 15 feet.

3. Rear Yard. There shall be a rear yard of not less than 20 feet.

F. Access. All lots shall have frontage on and vehicular access from a dedicated street unless other frontage and/or permanent vehicle access has been approved by the Director. Each building site shall have a minimum width easement or right-of-way for access of 20 feet.

G. Distance Between Buildings. There shall not be less than 10 feet between an accessory building and a main building or between 2 buildings.

H. Accessory Structures. Accessory structures and architectural features shall comply with the requirements of Article 9 SLDC.

*I. Height and Screening Regulations. All buildings, structures, walls and fences shall comply with the provisions of Article 9 SLDC.*

*J. Color and Materials. The exterior color and materials of all buildings, structures, walls and fences shall comply with the provisions of Article 9 SLDC.*

*K. Utilities. Utilities shall be provided in compliance with the provisions of Article 9 SLDC.*

*L. Trees. Trees shall be preserved and planted to comply with the provisions of Article 9 SLDC.*

*M. Outdoor Lighting. Outdoor lighting shall comply with the provisions of Article 9 SLDC.*

*N. Landscaping. The landscaping provisions of Article 9 SLDC shall apply.*

*O. Off-Street Parking. Off-street parking shall comply with the provisions of Article 9 SLDC.*

*P. Signs. Signs shall comply with the provisions of Article 11 SLDC.*

*Q. Design Standards. The provisions of Article 10 SLDC shall apply as administered through the development review process of Article 4 SLDC.*

There are three portions of this section that are important to note for correct zoning interpretations which were specifically not addressed or identified in the Notice.

The first portion is that all uses in this zoning require a Conditional Use Permit. The identified list of uses is only a basis for typical uses that would be approved under a Conditional Use Permit. Again, the project as portrayed in the Notice as being intentionally noncompliant is fictitious as all uses that are not inherently governmental are under the jurisdiction of the City as identified above. No enforcement action against any other use is in process. To be clear, we do not dispute the necessity of a Conditional Use Permit, we dispute the targeted application of these standards.

Being that it is now clear that the City has jurisdiction and we are aware that a Conditional Use Permit is required; my client has every intention of applying for a Conditional Use Permit. In the Notice it is stated that because the project is a private commercial enterprise, a Conditional Use Permit would not be approval by Staff. In the very next sentence it states that because a Conditional Use Permit was not applied for, the business is in violation. How can a business be berated for not applying for a Conditional Use Permit and then stated that a Conditional Use Permit is not

approvable? A path for compliance that is reasonable and actual needs to be identified.

The second portion of the ordinance that is not clearly identified by Staff is "...or determined to be similar those described below...". This portion is especially important as it identifies that there are uses that are not listed that still would be allowable under a Conditional Use Permit. This section identifies that there is flexibility in the uses and that the list provided is a just a base. For this project, we believe that Horsin' Around Sedona is similar to a recreational use. At a minimum, we believe that there is a right to apply for a Conditional Use Permit. Unfortunately, it appears that the Director has predetermined in writing and in verbal conversation that a Conditional Use Permit for this project would not be approved by Staff and it has even been stated by the Director "that a Conditional Use Permit isn't an option and wouldn't be approved." As I am certain the Board of Adjustments is aware, it is not the role of Staff to approve or disapprove an application for a Conditional Use Permit. The role of Staff is to review applications and projects and enforce codes without bias.

The third portion not addressed in the Notice is the purpose of the zoning designation which is:

"... the identification of public-accessible areas where all persons would have the opportunity to be involved in and enjoy civic, cultural and recreational pursuits."

While not specifically stated/addressed in the Notice, we believe that Staff is not correctly applying or considering that a private, horseback riding business is a cultural or recreational pursuit. Certainly, a private horseback riding business is a more cultural and recreational pursuit than a restaurant or the other active businesses currently active at the airport. What we ask for is the opportunity to apply for a Conditional Use Permit without predetermination of disapproval by the Director as has been voiced.

#### Resolution Path as Identified

The Notice identifies that a potential path to resolution would be a general plan amendment and zone change application. The Notice correctly identifies that the current general plan classification has the entire airport designated as public/semi-public. In point of fact, the Sedona airport property is the only airport in Arizona that a public/semi-public general plan classification has been established. All other airports in Arizona are classified as commercial or industrial.

The identified potential path to resolution indicated in the Notice is not applicable to this project as Horsin' Around Sedona is a leasee of the SAA. Horsin' Around Sedona does not have the legal authority to make the applications for the legal classification of

the property. Yavapai County would need to apply for those applications or in the alternative, specifically authorize the SAA to make such an application.

Therefore, the proposed resolution path is not applicable or achievable for this project. Again, the appropriate path for resolution as identified in the Sedona Land Development Code is a Conditional Use Permit for this current zone designation. My client is willing to apply for a Conditional Use Permit now that municipal jurisdiction has finally been established. Again, my client would request that the application process be not predetermined to be denied, but considered on its merits as any other application would be.

With the enforcement actions towards this project, the City of Sedona has forced the SAA and Yavapai County into a situation where they can no longer continue lease operations, as every lease is now subject to the approval of a Conditional Use Permit at the airport that is not governmental in nature. **The immediate and direct result of this enforcement is that all non-governmental uses currently operating at the airport property are in noncompliance.** Logically, the next question is when will the stop work orders for all of the other businesses operating at the airport will be issued?

#### Business Licensure

The Notice also includes identification that a business license may be revoked or suspended if the business is not in compliance with the City's regulations. While this statement is accurate; the reference has not correctly been applied to this project considering the project's status in code enforcement procedure. Revocation of licensure is a potential result of continued noncompliance throughout the code enforcement process. Again, my client immediately ceased activity onsite after the first written notification of violation was provided: It is procedurally inappropriate to cite as a violation "operating under a violation is an additional violation" in the first written communication from the City.

#### Fence Permit

Also included in the Notice was the identification of fence construction occurring that was not permitted. This violation certainly was not intentional. Again, my client up until this Notice was not informed of the legal authority of the City to require a permit for fencing. Additionally, my client considered the fencing as temporary as the corral fencing is movable and not permanent in structure. Again, the Stop Work Order followed immediately by the Notice was the first identification from the City that the fencing was not in compliance.

The Notice specifically states that the removal of the fencing must occur immediately. There are several procedural problems with that demand. First, any other fencing in the City that was installed without a permit is given the opportunity to apply for a permit for

the fencing after it has been identified to the installer that a fence permit is required. Secondly, per the City's building code a permit is required for the removal of a fence prior to its removal. So logically, if Horsin' Around Sedona removed the fencing as demanded in the letter would they be in immediate violation of the building code by not getting a permit to remove the fence?

For whatever reason, the Director has created a confusing situation with incorporating the fencing into the Notice and violation process for the business use.

My client is more than willing to apply for a fence permit, with the increased fee for not getting a permit prior to installation, again like any other person or business operating in Sedona would have been required to do. Clarification on the appropriate process for applying for the fence permit is requested from the Board of Adjustments as the demand and interpretation in the Notice is not procedurally supported.

Further, it should be noted that multiple fencing projects have occurred on this property that were not governmental in nature and were not subject to any fencing permit or enforcement.

#### Procedural Compliance

The City has a responsibility to follow its own process and procedures for code enforcement. To date, the City has not followed its own procedures regarding this project. No written notice was provided before Staff posted the property with a Stop Work Order. No written identification of jurisdiction or notice was provided before verbal interactions with the City. My client in good faith attempted to understand and to resolve the City's concerns, but was not successful in garnering a clear understanding of what regulations were applicable and what the appropriate process for resolution was. Again, my client was specifically told by the Director in these conversations that Conditional Use Permit was needed for this zoning and that a Conditional Use Permit was not an option for the project. The Director was not able to answer the very reasonable question of jurisdiction until the Notice now being objected to. Further, verbal communication from the Director was threatening and emotional. My client simply requested meeting and was denied. With the immediate Stop Work Order being posted before the Notice was even received the City started an adversarial/confrontational path. Refusing to meet and discuss, being verbally condescending and threatening is not appropriate or professional behavior for Staff. Again we disagree with the enforcement actions to date. Horsin' Around Sedona has not had any other infractions prior to this action and was, up until the stop work order, current on all tax revenue owed to the City.

Simply, my client requests that actions of the City comply with the standard processes and procedures that are in place for an unbiased review of the application for Conditional Use Permit and Fence Permit.

The standard process and procedure for the administration of code compliance, zoning interpretation, and development review simply have not occurred.

Unfortunately, the actions and comments from the Director to date indicate that this unbiased review of any application is unlikely to occur. To that end, my client requests that the Board of Adjustment recommend reassignment of the review of this project's applications to other appropriate Staff at the City.

#### Summary

In summary, the following are interpretations and actions of disagreement that we are requesting the Board of Adjustment to review or address:

1. That the City's jurisdiction over the airport property includes all uses, structures not governmental in nature as supported by case law.
2. That the City's current zoning designation of Community Facility requires that all uses are subject to a Conditional Use Permit.
3. That the City's enforcement towards Bryson Ranch LLC dba Horsin' Around Sedona is the only enforcement action to date at this property and that currently under the Community Facility zoning all uses are in noncompliance.
4. That the City's enforcement has been targeted and noncompliant with the City's standard code enforcement process and procedure.
5. That Staff's declaration that a Conditional Use Permit is not possible would be reversed, so that Bryson Ranch, LLC dba Horsin' Around Sedona can apply for a Conditional Use Permit without undue bias.
6. That Bryson Ranch, LLC dba Horsin' Around Sedona can continue to operate under the business license since the code enforcement was noncompliant.
7. That Bryson Ranch, LLC dba Horsin' Around Sedona may apply for a fence permit.

#### Conclusion

Thank you for your consideration on behalf of my client and myself. Please do not hesitate to contact me regarding any resolution or questions regarding this matter.

Sincerely,



Krista Cline

Agent for Bryson Ranch, LLC dba Horsin' Around Sedona

THIS IS A CONFORMED COPY OF INSTRUMENT  
RECORDED ON DATE 2-19-03 TIME 8:10  
IN BOOK 4003 PAGE 592  
PATSY JENNEY-COJON, RECORDER  
[Signature] DEPUTY

## AMENDED AIRPORT LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this 1<sup>st</sup> day of February, 2003, by and between YAVAPAI COUNTY, a political subdivision of the State of Arizona hereinafter called "LESSOR" and the SEDONA-OAK CREEK AIRPORT AUTHORITY, a non-profit corporation, d/b/a Sedona Airport Authority and/or Sedona Airport Administration, hereinafter called "LESSEE".

### RECITALS

WHEREAS, the LESSOR owns certain real property pursuant to a conveyance by deed from the United States of America dated October 31, 1956 for the purpose of establishing and operating a public airport; and

WHEREAS, on January 18, 1971, the LESSOR entered into a lease agreement with LESSEE's predecessor in interest, the Sedona Airport Authority, for operation of the public airport; and

WHEREAS, since approval of the original lease, the parties have amended certain terms and conditions of the lease by execution of supplemental agreements and have extended the term of the lease by exercise of options as provided in the agreement with the term of the agreement now set to expire on May 1, 2031; and

WHEREAS, the parties wish to provide for an option whereby LESSEE may extend the lease term beyond the expiration date provided in the original lease agreement and amendments thereto; and

WHEREAS, LESSOR wishes to place the entirety of the premises conveyed to LESSOR by the October 31, 1956 deed under operating control of ~~LESSOR~~ <sup>LESSEE</sup>; and *ADW*

WHEREAS, LESSOR seeks to ensure the viability of the airport as a self-sustaining enterprise and to ensure that the airport continues to be managed and administered in a manner that will secure LESSOR's current and future fiscal interest in the facility; and

WHEREAS, the parties have determined that it would be to their mutual benefit to enter into an amended agreement, incorporating, as appropriate, portions of the prior agreements and such other amendments as the parties deem necessary; and

WHEREAS, LESSEE is a non-profit corporation formed for airport or air terminal purposes; and

WHEREAS, the parties are authorized to enter into this agreement pursuant to Section 11-28-8423 of the Arizona Revised Statutes.

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS**

1. **Effect on Prior Leases.** Upon approval by the parties, this Agreement shall supersede all prior lease agreements between the parties and amendments thereto.
2. **Description of the Leased Premises.** LESSOR, pursuant to the terms and conditions set forth in this agreement hereby leases the following described property:
  - A. All real property and improvements thereon as described in Exhibit A, attached hereto and incorporated by reference herein.
  - B. All personal property owned by LESSOR and located on the premises unless specifically exempted in this Agreement or amendments thereto.
  - C. Additional after-acquired property, as well as improvements thereon and equipment used in connection with the operation of the airport and air terminal purchased or acquired for such purpose.
3. **Assignment of Red Rock Memorial Lodge Lease.** As of the effective date of this Amended Airport Lease Agreement, LESSOR hereby assigns to LESSEE all of its right, title and interest in that certain Lease Agreement dated July 6, 1964 between LESSOR and the Red Rock Memorial Lodge #63 F. & A. M. ("the Masonic Lodge Lease") as amended by the "Amendment to Lease Agreement" dated April 26, 2001 ("the Amended Lodge Lease") with a current lease term to run through June 30, 2014 (copies attached hereto as Exhibit B). At such time as the Masonic Lodge Lease, as amended, expires or is otherwise terminated, the real property and improvements thereto shall become part of the premises leased by LESSOR to LESSEE pursuant to this Amended Airport Lease Agreement and shall be subject to its terms and conditions. It is understood and agreed that, as long as the lease with the Red Rock Memorial Lodge remains in force, LESSEE shall fully honor its terms and conditions.
4. **Lease Term.** The term of the amended Lease Agreement shall commence on February 1, 2003 and shall continue in full force and effect until May 1, 2031 unless otherwise terminated as provided herein. The LESSEE, may at its option, renew the Agreement for an additional term to expire June 30, 2050 by providing written notice to LESSOR on or before June 30, 2030, of its intent to renew.
5. **LESSEE's Consideration.** In consideration of approval of this Agreement, LESSEE agrees to the following:
  - A. To pay to LESSOR for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder, the sum of one and 00/100 (\$1.00) per year, the first payment to be made on or before the first day of July, ~~1999~~ <sup>2003</sup> and subsequent payments to be made on or before the first day of July of each succeeding year. *ADW*
  - B. In lieu of additional payment to LESSOR, to establish and maintain an Airport Improvement Fund to be used directly for airport improvements or as matching funds for any grant-funded airport improvement. LESSEE shall deposit in the Airport Improvement Fund its gross revenues, from whatever source derived, after deducting the following:
    1. LESSEE'S expenses directly attributable to the operation of the airport and air terminal,

2. Interest at the coupon or stated rate upon LESSEE'S outstanding bonds issued for airport and air terminal purposes and for purposes incidental and reasonably incidental thereto.
3. Amounts required to be paid into sinking funds annually for the redemption of sinking fund bonds issued for airport and air terminal purposes and for purposes incidental and reasonably related thereto.
4. Amounts required for serial maturity of bonds issued for airport and air terminal purposes and for purposes incidental and reasonably related thereto.
5. Amounts required to pay principal and interest on all other outstanding obligations incurred or assumed by LESSEE for airport and air terminal purposes and for purposes incidental and related thereto.
6. A reasonable amount for operating and maintenance reserves.
6. **Public Use of the Airport.** LESSEE agrees to operate the airport for the use and benefit of the public, to make available all airport facilities and services to the public without unjust discrimination and to refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges or fees for any use of the airport or its facilities or for any airport service. LESSEE agrees to provide space on the airport, to the extent available, and to grant rights and privileges for use of the landing area and facilities of the airport to all qualified persons, firms and corporations desiring to conduct aeronautical operations on the airport. LESSEE further agrees to promptly notify LESSOR, in writing, of any complaints received pertaining to any alleged violations of this Paragraph.
7. **Rates and Charges.** A schedule of lease rates and other applicable airport charges shall be provided to LESSOR prior to the effective date of this Agreement. LESSEE will provide written notice of any proposed changes in the schedule no less than 20 days prior to their proposed implementation date and shall provide an amended schedule prior to implementation of any such changes.
8. **Administration and Promotion of Airport Operations.** LESSEE shall actively supervise and direct the operation and development of the premises subject to the following terms and conditions:
  - A. It is the expectation of LESSOR that the airport will operate as a self-sufficient enterprise without financial subsidies or other payments by LESSOR except as expressly provided herein.
  - B. LESSEE shall operate the airport in a prudent and businesslike manner and prevent the commission of waste, extravagance and unsound business practices
  - C. LESSEE shall diligently promote aeronautical activities at the airport and to secure sub-tenants who wish to base aeronautical activities at the airport and to promote other types of revenue producing activities as appropriate.
9. **Airport Safety and Regulatory Compliance.** LESSEE agrees to take all necessary measures to operate the airport safely and in compliance with all regulatory requirements. In furtherance of this obligation LESSEE agrees to:

- A. take active charge of the management and supervision of airport activities to include establishment of written field rules and other pertinent rules and regulations as authorized by law, rule or regulation;
  - B. abide by, comply with, conform to and enforce all applicable Federal, State, County statutes, orders, rules, regulations and ordinances which in any manner affect the use or operation of the airport premises, including, but not limited to existing or hereinafter enacted rules and regulation of the Federal Aviation Agency or any succeeding agency thereof,;
  - C. inspect the runway, landing areas and taxiways and the lighting thereof on a regular basis, repair, and correct any conditions requiring minor and immediate repairs, and promptly advise LESSOR or its designated representative of any major disrepair or hazardous conditions and maintain, at LESSEE's expense, the lighting of the runway, landing areas, taxiways and airport beacon during hours of darkness;
  - D. operate the airport in accordance with the obligations of LESSOR to the Federal Government as enumerated in applicable grant agreements, deeds of conveyance, statutes, rules or regulations.
  - E. mark any temporarily unusable areas of the airport with red flags or equivalent markers during daylight hours and with lantern, torches or other suitable illumination or reflective devices at night.
10. **Grant of Exclusive Rights Prohibited.** LESSEE understands and agrees that nothing contained herein shall be construed to grant or authorize the granting of any "Exclusive Right" within the meaning of Section 303 of the Civil Aeronautics Act of 1938 as amended except as expressly permitted by applicable Federal statute, rule or regulation.
11. **Other Contracts and Agreements.** The lease of the premises is subject to the terms and conditions of the contracts and agreements listed in Exhibit D, attached hereto and incorporated by reference herein and by any future grant agreements that between LESSOR and the United States of America, the State of Arizona or any other funding entity.
12. **Financing of Development and Improvements.** LESSEE shall be obligated to provide funds as necessary to expand, improve and develop the airport and air terminal and to relocate or replace existing facilities in or on any space which is or may be leased or subleased hereunder. LESSEE shall prepare and, as necessary, update a five-year development/capital improvement plan and shall provide a copy of the plan and updates to LESSOR prior to undertaking any improvements or other development activities. LESSOR reserves the right, but shall not be obligated, to undertake such development or improvements as may be necessary in order to protect its interest in the premises and/or to comply with obligations arising from federal or state laws, rules, grant agreements or other agreements or to allocate funds to be used by LESSEE for such purposes. Unless otherwise expressly provided in this Agreement, or by other properly-authorized written agreement between the parties, any such expenditures, shall become obligations of the LESSEE due and payable upon demand by LESSOR. LESSEE shall have the right to issue bonds and incur other obligations to the extent permitted by law subject to the following conditions:
- A. No bonds issued by LESSEE shall be a lien or charge upon the premises.

- B. The LESSEE shall not assign, mortgage, pledge, hypothecate or encumber this Agreement or any portion of the premises except as expressly set forth herein.
- C. Bonds issued or other obligations incurred or assumed by LESSEE for airport or air terminal purposes shall not be obligations of LESSOR and LESSEE shall have no power to pledge the credit of LESSOR in any way whatsoever.
13. **Ownership of Airport Property.** Title to buildings, structures and additions made to buildings, structures and additions made to the premises by LESSEE or any of its subtenants shall vest in the LESSOR immediately upon termination of this lease. No building, structure or addition shall be removed from the leased premises without written consent of LESSOR unless the lease, permit, license, or other agreement under which the building, structure or addition was affixed to the land provide a right of removal and said lease, permit, license or other agreement was presented to and approved by the LESSOR before title vested in LESSOR.
14. **Routine Repairs and Maintenance.** The LESSEE shall be responsible for the condition of the premises, including the airport and air terminal as well as all improvements, fixtures and personal property thereon, whether now on the premises or hereafter added. LESSEE shall make all necessary repairs, inside and outside, structural or otherwise so as to maintain the premises in good order and condition and to keep them as an operating airport and air terminal during the term of this Agreement. Should LESSEE fail to discharge its obligations as set forth in this Section, LESSOR reserves the right, but shall not be obligated, to maintain and keep in repair the airport, air terminal or any other portion of the leased premises in order to protect its interest in the premises and/or to comply with obligations arising from federal or state laws, rules, grant agreements or other agreements or to allocate funds to be used by LESSEE for such purposes. Unless otherwise expressly provided in this Agreement or by other properly-authorized written agreement between the parties, any such expenditures, once made, shall become obligations of the LESSEE due and payable upon demand by LESSOR.
15. **Utilities.** LESSEE shall pay, or cause to be paid, all charges for gas, water, steam, electricity, light, heat, power, telephone, cable or other utility service furnished to or used in connection with LESSEE's activities pursuant to this Agreement.
16. **Alterations, Capital Improvements and Maintenance Projects.** It is understood and agreed that LESSOR has no present or future duty or responsibility for alterations, capital improvements or maintenance projects on the leased premises. Major alterations, capital improvements and major maintenance projects will be included in LESSEE'S five-year development/capital improvement plan as described in Section 13 of this Agreement. Prior to the preparation of plans or specifications or selection of any architects, engineers or contractors in connection with any alteration, capital improvement or maintenance project with a cost in excess of \$10,000 LESSEE shall advise LESSOR's designated representative. LESSOR shall have the right to review and approve plans and specifications and to participate in the selection of architects, engineers and contractors. LESSOR may elect to participate in the oversight and management of projects to the extent that it deems necessary to protect its interest. The parties may develop a management plan for individual projects specifying the roles and responsibilities of each party.
17. **Taxes and Assessments.** LESSEE shall pay, or cause to be paid, punctually when due and payable, all taxes, assessments or any other charge of every kind and nature which may be levied, assessed or imposed in connection with the premises or LESSEE's activities pursuant to this Agreement. LESSEE further agrees not to allow such taxes, assessments or other charges to become a lien on the premises or any structure or any fixture,

improvement or other property located thereon. Nothing contained herein shall be deemed to prohibit the LESSEE from contesting the validity or amount of any such tax, assessment or other charge before the appropriate authority or court.

**18. Subleases.** Subleases by LESSEE pursuant to this Agreement shall be subject to the following conditions:

- A. LESSEE shall submit each proposed commercial sublease to LESSOR for approval prior to execution by the LESSEE. Non-commercial leases may be submitted for approval prior to execution and, if so, shall be subject to the provisions of subsection 18(B). Each sublease to be submitted for approval by LESSOR shall contain a provision stating that "This sublease shall not be effective until approved by Yavapai County". In the event that LESSOR fails to take action on a sublease within 45 days of its submission for approval, it shall be deemed approved. Subleases submitted for approval which LESSOR declines to approve by vote of its Board of Supervisors shall be deemed void and unenforceable by any party. LESSOR will provide notice to SAA of grounds for disapproval of any lease. Prior to disapproval of any lease, LESSOR shall make a reasonable effort to resolve any issues that may be characterized by LESSOR as grounds for disapproval.
- B. In the event that LESSEE's interest in this Agreement terminates prior to the date specified in Paragraph 4, LESSOR-approved subleases shall continue in effect until their expiration dates, subject to other relevant terms and conditions of individual subleases. Subleases which have not been approved by LESSOR shall specifically provide that they shall be subject to early termination in the event that LESSEE's interest in this Agreement terminates prior to the termination date specified in the sublease.
- C. Subleases shall be restricted to such space as is actually <sup>REQUIRED</sup> ~~required~~ for the conduct of the sublessee's business activities. *DDW*
- D. No sublease shall encompass so large an area as to prevent other subleases to competitive aeronautical facilities.
- E. Commercial subleases and non-commercial subleases originally approved by LESSOR are not assignable by a sublessee without written permission of LESSOR and LESSEE. Each such sublease agreement shall include a written provision that any action that purports to assign the sublease without the written approval of LESSOR and LESSEE shall immediately terminate the sublease.
- F. No sublease shall be granted by LESSEE for less than adequate and full consideration. Such consideration may take the form of monetary payments as well as the construction of suitable permanent improvements and such other in-kind services as may be appropriate. The LESSOR expects that proposed sublease rates shall be established by comprehensive review of market rates for comparable space at similarly situated airports. LESSEE shall utilize a competitive bidding process for the award of subleases if it determined that such a process is required by law. Proposed rates shall be subject to review and approval by LESSOR.
- G. In discharging its management and administrative responsibilities pursuant to this Agreement, LESSEE shall ensure that all commercial sublessees provide

reasonable minimum levels of service. Minimum service specifications and compliance requirements shall be set forth in sublease solicitation documents and/or sublease agreements.

H. LESSOR reserves the right to direct LESSEE to terminate or cancel any sublease for any other of the reasons that this Agreement may be cancelled or terminated.

19. **Assignment or Transfer.** LESSEE shall not transfer any right title or interest in the airport premises or property located thereon without the express written consent of LESSOR except as expressly provided in this Agreement. Nothing in this Agreement shall prohibit LESSOR from assigning or otherwise transferring its right, title or interest in the premises and/or any property located thereon to another party or from assigning its rights and obligations as set forth in this Agreement. In the event of such transfer, it is understood that LESSOR's successor in interest shall be bound by the applicable terms and conditions of this Agreement. ADW
20. **Procurement of Goods and Services.** In the erection, improvement and repair of all buildings, structures, works, runways, improvements, fixtures and personal property, and in furnishing supplies and materials for same or for other use by the LESSEE having a value in excess of \$10,000, LESSEE shall advertise for bids for the work contemplated and for furnishing such supplies and materials and shall require sealed bids or proposals. Any such contract shall be let to the lowest responsible bidder. Where appropriate, the LESSEE may reject all bids and re-advertise for new bids. Agreements for the purchase of goods and services in excess of \$10,000 are subject to prior approval by LESSOR. For purchases of goods or services below \$10,000 LESSEE may utilize other procurement procedures as approved by LESSOR.
21. **Accounts.** LESSEE shall keep complete and accurate books, records and accounts in regard to the financing, refinancing, construction, operation and maintenance of the premises from which all revenues and expenses can be readily determined. Such books and records shall be open to inspection by LESSOR's designated representatives during regular business hours. Copies or abstracts may be taken therefrom by LESSOR's designated representatives.
22. **Annual Audit.** All accounts related to LESSEE's operations pursuant to this Agreement shall be audited annually, at LESSEE's expense, by a certified public accountant. Selection of the auditor shall be subject to the approval of LESSOR. A copy of the draft audit report shall be provided to the LESSOR no more than 120 days after the conclusion of the LESSOR's fiscal year. A copy of the final audit report, together with LESSEE's written responses to the audit findings, shall be provided to the LESSOR within 175 days of the conclusion of LESSOR's fiscal year. If so requested by LESSOR, LESSEE's Board of Directors and/or administrator shall meet with LESSOR's designated representatives to review the audit findings. LESSOR deems it essential to its interests in ownership and proper operation of the airport to receive audit information in a timely fashion. In the event that either of the audit reports are not provided by the specified deadlines, LESSOR may, at its option, commission or complete the annual audit and charge the cost to LESSEE.
23. **Annual Revenue and Expenditure Budget.** For the purpose of assuring LESSOR that the LESSEE is achieving the stated objectives of this Agreement, LESSEE shall submit to LESSOR, no less than 75 days prior to the start of LESSEE's fiscal year, a detailed statement of projected revenues and expenditures for that fiscal year covering all portions of LESSEE's operations conducted pursuant to this Agreement. The budget submissions shall be in a form acceptable to LESSOR.

Within a period of 45 days after submission of the proposed budget, the LESSOR shall notify the LESSEE of its approval or disapproval thereof. If the proposed budget is approved by the LESSOR it shall constitute LESSEE's adopted budget for the subject fiscal year. If the proposed budget is disapproved, the LESSOR and LESSEE shall meet within ten (10) days of notification of disapproval to resolve any areas of disagreement. Failure by LESSOR to act on the proposed budget within the 45-day period shall be deemed approval of same.

If a satisfactory agreement is not reached within ten (10) days of the initial meeting, either party shall have access to any court of competent jurisdiction. In the alternative, by agreement of the parties, the dispute may be referred for mediation, arbitration or other dispute resolution process. In the event that it is determined that either party has acted in so arbitrary and capricious a manner as to constitute a display of bad faith, the other party may be entitled to reasonable attorney's fees.

It expressly understood and agreed that LESSOR is not obligated to approve any proposed budget that would require a contribution or other payment from LESSOR or from any other source unless such contribution or payment has been formally approved by the designated source prior to submission of the proposed budget.

Once LESSEE's adopted budget is approved and adopted, as provided herein, it shall not be amended without formal written approval by LESSOR. LESSOR shall act on proposed budget amendments no later than 45 days after submission by LESSEE. Failure by LESSOR to act on the proposed budget within the 45-day period shall be deemed approval of same.

24. **Annual Report.** LESSEE shall deliver to LESSOR, no later than the date of delivery of the annual revenue and expenditure budget, a complete report summarizing the financing, refinancing, construction, operation and maintenance of the airport premises for the prior fiscal year. The Annual Report shall be in a form acceptable to LESSOR.
25. **Indemnification and Insurance.** LESSEE shall save, hold harmless and indemnify LESSOR from any claims, causes of action, judgments or other costs, including reasonable attorney's fees arising from acts or omissions pursuant to LESSOR's performance pursuant to this Agreement unless such claims, causes, judgments or other costs arise solely from LESSOR's negligent acts or omissions.

LESSEE further agrees to obtain and maintain policies of insurance to include general liability, property damage, hangar keeper's liability, fire insurance and such other coverages as may be necessary to protect LESSEE and LESSOR from claims, causes of action, judgments and other costs, including reasonable attorney's fees arising from acts or omissions pursuant to LESSEE's performance pursuant to this Agreement. Minimum policy limits shall not be less than \$2,000,000 per occurrence for general liability insurance. Fire and property damage policy limits shall be sufficient to cover the replacement of real and personal property located on the premises. LESSOR may require increases in the policy limits as necessary to reflect its assessment of the magnitude of potential risks. All such policies shall name LESSOR as an additional insured.

LESSEE shall pay the premiums for all required policies and shall require that any insurance proceeds resulting from a loss or damage to property under such policies are payable jointly to the LESSOR and LESSEE in order that proceeds will be reinvested in rebuilding or repairing the damaged property. All insurance proceeds received as a result of loss or damage to property on the airport premises from any source whatever shall accrue to the benefit of the airport. While it is understood and agreed that such funds are

to be expended solely for the benefit of the airport such expenditures may be deferred for later use in accordance with a development/capital improvement plan approved by LESSOR pursuant to this Agreement.

LESSEE shall provide current certificates of insurance for all coverage. LESSEE shall advise LESSOR of any proposed changes in the amount or extent of coverage at least 15 days prior to the effective date of such changes and shall file updated certificates as required to reflect such changes.

26. **Bylaws.** LESSEE shall enact bylaws to establish procedures for the conduct of its activities pursuant to this Agreement. LESSOR shall submit proposed bylaws, or amendments thereto, to LESSOR no less than 30 days prior to the date set for approval by LESSEE. LESSOR reserves the right to disapprove any bylaws or amendments which it determines to have an actual or potential adverse impact on LESSOR's interests as set forth in this Agreement.
27. **Board of Directors.** No person may serve on the Board of Directors unless approved by LESSOR or its successor in interest prior to election or re-election. LESSOR shall review the list of persons submitted for consideration and shall approve or disapprove each name submitted. If LESSOR or its successor in interest does not approve or disapprove a list or name submitted within 45 days of submission, that list or name shall be deemed approved. LESSOR may prepare its own list, or add to a submitted list, names of persons approved by Yavapai County or its successor in interest for election and shall deliver such names to the LESSEE. Biographical information shall be provided for each candidate for election whether submitted by the Sedona Airport Administration or Yavapai County or its successor in interest. LESSEE shall establish procedures for selection and removal of its Board of Directors consistent with these provisions and include such procedures in its bylaws.
28. **Conflicts of Interest.** LESSOR deems it essential that actions of LESSEE's Board of Directors are in accord with the interests of LESSEE, LESSOR and the public. Accordingly LESSEE shall include in its bylaws a provision requiring its Board members, officers and employees to adhere to the provisions of the State of Arizona conflict of interest statutes, A.R.S. §38-501 *et seq.*
29. **Open Meeting Laws.** Since LESSEE's activities affect significant public interests, its decision processes must be visible to the public. LESSEE shall be considered a public body pursuant to A.R.S. §38-431(5). LESSEE shall include in its bylaws a provision requiring its Board of Directors, Board members and employees to adhere to the provisions of the Open Meeting Laws of the State of Arizona, A.R.S. §38-431 *et seq.*
30. **Public Records.** LESSEE's records shall be considered public records and are subject to public disclosure as required by law for such records. LESSEE shall include in its bylaws a provision requiring its Board of Directors, Board Members and employees to adhere to the Public Records Laws of the State of Arizona. A.R.S. §38-421 *et seq.* and §39-121 *et seq.*
31. **Consultation With Lessor.** It is understood and agreed that LESSOR, as owner of the airport premises, has an ongoing interest in proper performance of management and administration activities at the airport. In furtherance thereof, LESSEE agrees to consult with LESSOR's designated representatives on matters of planning, policy development, management and administration and shall provide such periodic activity reports as may be requested by LESSOR.

- 32. National Emergency.** During time of war or national emergency, LESSOR shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and or other area of facilities of the airport. If such an agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the government agreement, shall be suspended. Any such agreement shall be the sole responsibility of LESSOR. The LESSOR may contract with LESSEE to administer or otherwise discharge LESSOR's obligations pursuant to such agreement on such terms and conditions as may be mutually acceptable to the parties.
- 33. Subordination to Federal Agreements Generally.** This agreement shall be subordinate to the provision of any existing agreement between LESSOR and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 34. Condemnation or Acquisition by Others.** In the event that the demised premises or any part thereof, or the right and interest of LESSEE in or to the premises or any part thereof shall be condemned, taken or acquired by a body having superior power of eminent domain, any compensation or award therefor shall be payable in accordance with the following provisions:
- A. Out of said compensation or award, there shall be paid to LESSEE an amount equal to the sum of the following:
1. The amount required to redeem LESSEE's bonds or to pay any of LESSEE's obligations issued or incurred for airport and air terminal purposes and outstanding at the time title vest in the condemning power at the earliest dates after such decree of judgment when any such bonds may be called for redemption or such obligations may be paid, or if any such bonds or obligations are not subject to call or immediate payment, then the amount required to redeem or pay them at their maturity; less the following items
    - a. The assets of any sinking fund established for the redemption of any bonds or other obligations issued, insured or assumed for airport and air terminal purposes, including interest thereon.
    - b. The proceeds remaining unexpended from the sale of any and all bonds issued, incurred or assumed for airport and air terminal purposes;
    - c. Any cash set aside for redemption of bonds issued in payment of any obligations incurred or assumed for airport and air terminal purposes;
  2. The interest on any such bonds or obligations from the last interest payment due prior to the vesting of title in the condemning power up to the date of such call or maturity;
  3. The call premium, if any;
  4. Any unamortized funds of LESSEE, other than bond or other obligation proceeds, of Federal, State or City grants, expended for capital improvements at the airport or air terminal.

- B. The balance, if any, of such compensation or award shall be paid to LESSOR, or if LESSEE remains intact and viable and if the remaining property is sufficient to continue airport and air terminal operations to the LESSEE for continuing airport and air terminal purposes.
  - C. The amount paid to LESSEE as provided herein shall, together with any funds remaining unexpended for airport and air terminal purposes from the proceeds of any such bonds or obligations, be set aside in a special fund. If, after payment of redemption of all of said bonds and obligations with interest and after the deduction of unamortized funds of LESSEE as aforesaid, there shall remain any balance in said special fund, including income and appreciation thereon, and if the Airport can no longer be operated, LESSEE shall pay such balance to LESSOR.
  - D. If the whole of said demised premises or the right and interest of LESSEE shall be condemned, taken or acquired, as aforesaid, then no further rental shall be payable hereunder. If only part of the said demised premises or if only part of the right and interest of the LESSEE is condemned, taken or acquired and is such part is so substantial as to make it impractical to proceed with the operation of the demised premises for airport or air terminal purposes, no further rental shall be payable; provided, however, that possession of the demised premises remaining shall be promptly surrendered to LESSOR as if the term, hereof, shall have come to an end.
  - E. If, however, only a part of said demised premises or of the right and interest of LESSEE in or to the same shall be condemned, taken or acquired, and the remaining is sufficient to conduct the operation thereof for airport and air terminal purposes, the obligations of LESSEE under the provisions of this Agreement relating to rent as well as under other provisions of this Agreement, shall continue and remain unaffected by such condemnation, taking or acquisition.
- 35. Termination by LESSOR.** LESSOR may terminate this Agreement prior to its expiration date in the event of any of the following:
- A. Filing of a petition, voluntarily or involuntarily for the adjudication of LESSEE as a bankrupt.
  - B. Any general assignment by LESSEE for the benefit of creditors
  - C. The any act or occurrence which deprives the LESSEE permanently of the ability to perform its obligations pursuant to this Agreement except suspension of operations resulting from war or national emergency.
  - D. The abandonment of operations at the airport by LESSEE
  - E. LESSEE's failure to adhere to any and all of the terms and conditions of this Agreement after notice and opportunity to correct said deficiencies as provided in this subsection. LESSOR shall provide written notice to LESSEE specifying the nature of the alleged violations. LESSEE shall have 30 days from the date of its receipt of said notice to correct the deficiencies noted and shall be granted an additional 30 days for compliance in the event that LESSEE furnishes satisfactory evidence that it is continuously and diligently attempting to correct such default or breach.

36. **Termination by LESSEE.** LESSEE may terminate this agreement prior to its expiration date if the LESSOR fails to abide by any of the terms and conditions of this Agreement after the expiration of 30 days from the date written notice has been given to LESSOR by LESSEE to correct such default or breach provided that LESSEE shall extend the notice period for an additional 30 days in the event that LESSOR furnishes satisfactory evidence that it is continuously and diligently attempting to correct such default or breach.

37. **Discrimination.** In its operation of the airport, ~~LESSEE~~ understands and agrees to the following: *ADW*  
*LESSEE*

A. No person on the grounds of race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the airport facilities.

B. In the construction of any improvements on, over or under the airport premises or the furnishing of services thereon, no persons shall be excluded from participation or otherwise subjected to discrimination on the basis of race, color, sex or national origin.

C. LESSEE shall maintain and operate the airport premises in compliance with all other requirements imposed by *Title 49, Code of Federal Regulations, Department of Transportation Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964*, and as said regulations may be amended.

D. Failure to comply with Sections 6 or 37 of this Agreement shall constitute a material breach thereof and in the event of such non-compliance, LESSOR may terminate this Agreement and the estate created without liability therefore. In the alternative, LESSOR or the United States or both entities may take actions as necessary to judicially enforce the above-referenced provisions of the Agreement.

E. LESSEE will, to the extent required by statute, regulation or rule, undertake an affirmative action program as set forth in *14 CFR Part 152, subpart E* to ensure that no person shall be excluded from participation in any covered employment activities or participation in or receipt of any services or benefits of any program covered by this subpart.

F. LESSEE shall insert the above provisions of this Section 36 in any sublease, license or other grant of authority to any person, firm or corporation to provide accommodations and/or services to the public on the airport premises.

38. **Inspection.** LESSOR reserves the right at all times of free access to all portions of the premises for purposes of inspection.

39. **Notices.** All written notices required to be sent by either party to the other shall be forwarded by certified mail addressed as follows:

LESSOR: Board of Supervisors, Yavapai County  
1015 Fair Street, Prescott, AZ 86301

LESSEE: Board of Directors, Sedona Airport Administration  
235 Air Terminal Drive, Sedona, Arizona 86336

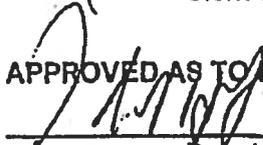
40. **Waiver.** Waiver of any provision of this Agreement by either party shall not constitute a waiver of any other provision of the agreement nor of any subsequent breach of any provision of the agreement.
41. **Entire Agreement.** This Lease Agreement sets forth all the promises, leases, conditions between LESSOR and LESSEE relative to the Premises, and there are no promises, leases, conditions or understandings, either oral or written, between them other than as are herein set forth. No alteration, amendment, change or addition to the Lease shall be binding upon LESSOR or LESSEE unless reduced to writing and signed by them.
42. **Time of the Essence.** Time shall be of the essence with respect to all dates and time periods set forth in this Lease.
43. **Severability.** In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained.
44. **43. Required Provisions.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein. Upon the application of either party, any required provisions not inserted or inserted incorrectly, shall be inserted or corrected by Amendment to the Agreement.
45. **Applicable Laws.** This Agreement has been made in the State of Arizona and shall be governed and interpreted in accordance with the laws of the State of Arizona.

**APPROVALS**

**LESSOR: YAVAPAI COUNTY**

  
\_\_\_\_\_  
Chairman, Board of Supervisors  
2/3/03  
\_\_\_\_\_  
Date

**ATTEST:**  
  
\_\_\_\_\_  
Clerk of the Board

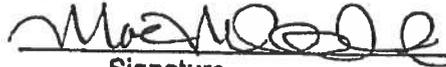
**APPROVED AS TO FORM**  
  
\_\_\_\_\_  
Deputy County Attorney

LESSEE: SEDONA AIRPORT ADMINISTRATION

  
\_\_\_\_\_  
President, Board of Directors

1-27-03  
Date

ATTEST:

  
\_\_\_\_\_  
Signature

GENERAL MGR. (SAA)  
Title

SedonaMasterLease11703

Exhibit 3

**EXHIBIT A**

**SEDONA AIRPORT – AMENDED LEASE AGREEMENT**

**LEGAL DESCRIPTION OF THE LEASED PREMISES**

Exhibit 3

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## OFFICE OF THE SEDONA CITY ATTORNEY

102 ROADRUNNER DR. SEDONA, AZ 86336-3710  
PH: 928-204-7200 FAX: 928-204-7188 WWW.SEDONAAZ.GOV

February 10, 2015

Ms. Krista Cline  
160 Quail Ridge Lane  
Sedona, AZ 86336

Re: Bryson Ranch Board of Adjustment Appeal

Dear Ms. Cline:

On February 6, 2015, the City's Community Development Department received your letter addressed to Ms. Audree Juhlin regarding the above-referenced matter. While the City will certainly honor your request to appeal Ms. Juhlin's interpretation of the Land Development Code to the Board of Adjustment, I did want to make one clarification in response to a particular claim you make. That clarification is related to your apparent impression that Ms. Juhlin has "predetermined" that your client's proposed activity is not eligible for a Conditional Use Permit, (CUP) and has somehow disallowed your client to seek such a permit.

The fact is that, as set out in the City's Land Development Code, CUP applications are reviewed and acted upon by the Planning and Zoning Commission. Ms. Juhlin's role in the CUP process, per Section 402.02(A) is to conduct a pre-application consultation with potential applicants. When the City became aware of the fact that your client was operating a commercial business within the City limits without attempting to comply with any of the relevant requirements of our Land Development Code, she in fact did discuss the CUP process with your client. She explained that, in her opinion, his proposed commercial activity was not one of the permitted uses that could be granted through the CUP process within the Airport property which is zoned as a Community Facilities District. But ultimately the question concerning whether or not your client can obtain a Conditional Use Permit is one that is determined by the Planning and Zoning Commission itself.

I raise this point in order to make it clear that your client does not have to obtain a decision from the Board of Adjustment before he can apply for a CUP. Having said this, I also want to make it clear that the Community Development staff will still provide input to the Planning and Zoning Commission regarding the appropriateness of granting a CUP for the use proposed by your client. The staff will certainly evaluate your client's application for a CUP if and when it is submitted and will base their opinions and recommendations on their interpretation of the Land Development Code as it applies to the facts set forth in the application.

I wanted to make the above clarification so that if your client so chooses, he can commence submitting a CUP application now and without having to wait for a decision from the Board of Adjustment. I would direct you to the application submittal requirements set forth in Section 402.02(B) of the Land Development Code. These requirements include, among other things

Michael G. Goimarac  
Sedona City Attorney  
(928) 204-7200  
MGoimarac@SedonaAZ.gov

Ronald C. Ramsey  
Assistant City Attorney  
(928) 204-7204  
RRamsey@SedonaAZ.gov

Lisa Weiler-Parsons  
Assistant City Attorney / Prosecutor  
(928) 203-5016  
LWeiler-Parsons@SedonaAZ.gov

Jennifer L. Braden  
Legal Assistant / Claims  
(928) 204-7200  
JBraden@SedonaAZ.gov

Exhibit 4

February 10, 2015  
Page 2

that your client provide a letter of authorization from the property owners/lessees, or in this case Yavapai County and the Airport Authority.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G.", followed by a long horizontal line extending to the right.

Michael G. Goimarac  
Sedona City Attorney

cc: Audree Juhlin

Exhibit 4

### Building permits issued by the City of Sedona for projects at the Airport

Permit No	Description	Date Issued	Application Date	Customer Last Name	Project Cost
B-00049	Electrical Permit/Sky Ranch Lodge	10/25/2012	10/25/2012	SKY RANCH LODGE	\$0.00
B-00127	Commerical Addition and Remodel/Upgrade Equipment at existing cell site.	8/2/2013	12/18/2012	T-MOBILE	\$25,000.00
B-00334	Commercial Demolition	6/13/2013	6/3/2013	YAVAPAI COUNTY	\$8,500.00
B-00449	Commerical Addition and Remodel/TOWER MAINTENANCE: REPLACE 3 OF 12 ANTENNAS, ADD 3F	11/18/2013	8/22/2013	VERIZON WIRELESS	\$2,500.00
B-00844	Commerical Addition and Remodel/RESURFACE EXISTING SHRINE CONCRETE PLATFORM/NEW (	6/26/2014	6/12/2014	CENTRAL ARIZ MASONIC LODGE #14	\$11,250.00
B-01013	Electrical Permit/INSPECTION FOR POWER TURN ON	10/7/2014	10/7/2014	YAVAPAI COUNTY	\$500.00
B-01161	Commercial Addition and Remodel/MODIFICATION TO AN EXISTING WIRELESS TELECOMMUNICA	1/12/2015	1/12/2015	AMERICAN TOWER CORPORATION	\$15,000.00
B0122	Converted from CityView 10/1/12. MOTEL/8 UNITS	11/16/1988	11/16/1988	GRAHAM BUILDING COMPANY	\$80,000.00
B0123	Converted from CityView 10/1/12. MOTEL/8 UNITS	11/16/1988	11/16/1988	GRAHAM BUILDING COMPANY	\$80,000.00
B0212	Converted from CityView 10/1/12. ADDITION TO B122	1/27/1989	1/27/1989	GRAHAM BUILDING COMPANY	\$0.00
B0284	Converted from CityView 10/1/12. ADDITION TO B123	1/20/1989	1/20/1989	GRAHAM BUILDING COMPANY	\$0.00
B0488	Converted from CityView 10/1/12. GRADING	7/14/1989	7/14/1989	AVCON INC.	\$0.00
B0506	Converted from CityView 10/1/12. NEW AIRPORT TERMINAL BUILDING	7/24/1989	7/24/1989	(VOID)SEDONA AIRPORT AUTHORI	\$174,989.00
B0512	Converted from CityView 10/1/12. NEW AIRPORT TERMINAL BUILDING	9/25/1989	7/24/1989	SED. OAK CREEK AIRPORT AUTH.	\$289,170.00
B0871-G	Converted from CityView 10/1/12. ROAD-GRAVEL OVERLAY OF EXISTING GRADE	4/27/1990	4/19/1990	SEDONA ARIZONA AIRPORT SVCS.	\$1,250.00
B10188	Converted from CityView 10/1/12. CHANGE EXISTING ANTENNAS	8/22/2008	1/17/2008	SEDONA FIRE DISTRICT	\$5,000.00
B1050	Converted from CityView 10/1/12. WATER HEATER	8/28/1990	8/28/1990	GRACE HILL	\$0.00
B1050-A	Converted from CityView 10/1/12. GAS LINE/WATER LINE	9/10/1990	9/10/1990	GRACE HILL	\$0.00
B10884	Converted from CityView 10/1/12. ANTENNA & FOOTING MODIFICATIONS TO EXISTING	11/24/2009	10/19/2009	VERIZON WIRELESS	\$7,500.00
B11129	Converted from CityView 10/1/12. NEW RESTAURANT	9/22/2010	5/12/2010	SEDONA OAK CREEK AIRPORT AUTHORI	\$272,475.00
B11129-D	Converted from CityView 10/1/12. DEMOLITION/ AIRPORT RESTAURANT	9/14/2010	9/14/2010	SEDONA OAK CREEK AIRPORT AUTHORI	\$15,000.00
B11129-G	Converted from CityView 10/1/12. GRADING	6/8/2010	5/12/2010	SEDONA OAK CREEK AIRPORT AUTHORI	\$74,000.00
B11129-R	Converted from CityView 10/1/12. REVISION/MISC INTERIOR REVISIONS	1/18/2011	12/30/2010	SEDONA OAK CREEK AIRPORT AUTHORI	\$15,000.00
B11323	Converted from CityView 10/1/12. REPLACING ANTENNAS/ADDING EMERGENCY GENERATOR	1/18/2011	12/6/2010	CROWN CASTLE INTERNATIONAL	\$15,000.00
B11354	Converted from CityView 10/1/12. REMODEL/ADDING DECK W/BAR	3/16/2011	1/7/2011	SKY RANCH LODGE	\$13,500.00
B11355	Converted from CityView 10/1/12. REMODEL/REMOVING WINDOW ADDING DOORS	1/7/2011	1/7/2011	SKY RANCH LODGE	\$10,000.00
B11414	Converted from CityView 10/1/12. PROPANE TANK SET/1000 GAL	1/31/2011	1/31/2011	RED ROCK BALLOON RIDES & SOUVENIF	\$0.00
B11502	Converted from CityView 10/1/12. ELECTRICAL	6/21/2011	5/16/2011	AT&T WIRELESS, BY FM GROUP	\$15,000.00
B11789	Converted from CityView 10/1/12. RESTROOM ADDITION	2/24/2012	1/31/2012	SKY RANCH LODGE	\$18,480.00
B11972	Converted from CityView 10/1/12. FACTORY BUILT BUILDING #1	7/12/2012	6/20/2012	SEDONA OAK CREEK AIRPORT AUTHORI	\$20,000.00
B11972.1	Converted from CityView 10/1/12. FACTORY BUILT BUILDING	7/12/2012	6/20/2012	SEDONA OAK CREEK AIRPORT AUTHORI	\$20,000.00
B1261	Converted from CityView 10/1/12. ELECTRIC	2/14/1991	2/14/1991	RED ROCK AVIATION	\$0.00
B3518	Converted from CityView 10/1/12. RESTROOM REMODEL	7/10/1995	6/28/1995	RED ROCK MEMORIAL LODGE #63	\$3,279.00
B4159	Converted from CityView 10/1/12. CROSS	9/23/1996	9/23/1996	RED ROCK MEMORIAL LODGE #63	\$3,000.00
B4305	Converted from CityView 10/1/12. GATE	12/1/1997	1/28/1997	CHAPEL OF THE HOLY CROSS	\$14,737.00

Exhibit 5

B5048	Converted from CityView 10/1/12. 400ASES;FURNANCE;2 COMPRESSOR	7/29/1998	7/29/1998 RED ROCK MEMORIAL LODGE #63	\$20,000.00
B5156	Converted from CityView 10/1/12. AIRPORT HANGAR	10/13/1998	10/2/1998 SEDONA OAK CREEK AIRPORT AUTHORI	\$561,600.00
B5296	Converted from CityView 10/1/12. TENANT IMPROVEMENT/HANGAR	2/1/1999	1/21/1999 JOHN GOSTOMSKI	\$1,295.00
B5297	Converted from CityView 10/1/12. TENANT IMPROVEMENT/HANGAR	2/1/1999	1/21/1999 SCOTT & GEORGIE MONTGOMERY	\$2,100.00
B5298	Converted from CityView 10/1/12. TENANT IMPROVEMENT/HANGAR	2/1/1999	1/21/1999 RUSS DEMARAY	\$385.00
B5299	Converted from CityView 10/1/12. TENANT IMPROVEMENT/HANGAR	2/1/1999	1/21/1999 DAVE WEBSTER	\$385.00
B5300	Converted from CityView 10/1/12. TENANT IMPROVEMENT/HANGAR	2/1/1999	1/21/1999 MIKE SCHROEDER	\$1,365.00
B5427	Converted from CityView 10/1/12. ELECTRIC SERVICE	4/23/1999	4/23/1999 SEDONA OAK CREEK AIRPORT AUTHORI	\$1,000.00
B5524	Converted from CityView 10/1/12. TOWER/POLE REPLACEMENT	9/22/1999	6/29/1999 VOICESTREAM WIRELESS	\$10,000.00
B5623	Converted from CityView 10/1/12. ELECTRICAL UPGRADE	8/26/1999	8/26/1999 SEDONA OAK CREEK AIRPORT AUTHORI	\$1,000.00
B5679	Converted from CityView 10/1/12. WALKIN COOLER/STORAGE ADDITION	10/10/2000	10/4/1999 ROBERT A. CALIA	\$2,816.00
B5944	Converted from CityView 10/1/12. WIRELESS COMMUNICATION FACILITY	5/18/2000	4/17/2000 AMERICAN TOWER CORP	\$20,000.00
B6369	Converted from CityView 10/1/12. CELLULAR PHONE ANTENNA	3/27/2001	1/23/2001 CROWN CASTLE INTERNATIONAL	\$33,208.00
B6438	Converted from CityView 10/1/12. WIRELESS COMMUNICATION FACILITY	2/26/2001	2/26/2001 JIM WEST/VOICESTREAM WIRELESS	\$10,000.00
B6599	Converted from CityView 10/1/12. AIRPORT HANGER	6/21/2001	6/14/2001 MIKE BRYANT	\$314,875.00
B7348	Converted from CityView 10/1/12. ANTENNA ADDITION TO FIRE TOWER	10/17/2002	10/17/2002 ESEDONA WIRELESS LLC	\$0.00
B9133	Converted from CityView 10/1/12. ELECTRICAL PANEL	12/20/2005	12/20/2005 SHAWN WENDELL	\$500.00
B9166	Converted from CityView 10/1/12. PUMP HOUSE REPLACEMENT	2/10/2006	1/18/2006 OAK CREEK WATER	\$3,456.00
B9508	Converted from CityView 10/1/12. GENERATOR	9/22/2006	8/18/2006 T-MOBILE	\$17,000.00
B9760	Converted from CityView 10/1/12. SIGN INSTALLATION / GAS STATION	3/2/2007	2/20/2007 THOMAS SIMPSON	\$2,001.00
B9847	Converted from CityView 10/1/12. ELECTRICAL UPGRADE 400 AMP	4/12/2007	4/12/2007 GRAHAM	\$0.00
FLM13-0001	Film Permi/A show about the world of high end collectors	10/8/2013	10/8/2013 YAVAPAI COUNTY	\$0.00
PZ13-00014	ZONE CHANGE AND DEVELOPMENT REVIEW / SKY RANCH LODGE EXPANSION	4/15/2013	7/30/2013 SKY RANCH LODGE	\$0.00
SP11-76	Converted from CityView 10/1/12. 1 ILLUMINATED FREESTANDING SIGN 1 ILLUMINATED WALL SIGN	8/23/2011	8/23/2011 MESA GRILL	\$0.00
TUP13-0001	Temporary Use Permit/WINE FESTIVAL	9/3/2013	9/3/2013 SEDONA FAIR INC	\$0.00
TUP14-0001	Temporary Use Permit/SEDONA WINEFEST	9/4/2014	8/8/2014 SEDONA FAIR INC	\$0.00
VB14-00004		9/5/2014	9/5/2014 SEDONA WINEFEST	\$0.00

## Exhibit 5

## EXHIBIT 6

### **Sedona Land Development Code, Article 6 (District Regulations) Section 625 (CF) Community Facilities District.**

**625.01** Purposes. This district is intended primarily for the accommodation of public/semi-public uses (other than street rights-of-way); the identification of public-accessible areas where all persons would have the opportunity to be involved in and enjoy civic, cultural and recreational pursuits; and the identification and preservation of areas of historic significance.

**625.02** Use Regulations. Buildings, structures or premises shall be used and buildings and structures shall be erected, altered or enlarged only for the uses listed below. All other uses not specifically listed or determined to be similar to those described below shall be prohibited and unlawful.

#### A. Uses Subject to Conditional Use Permit.

1. Accessory uses and structures, located on the same site as a conditional use.
2. Cemeteries, columbariums and related facilities.
3. Commercial uses incidental and accessory to other listed uses (such as concession stands and small gift shops).
4. Cultural centers.
5. Educational institutions, including charter schools and private schools, provided they offer a curriculum of general instruction similar to public schools subject to the requirements set forth in SLDC [914](#).
6. Historical landmarks.
7. Libraries and museums.
8. Municipal golf courses.
9. Public buildings and grounds.
10. Public parks and parks maintenance facilities intended for regular parks and recreation maintenance purposes. On-site long-term storage of heavy earth-moving equipment and large trucks is prohibited.
11. Public or private nonprofit educational institutions.
12. Public and semi-public community centers and recreational facilities (such as swimming pools and youth activity centers).

13. Public utility and public service substations, water tanks, pumping plants and similar installations, including public utility repair and storage facilities. On-site long-term storage of heavy earth-moving equipment and large trucks is prohibited.

14. Public utility offices.

B. Uses Subject to Temporary Use Permit. Any use prescribed in SLDC 407.

**625.03 Approvals Required.** Prior to the construction of physical improvements and the issuance of a building permit for all uses, development review approval shall be obtained as outlined in SLDC 401. Where required, conditional use permits shall be obtained as outlined in SLDC 402 and temporary use permits shall be obtained as outlined in SLDC 407.

**625.04 Property Development Standards.** The following property development standards shall apply to the site of a permitted or conditional use; these requirements are minimums unless otherwise noted.

A. Lot Area. Each lot shall have a minimum lot area of 10,000 square feet.

B. Lot Dimensions.

1. All lots shall have a minimum width of 100 feet.

2. All lots shall have a minimum depth of 100 feet.

C. Lot Coverage. Maximum lot coverage shall not exceed 25%.

D. Floor Area Ratio. Floor area ratio shall not exceed 0.50.

E. Yards.

1. Front Yard. There shall be a front yard having a depth of not less than 30 feet.

2. Side Yard. There shall be a side yard of not less than 15 feet.

3. Rear Yard. There shall be a rear yard of not less than 20 feet.

F. Access. All lots shall have frontage on and vehicular access from a dedicated street unless other frontage and/or permanent vehicle access has been approved by the Director. Each building site shall have a minimum width easement or right-of-way for access of 20 feet.

G. Distance Between Buildings. There shall not be less than 10 feet between an accessory building and a main building or between 2 buildings.

H. Accessory Structures. Accessory structures and architectural features shall comply with the requirements of Article 9 SLDC.

I. Height and Screening Regulations. All buildings, structures, walls and fences shall comply with the provisions of Article 9 SLDC.

J. Color and Materials. The exterior color and materials of all buildings, structures, walls and fences shall comply with the provisions of Article 9 SLDC.

K. Utilities. Utilities shall be provided in compliance with the provisions of Article 9 SLDC.

L. Trees. Trees shall be preserved and planted to comply with the provisions of Article 9 SLDC.

M. Outdoor Lighting. Outdoor lighting shall comply with the provisions of Article 9 SLDC.

N. Landscaping. The landscaping provisions of Article 9 SLDC shall apply.

O. Off-Street Parking. Off-street parking shall comply with the provisions of Article 9 SLDC.

P. Signs. Signs shall comply with the provisions of Article 11 SLDC.

Q. Design Standards. The provisions of Article 10 SLDC shall apply as administered through the development review process of Article 4 SLDC.

[Amended during 2012 recodification].

## **626 P – Parking District.**

**626.01 Purpose.** This district is intended to provide and identify areas reserved and developed exclusively for public or private off-street parking areas and to accommodate the establishment of parking districts which provide an alternate means of meeting the off-street parking requirements for multiple businesses in a defined area.

**626.02 Use Regulations.** Buildings, structures or premises shall be used and buildings and structures shall be erected, altered or enlarged only for the uses listed below. All other uses not specifically listed or determined to be similar to those described below shall be prohibited and unlawful.

### **A. Permitted Uses and Structures.**

1. Accessory uses and structures located on the same site as a permitted use.
2. Public or private open parking lots, including incidental control gates, pay boxes or guard sheds, shall be permitted as a matter of right.

### **B. Uses Subject to Conditional Use Permit.**

1. Accessory uses and structures located on the same site as a conditional use.

2. Public or private garages or other parking structures including incidental appurtenances.

C. Uses Subject to Temporary Use Permit. Any use prescribed in SLDC 407.

**626.03 Approvals Required.** Before the construction of physical improvements and the issuance of a building permit for all uses development review approval shall be obtained as outlined in SLDC 401. Where required, conditional use permits shall be obtained as outlined in SLDC 402 and temporary use permits as outlined in SLDC 407.

**626.04 Property Development Standards.** The following property development standards shall apply to all permitted land and building uses:

A. Yards.

1. A minimum 10-foot-wide front and street side setback area shall be required. These setback areas shall be landscaped except for necessary walks and drives.
2. A parking garage or structure shall maintain a minimum setback of 20 feet from any property in an Office Professional, General Commercial or Residential zoning district.

B. Walls, Fences and Required Screening.

1. Wherever off-street parking lots abut property in any Office Professional, General Commercial or Residential zoning district, a masonry wall, solid wood fence or other suitable screening and/or screen landscaping 6 feet in height shall be erected and maintained between the parking lot and these districts.
2. Wherever off-street parking lots are situated across the street from property in any Office Professional, General Commercial or Residential zoning district, a masonry wall or berm and/or screen landscaping 3 feet in height shall be erected and maintained between the parking lot and the front property line.

C. Height Regulations. All buildings, structures, walls and fences shall comply with the provisions of Article 9 SLDC.

D. Color and Materials. The exterior color and materials of all buildings, structures, walls and fences shall comply with the provisions of Article 9 SLDC.

E. Utilities. Utilities shall be provided in compliance with the provisions of Article 9 SLDC.

F. Trees. Trees shall be preserved and planted to comply with the provisions of Article 9 SLDC.

G. Outdoor Lighting. Outdoor lighting shall comply with the provisions of Article 9 SLDC.

H. Landscaping. All required landscaping shall comply with the requirements of Article 9 SLDC.

I. Off-Street Parking. The provisions of Article 9 SLDC shall apply.

J. Signs. The provisions of Article 11 SLDC shall apply.

K. Development Standards.

1. The design and configuration of a parking lot shall comply with the site development standards prescribed in Article 9 SLDC.

2. The design and configuration of a parking garage or structure shall comply with the site development standards prescribed in Article 9 SLDC or as specified in the conditional use permit.

L. Design Standards. The provisions of Article 10 SLDC shall apply as administered through the development review process of SLDC 401.